

West, will so conduct themselves in Congress that none of us will be "an abomination in the sight of the Lord," not even the gentleman from Illinois [Mr. RODENBERG]. [Applause on both sides of the House.]

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. LAZARO, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills and joint resolution:

H. J. Res. 184. Joint resolution providing for one year's extension of time to make installment payments for the land of the former Fort Niobrara Military Reservation, Nebr.;

H. R. 2534. An act to adjudicate the claims of certain settlers in Sherman County, Oreg.;

H. R. 14483. An act to authorize the construction of a bridge across the Missouri River at or near the city of Williston, N. Dak.;

H. R. 15635. An act for the relief of the Eastern Transportation Co.;

H. R. 15322. An act granting the consent of Congress to Trall County, N. Dak., to construct a bridge across the Red River of the North;

H. R. 10554. An act to extend the time of the Hudson River Connecting Railroad Corporation for the commencement and completion of its bridge across the Hudson River, in the State of New York;

H. R. 10931. An act for the relief of Drs. Blair and Blake, Dr. W. J. Maxwell, Dr. R. C. Evans, and J. B. Blalock;

H. R. 14534. An act permitting the Missouri River Transportation Co. to construct, maintain, and operate a bridge across the Missouri River in the State of Montana;

H. R. 11749. An act for the relief of the administrator of the estate of John M. Waples;

H. R. 16097. An act to extend the time for constructing a bridge across the Missouri River near Kansas City, Mo., authorized by an act approved June 17, 1914.

H. R. 3896. An act for the relief of John H. Janssen;

H. R. 15318. An act granting the consent of Congress to the village and township of Hendrum, Norman County, Minn., and the township of Elm River, Trall County, N. Dak., to construct a bridge across the Red River of the North on the boundary line between said States;

H. R. 13785. An act for the relief of Sarah S. Plank;

H. R. 14823. An act to authorize the Savage Bridge Co. to construct, maintain, and operate a bridge across the Yellowstone River in the State of Montana;

H. R. 10116. An act for the relief of certain settlers under reclamation projects;

H. R. 8318. An act for the relief of De Barbieri & Co., of Valparaiso, Chile;

H. R. 5864. An act for the relief of Thomas P. Sorkilmo;

H. R. 12208. An act adding certain lands to the Teton National Forest, Wyo.;

H. R. 10305. An act to grant certain lands to the State of Oregon as a public park, for the benefit and enjoyment of the people;

H. R. 2209. An act for the relief of W. W. Blood; and

H. R. 486. An act authorizing the Secretary of the Treasury to sell the old post-office building and site thereof at York, Pa.

LEAVE TO EXTEND REMARKS.

Mr. BAILEY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the subject of naval and military expenditures.

The SPEAKER pro tempore. The gentleman from Pennsylvania asks unanimous consent to extend his remarks in the RECORD on the subject of naval and military expenditures. Is there objection?

There was no objection.

Mr. MATTHEWS. I ask unanimous consent to extend my remarks in the RECORD on the Philippine bill.

The SPEAKER pro tempore. The gentleman from Ohio asks unanimous consent to extend his remarks in the RECORD on the Philippine bill. Is there objection?

There was no objection.

Mr. VOLSTEAD. I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER pro tempore. The gentleman from Minnesota asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

LEAVE TO ADDRESS THE HOUSE.

Mr. CARAWAY. Mr. Speaker, I ask unanimous consent that on Monday, after the reading of the Journal and the clearing

of business from the Speaker's table, and after all other regular proceedings of the House, I may have 10 minutes in which to address the House.

The SPEAKER pro tempore. The gentleman from Arkansas asks unanimous consent to address the House for 10 minutes on Monday next, not to interfere with business on the Speaker's table or any other business.

Mr. NOLAN. Mr. Speaker, reserving the right to object, does that mean after the Unanimous Consent and Suspension Calendar is completed?

The SPEAKER pro tempore. Yes; the consent is granted, not to interfere with any business of the House.

Mr. NOLAN. I have no objection.

The SPEAKER pro tempore. Is there objection?

There was no objection.

ADJOURNMENT.

Mr. CULLOP. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 41 minutes p. m.) the House adjourned until Monday, August 7, 1916, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, a letter from the Secretary of War, transmitting detailed information in the War Department concerning the contract with the Shanghai Dock & Engineering Co. (Ltd.), of Shanghai, China, for the construction of the single screw steel collier No. 1, for the use of the United States Army (H. Doc. No. 1320), was taken from the Speakers' table, referred to the Committee on Military Affairs, and ordered to be printed.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills were introduced and severally referred as follows:

By Mr. BRITT: A bill (H. R. 17333) for the relief of the heirs of Capt. W. D. Miller; to the Committee on War Claims.

Also, a bill (H. R. 17334) for the relief of the estate of Harry Johnson; to the Committee on War Claims.

By Mr. CAMPBELL: A bill (H. R. 17335) granting an increase of pension to Gardner W. White; to the Committee on Invalid Pensions.

By Mr. CLINE: A bill (H. R. 17336) granting a pension to Charles Hathaway; to the Committee on Pensions.

By Mr. SPARKMAN: A bill (H. R. 17337) granting a pension to Mary Ettie Gray; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. DALE of New York: Petition of Bernette Bachelier, of Whitinsville, Mass., favoring the Susan B. Anthony amendment; to the Committee on the Judiciary.

By Mr. GRAY of Indiana: Petition of H. C. Simcoke and other citizens of Richmond, Ind., protesting against the passage of House bills 491 and 6468; to the Committee on the Post Office and Post Roads.

SENATE.

Monday, August 7, 1916.

(Legislative day of Saturday, August 5, 1916.)

The Senate reassembled at 10 o'clock a. m., on the expiration of the recess.

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

The VICE PRESIDENT. The Secretary will call the roll.

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

Ashurst	Dillingham	Martine, N. J.	Simmons
Beckham	Gallinger	Nelson	Smith, Ariz.
Brady	Gronna	Norris	Smith, Ga.
Brandege	Hardwick	Overman	Smoot
Bryan	Husting	Penrose	Sterling
Chamberlain	Johnson, S. Dak.	Pittman	Taggart
Chilton	Jones	Ransdell	Thompson
Clapp	Kenyon	Reed	Vardaman
Colt	Kern	Robinson	Williams
Cuberson	Lane	Sheppard	Works
Cummins	Martin, Va.	Sherman	

Mr. MARTINE of New Jersey. I wish to announce the unavoidable absence of the Senator from Maryland [Mr. SMITH]

on public business. He is paired with the Senator from Vermont [Mr. DILLINGHAM].

I also desire to announce that the Senator from Louisiana [Mr. BROUSSARD] is unavoidably absent. I ask that this announcement may stand for the day.

The VICE PRESIDENT. Forty-three Senators have answered to the roll call. There is not a quorum present. The Secretary will call the roll of absentees.

The Secretary called the names of the absent Senators, and Mr. THOMAS answered to his name when called.

The VICE PRESIDENT. Forty-four Senators have answered to the roll call.

Mr. KERN. I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The VICE PRESIDENT. The Sergeant at Arms will carry out the instructions of the Senate.

Mr. JAMES, Mr. CLARK of Wyoming, Mr. WEEKS, Mr. HITCHCOCK, Mr. LODGE, and Mr. POMERENE entered the Chamber and answered to their names.

The VICE PRESIDENT. Fifty Senators have answered to the roll call. There is a quorum present.

Mr. KERN. I move that further proceedings under the call be vacated.

The motion was agreed to.

CHILD LABOR.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 8234) to prevent interstate commerce in the products of child labor, and for other purposes.

Mr. OVERMAN. Mr. President, I want at the outset to say that I favor just and humane child-labor laws by the States. My own State has a child-labor law. It is not what I would have it to be and it is not what it will be if the State is left alone. Some years ago we passed an act in relation to child labor, and gradually we have been making a stronger and stronger act every year. I have no doubt when the next legislature meets it will enact as good a child-labor law as there is now in any State if we are left alone.

I do not favor the pending bill. I think it is an unjust interference with the domestic affairs of the States. I find no warrant in the Constitution for it, and there is in the Constitution an utter want of power conferred on Congress to enact such legislation. I therefore think the bill unconstitutional.

There is a division of sentiment in my State in regard to this bill, but no allegiance to my party or to its platform would compel me to support it. If every man, woman, and child in my State should ask me to support this bill, I could not do so, Mr. President, for I would then be violating the solemn oath which I took at that desk to support the Constitution of the United States.

Several Senators have spoken deprecatingly of North Carolina. Mr. President, I am going to put some statistics into the RECORD which are startling. The Senator from Idaho [Mr. BORAH] spoke about moral standards. I undertake to state here to-day that with regard to child labor North Carolina has as high moral standards as has any other State in the Union. Our children are as well cared for, and perhaps better cared for, than those in any other State in the Union. Several years ago I invited and urged the Senate of the United States, when my people were being slandered, to send a committee to that State and let them investigate conditions there. We have asked the Commerce Committee to send a committee to North Carolina to see what is being done in that State in reference to our child labor.

Mr. President, would you believe it when I tell you that between the ages of 14 and 16 years there are fewer children in North Carolina in the jails, in the prison houses, and in the workhouses than there are in any other one of 45 of the great States of the Union. I ask, Mr. President, to print as an appendix to my remarks certain statistics I have here from the Census Department. I am proud to put them into the RECORD, so far as North Carolina is concerned, but I am ashamed to put them in the RECORD in regard to forty-odd other States of the Union, and especially as to this model city—the District of Columbia.

In 1898 we passed what was called the model child-labor law for the District of Columbia. In 1914 we passed a law providing that no person should work more than eight hours a day in this city. Not longer ago than last week, a Senator passing along the street close to a drug store here, saw a beautiful woman crying bitterly. He asked her what was the matter. She said "I have been selling soda water in that drug store, getting \$10 a week to support my widowed mother; but an inspector has come around and turned me out. What am I to do? Where am I to go? Shall I starve?" In the years to come, if crime should overtake her, she could say, I presume, with the noted criminal, "My country's laws have made me what I am."

Listen, Senators, to these startling figures, which I have had prepared by the Census Department, showing the number of children under 15 years of age committed to prisons, jails, workhouses, and reformatories. How many do you suppose, giving the numbers per hundred thousand, of the children from 10 to 14 years of age are in these institutions in the District of Columbia? There are 385 in this model city, while in North Carolina there are but 15.

Then, I have selected one State from each of the groups of States. Vermont, in the New England States, has 102 children in such institutions; Massachusetts has 279; while North Carolina has only 15; and New York has 249.

Now, let us come to the Eastern, the Northern, and the Central States. Indiana has 129 while North Carolina has but 15. Among the West North Central States, in Missouri the number was 122 per 100,000. In North Carolina, in the South Atlantic group of States, the number, I repeat, was 15.4 per 100,000. In Kentucky, in the East South Central group of States, the number was 94.9 per 100,000. So it goes, Mr. President, showing that North Carolina had far fewer children in workhouses and prison houses than had any of 45 of the great States of the Union.

Mr. CLARKE of Arkansas. Mr. President, what was the number in Arkansas?

Mr. OVERMAN. In Arkansas the number was 45 per 100,000.

Mr. CHAMBERLAIN. Does the Senator mean 45 out of a hundred thousand in a year?

Mr. OVERMAN. The figures refer to children under 15 years of age committed to prisons, jails, workhouses, or reformatories in 1910, according to the Tenth Census, number per 100,000 children 10 to 14 years of age. I want to say that I had a compilation made concerning children committed to institutions in the District of Columbia following the passage of the child-labor act for the District of Columbia and also a similar compilation made of conditions prior to the passage of that act. Prior to the passage of the act the number was 348 per 100,000, while following the passage of that act the number increased to 389.5.

Mr. President, I am not going to discuss the merits of this matter; but since North Carolina has been alluded to several times upon this floor I desire to say that, so far as that State is concerned, it makes a splendid showing, I think—better than any other State. While many other States are increasing in illiteracy, the old North State is decreasing, and also, Mr. President, in school attendance of persons of school age North Carolina, with 481,000, stands at the head of the South Atlantic States, surpassing every other Southern State but Texas, and ranks eleventh in the whole United States, notwithstanding her large colored population—about one-third—and her rank of sixteenth in population.

Mr. CUMMINS. Mr. President—

The VICE PRESIDENT. Does the Senator from North Carolina yield to the Senator from Iowa?

Mr. OVERMAN. Yes.

Mr. CUMMINS. To what does the Senator from North Carolina attribute the low rate of children in the jails, workhouses, and reformatories in North Carolina? He has just said North Carolina had a very stringent child-labor law.

Mr. OVERMAN. No, Mr. President; I did not say we had a stringent law. I think we have not. I wish we had. I said that it was not what I should like it to be.

Mr. CUMMINS. That is what I can not understand. The Senator says the law is not as stringent as it should be, and yet he produces statistics to show apparently that where the law is stringent the most lamentable results have followed.

Mr. OVERMAN. I have cited statistics showing the facts. I do not know whether child-labor laws have had anything to do with the conditions or not; I do not say they have; but I started out to say that certain newspapers and magazines had been taking North Carolina for their text; and yet, according to the statistics, the condition of children in that State is better than in 45 other States; and I think the Senator from Arkansas [Mr. ROBINSON] will admit that the reports before the committee show that the children of North Carolina are well taken care of.

Mr. ROBINSON. Mr. President, will the Senator yield to a question for information?

Mr. OVERMAN. Yes.

Mr. ROBINSON. What penal and reformatory institutions do the statutes of North Carolina provide for children within the ages contemplated by the figures which he has presented?

Mr. OVERMAN. We have reformatories; we have prisons and jails; but we rarely ever send children under 15 to jail. We send them to workhouses or to other houses of correction.

Mr. ROBINSON. Do the figures which the Senator has compiled comprehend all of the children who are confined in any

sort of penal institution or poorhouse in the State of North Carolina?

Mr. OVERMAN. In North Carolina, yes, sir; just as they do in other States, applying generally to reformatories, jails, and prison houses. As to North Carolina, I had the Director of the Census have a statistician make up the report from the census returns.

Mr. ROBINSON. Does the Senator know how many reformatory or penal institutions for children there are in North Carolina?

Mr. OVERMAN. We have one State reformatory.

Mr. ROBINSON. When was that established, or about when?

Mr. OVERMAN. It was established about 10 or 15 years ago.

Mr. ROBINSON. For what year are the figures the Senator is giving?

Mr. OVERMAN. For 1910.

Now, Mr. President, I want to ask the Senator from Arkansas, the Senator from Idaho, and also my friend, the distinguished Senator from Iowa, what are we going to do with these children if this proposed law goes into effect? What is going to become of them? Here, for instance, is an orphan boy who is now getting, say, \$10 a week and supporting himself. If you turn him out and deprive him of the opportunity of working, what are you going to do with him? Where will he go? Here is a dependent mother with two children, who are supporting her, making bread and meat for her and them—what are you going to do with them? At the present time the children who are working have the advantages of Sunday schools and of other schools; they have churches, and are you going to drive all of them back to the farm? Many of them have no farm to which to go. Are you going to make them tenants? They have no stock with which to begin work on the farm.

Now, I desire to suggest to the Senator that one way out of it is a pension system. According to the high moral standards to which we want conditions to conform—and I know every Senator wants the highest possible standards to prevail for the benefit of the children—if the present system is absolutely destroyed the alternative is a pension system, under which the children and the dependent widowed mothers shall be pensioned.

I have a suggestion to make, and I wish to ask the Senator from Iowa what he thinks about it. Children who are now 14 years of age and who are working in the mills in two years will become 16 years old. Then they may work, no matter what law might be passed; then they would not be turned off on the work. Therefore I want to introduce an amendment to this bill providing that the act shall not take effect until two years after it has been approved, so that children can go on supporting their mothers and supporting themselves until they arrive at the proper age, and so that they will not be turned loose without anyone knowing what is to become of them. Do not send them to prison houses and to workhouses and to jails, but give them time. We gave the barrooms in the cities two years in which to close; we have given the bankers two years in which to adjust their affairs; we have given the railroads two years in which to rearrange their business, and why not give those who are to be affected by the pending bill two years in which to work the matter out? I ask the Senator if he would object to that?

Mr. CUMMINS. Mr. President, answering the question of the Senator from North Carolina, I beg to suggest that, as I understood, the objection of those who appeared before our committee in behalf of the factories in North Carolina, it was that the provision in the bill which limited the children under 16 years of age to eight hours' work per day was the provision that would interfere with these industries. They all claimed that the prohibition against employing children under 14 years of age in the factories would bring about little, if any, change. They did not want to employ children under 14 years of age; but they said that children under 16 years of age ought to be permitted to work more than eight hours a day, because their factories—and I am speaking especially of the cotton factories—were so adjusted that, if the spinning room could be operated only eight hours a day, the spinning room being the place in which children are employed, it would affect the carding room and the weaving room, so that these two parts of the factory would also be compelled to work but eight hours per day. With that statement, I say that I am entirely willing, so far as I am individually concerned—and I speak for no one else—that time shall be granted in which these factories can so equip their spinning rooms as to be able to do in eight hours what is required by the other ends of the factory, namely, the carding room and the weaving room. I do not know how long, with the exercise of reasonable diligence, it will require to so adjust these factories that they may be able to continue without serious loss. This bill gives one

year, and I thought that was enough. I can hardly conceive that the factories can not so rearrange their affairs in this respect within a year as to accomplish the purposes they have in view. If the Senator from North Carolina can show me that it will require more than one year to do what I have suggested, I shall not object to a reasonable extension of the time; but I speak for no one but myself.

Mr. OVERMAN. I expect to take up that matter when I offer the amendment, and show the necessity of it, which I think I can show to the Senator from Iowa. I was alluding to it here from the humanitarian standpoint.

Mr. SMITH of Georgia. Mr. President, if the Senator will permit me, I have been advised by some manufacturers that while ordinarily they could purchase and put in the machinery in 12 months, there is now quite a large demand upon the manufacturers of the machinery, and with this increased demand it would probably be impossible in less than two years to procure the machinery and make the additions to their plants required to increase the spinning part of their plants so as to limit the work to eight hours and yet complete a sufficient amount of work to supply the balance of their factories, and that it is the difficulty about obtaining the machinery that is one of the elements that makes it important for them to have two years.

Mr. OVERMAN. Mr. President, I do not expect to take up much time with the argument as to constitutionality. The Senator from Arkansas [Mr. ROBINSON] says there are only nine Senators opposed to this bill. Like the goat in the animal convention, they have all voted; so I can not hope to change anybody's opinion. But I do want to say this, in reply to the Senator from Arkansas:

In the splendid argument he made, the great speech he made upon this subject, he says that the commerce clause of the Constitution is plenary, and that is so. Nobody denies that. The court has said so, but there are exceptions, and I think there are more exceptions than he stated. The court, in the very opinion he read, said, "You can not, under the guise of the commerce clause of the Constitution, legislate on something which is really going outside of commerce," as you are doing in this case, and going into manufacturing and production.

The Senator said that the other limitation was the fifth amendment of the Constitution. I admit that, but he said there is nothing in the tenth amendment to limit it.

Now, Mr. President, I want to tell the Senator a little piece of history that he has forgotten. It will be remembered that North Carolina did not go into the Union when it was first formed. When George Washington was elected she took no part in that election. She was as free and independent as any country in the world. She declined to go in. George Washington was President, and North Carolina was out of the Union. But John Hancock and other distinguished men who framed the Constitution were anxious that North Carolina should come in, and he and others wrote letters down there asking them to come in. Our people were jealous of their rights. They said, "Under this commerce clause of the Constitution we do not know what the Federal Government will do; there must be some limitation on it"; and she did not go into the Union at first. I want to say in passing that she was the last to go out of the Union, and did not go out until she was forced out. She did not go in until the last, except Rhode Island. In 1789 she adopted the Constitution, but not until the tenth amendment to the Constitution was adopted; and it was understood then to be a guaranty that the Federal Government should not in any way interfere with the domestic concerns of the States. They said it would not; they wrote down there time and again that it would not interfere with their domestic concerns, and North Carolina said, "Write it in the bond and we will go in, and not until you do write it in the bond will we go in."

Mr. HARDWICK. Mr. President, if the Senator will yield to me, it is also a fact, is it not, that Thomas Jefferson was the author of the greater part of the first 10 amendments, including the one to which the Senator has referred?

Mr. OVERMAN. Yes.

Mr. HARDWICK. And that he insisted on their adoption for the very reason, among others, described by the Senator?

Mr. OVERMAN. Why, of course, Hancock—I have seen his letters—Jefferson, and others wrote that the people should have their rights reserved, and it should be guaranteed in the Constitution that they should control their own local and domestic concerns. Mr. President, upon this fact of history Jefferson Davis, in his History of the War between the States, takes the State of North Carolina, her act and the history of those times, as the basis for the great argument he made for the right of secession. But that was shot to pieces and went down forever at Appomattox. The Constitution is still here, however, and

the tenth amendment to the Constitution, which guarantees to the people the right of home rule and local self-government.

Mr. CUMMINS. Mr. President, does the Senator from North Carolina suggest that the Constitution should be interpreted according to the letters that were written into North Carolina before she adopted or ratified the Constitution?

Mr. OVERMAN. No, Mr. President.

Mr. CUMMINS. If he does, I shall be glad if he will produce the letters so that we can see how much they differ from the decisions of the Supreme Court.

Mr. OVERMAN. I do not know whether I can produce the letters or not. I know that North Carolina stayed out of the Union at first, and did not go in for a year. I know why she stayed out. I know why, because the debates show it in the journals—that the guarantee had not been made in the Constitution that she should have the right of local self-government.

Mr. HARDWICK. If the Senator will permit me, contemporaneous history is always useful in construing the real meaning of a constitutional provision.

Mr. CUMMINS. That is quite true; but if the Supreme Court of the United States has considered contemporaneous history and has put a certain construction upon the Constitution, as I view it the subject has already passed away from our consideration.

Mr. HARDWICK. Of course if they have not done so, then there is nothing in the Senator's position.

Mr. OVERMAN. I agree with the Senator that we are bound by the Supreme Court, and I want to ask the Senator now—I know he is a candid Senator, and open and free and frank—has the Supreme Court ever gone as far as this bill proposes to go?

Mr. CUMMINS. I think the Supreme Court has gone further than this bill proposes to go; but I assume what the Senator desires to ask me is whether the Supreme Court has ever decided a case exactly like this one, and I answer that it has not; that hitherto there has been no legislation exactly parallel to the measure now under consideration.

Mr. OVERMAN. Mr. President, I know that the Supreme Court has upheld as constitutional laws passed by Congress affecting the health of people who live in States other than that from which the article of commerce was shipped and laws designed to protect the morals of the community and to protect it from false pretenses. I know it has done that; but I have never known a case where the Supreme Court steps out from the article going into commerce that affects somebody else outside of the State, steps over and away from commerce, steps into a cotton mill, and undertakes to control an innocent subject of commerce that is injurious to no man anywhere in the world.

Can anybody cite me a case where that has ever been done? I challenge any Senator to show me where any act has been upheld by the Supreme Court forbidding the entrance into interstate commerce of innocent articles, articles that affect nobody injuriously, that affect the health of no community, that injure no man, that deceive nobody by reason of misbranding—I defy any Senator to show me where the Supreme Court has ever held any law that has done that to be constitutional.

Mr. President, for some 10 years bills of this character, in one shape or another, have been pending in the Senate or the House of Representatives with no chance of being considered, for the reason that few in either House of Congress believed there was any authority in the Constitution for such legislation. But now, by propaganda, petitions, literature, and lobbying, and because of the noble sentiments which these bills reflect, there seems to have come a great change of sentiment in these two bodies.

For a hundred years or more it was almost universally considered that no legislation could be enacted which was not authorized by the Constitution. Now in this day and hour with many it seems to be the theory that anything not forbidden by the Constitution can be enacted. That clause of the Constitution which says all power not granted by the Constitution is reserved to the people is regarded lightly and is void of meaning. A distinguished man who loves the fundamental principles, so sacredly guarded in the past, once declared that there was nothing left of the Constitution but the commerce clause.

If this legislation is constitutional, Mr. President, there will be nothing left of the rights of the States, but there will be an absolute absorption of the police powers of the 48 sovereign Commonwealths, and there will be no barrier in the way of centralization of all power in Washington, to which goal we are now rapidly drifting.

In the Fifty-ninth Congress this question was up for consideration—it was treated as a joke—when a resolution was passed by the House of Representatives referring to the Judiciary Committee the question of the constitutionality of such a meas-

ure. The chairman of that great committee is dead, and I regretted that my friend, the distinguished Senator from Iowa [Mr. KENYON], forgetful of that ancient saying, "Of the dead say no evil," should have denounced Judge Jenkins in such unmeasured terms. Whatever, Mr. President, you may say of him, no one, I think, will deny that he was a great lawyer. He was only one of 18 lawyers who agreed with him, some of whom are now the most prominent lawyers in the House of Representatives, and others who have left that body have a national reputation as lawyers of great ability. RICHARD WAYNE PARKER and JOHN A. STERLING are both Members of the House at this time; Alva Alexander, Charles E. Littlefield, Joseph N. Gillett, and other Republicans; Judge De Armond, D. H. Smith, Judge Henry D. Clayton, Robert L. Henry, John F. Little, and W. G. Brantley, Democrats. These are some of the great lawyers who composed that great committee.

After a review of all the authorities and a careful study of the question, on February 6, 1907, a unanimous report was made to the House, which, among other things, said:

In the opinion of your committee, there is no question as to the entire want of power on the part of Congress to exercise jurisdiction and authority over the subject of woman and child labor. In fact, it is not a debatable question. It would be a reflection upon the intelligence of Congress to so legislate. It would be casting an unwelcome burden upon the Supreme Court to so legislate. (See Rept. No. 7304, 59th Cong., 2d sess.)

At that time I was a Member of the Senate, and the question was debated here by Senators Spooner, Knox, and others, who took the same position as the House committee, and, with the exception of Senator Beveridge, there was not a Senator on this floor who did not think this measure was unconstitutional. So many of the Senators had this opinion that it was hardly given the proper consideration. The Judiciary Committee of the Senate was of the same opinion.

Now, Mr. President, I have heard Senators say since this measure came up for consideration that they had serious doubts about the constitutionality of it, but they would vote for it and put it up to the Supreme Court. I was simply shocked at such expressions.

I have been taught to believe in the doctrine, and this was the doctrine of the fathers and has been the doctrine taught by all the text-writers and almost universally conceded until these later days, that when one held any doubt about the constitutionality of a measure all doubt should be solved in favor of the Constitution.

I call your attention, Senators, to what one of the greatest lawyers and greatest text-writers who ever lived in this country said upon this question, a man who was greatly honored by the people and much respected by the lawyers. I quote from Judge Cooley, in his "Principles of Constitutional Law," second edition, page 150:

Legislators have their authority measured by the Constitution; they are chosen to do what it permits, and nothing more, and they take solemn oath to obey and support it. When they disregard its provisions, they usurp authority, abuse their trust, and violate the promise they have confirmed by an oath. To pass an act when they are in doubt whether it does not violate the Constitution, is to treat as if no force the most imperative obligations any person can assume. A business agent who would deal in that manner with his principal's business would be treated as untrustworthy; a witness in court who would treat his oath thus lightly, and affirm things concerning which he was in doubt, would be held a criminal. Indeed, it is because the legislature has applied the judgment of its members to the question of its authority to pass the proposed law, and has only passed it after being satisfied of the authority, that the judiciary waive their own doubts, and give it their support.

Mr. President, let us deal frankly with each other. This bill is not for the purpose of regulating commerce, but its main purpose—its ultimate purpose—is, under the guise of regulating commerce, to regulate production in the manufactories and mills in the country. Its purpose is to regulate the ages and the hours of labor at which children shall work in the mines and manufacturing plants in the States. It is indirectly to do what you can not do directly. It is to put a State under duress and compel it to do that which some States have done in order, as has been stated in this debate, to have uniformity.

It is conceded that Congress has no power to regulate the hours of labor and the ages at which children shall work in a State in any capacity or occupation. My friend, the distinguished Senator from Iowa [Mr. KENYON], in his very able speech upon this bill, the great and honest lawyer that he is, admitted this to be so, as will be seen in the following colloquy which took place between us at that time:

Mr. OVERMAN. Mr. President, may I ask the Senator a question? The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from North Carolina?

Mr. KENYON. I do.

Mr. OVERMAN. Has Congress a right to prescribe directly the hours of labor or the age at which a child shall work?

Mr. KENYON. I think it has not.

Mr. OVERMAN. In the Senator's opinion as a lawyer, it has not?

Mr. KENYON. It has not.

Mr. OVERMAN. I think everybody will agree with the Senator that that is true. Now, I come to the question I was going to ask. Can Congress do indirectly that which it can not do directly?

Mr. KENYON. We have done it. The Senator from New Jersey [Mr. HUGHES] has instanced the phosphy law and I have instanced the oleomargarine act.

Mr. OVERMAN. Another principle came into play in those instances. Action was taken by Congress in those cases because of the deleterious effect of the article itself. It is now proposed to prescribe that cotton goods, under certain circumstances, shall not enter into interstate commerce. Nobody contends that they are injurious or that their effect is immoral. It is upon those grounds that Congress has always held that certain goods should not be shipped in interstate commerce.

Mr. KENYON. I will answer the Senator in this way: I have no hesitancy in saying, of course, that if Congress should pass an act that children should not work more than a certain number of hours in North Carolina upon articles to be shipped in interstate commerce, Congress would have gone beyond its power. But we do not say that. Cotton or anything else can be manufactured in the mills of North Carolina employing children 4 years old, if they can work at that age. The proposed legislation which I am discussing does not stop that. The products of such factories in North Carolina can be sold in North Carolina. The proposed legislation does not stop children working, but simply says that if they are employed under a certain age the instrumentalities of commerce shall be withdrawn from those goods.

Mr. OVERMAN. Then is not the purpose of this bill to do that which Congress can not do?

Mr. KENYON. No; the purpose of this bill is to do just what Congress can do, and that is to stamp out child labor.

Mr. OVERMAN. What is the purpose of the bill?

Mr. KENYON. To stamp out child labor.

Mr. OVERMAN. Is not the purpose of the bill to regulate the hours of labor and the ages of employees?

Mr. KENYON. No; it is not. If manufacturers want to go on employing children, they can do so; the proposed legislation does not stop them.

Mr. OVERMAN. I understand the Senator's point; but is not the real purpose of the bill to provide that mill employees shall not work a greater number of hours than the hours prescribed in the bill and shall not employ operatives under the age specified?

Mr. KENYON. I understand that even under such a bill as has been enacted in Massachusetts the mill owners can have children of the age not prohibited work eight hours and then others work another eight hours, and carry on business in that way.

Mr. OVERMAN. I will ask the Senator frankly if it is not the purpose of this bill to have Congress do indirectly that which it can not do directly?

Mr. KENYON. Well, I do not say Congress can not do it directly. If it is in the power of Congress to pass an act under the commerce clause, then it does not make any difference what effect that act may have upon the manufacturing interests of any State or the agricultural interests of any State, or anything else, so long as it does not bump up against the fifth amendment to the Constitution.

The learned Senator says he wants uniformity in child-labor laws.

Mr. President, I doubt whether you ought to have uniform laws in regard to this matter. I have no doubt the Senator from Iowa has thought about it. Climatic conditions ought to have something to do with it. A child in the South matures much earlier than a child in Maine or a child in Minnesota or a child in the Senator's State. So you see if in these domestic affairs Congress begins to legislate it is going to create trouble, because what will do for one State will not do for another State. What will do in Wisconsin will not do in North Carolina, and what will do in North Carolina will not do in Wisconsin. Therefore I think in these matters of local concern this attempt to have uniformity will create trouble, bitterness, and jealousy.

Forty-six States now have these beneficial laws, as my own State has, but some are more drastic, some are more beneficial than others; but gradually, step by step, the States are improving their child-labor laws.

Mr. President, there are many wholesome laws in some of the States, which, in order to have uniformity, and for the good of the country, should be adopted by all of the States. However, there are many laws which are necessary, and their enactment would be wise and wholesome for one section of the country, which would not be for another section, and to that section would prove injurious and burdensome.

I should like to see uniformity in divorce laws and insurance laws, but uniformity can be obtained without congressional action, and without the usurpation of the reserve powers of the States. A few years ago there was a wide difference in the negotiable-instrument laws of the States, and the business of the country was suffering on account of it. There was a demand for uniformity, and the commercial interests, the public sentiment of the country, forced uniformity, and they corrected this evil, so that now a large majority of the States have the same negotiable-instrument law, and congressional action was neither sought nor demanded; was not even thought of. The evil remedied itself, as many other evils affecting and acting to the detriment of all the people will do in time.

The laws of Congress must affect and bear upon all the people alike, and the usurpation by Congress of the rights to legislate upon these matters of domestic concern would work a great wrong and hardship upon some and cause jealousy and bitterness, which might prove disastrous. Time and mutual intercourse and commercial dealing among the people of the States will in time bring uniformity wherever there should be uniformity.

Mr. President, Congress has no power to interfere with the domestic affairs or the police powers of the States. Congress has no right to employ its legislation for any such purpose.

In the words of that great lawyer and able judge, Abel P. Upshur:

Congress has no right to employ for one purpose means ostensibly provided for another; to do so would be a positive fraud and a manifest usurpation; for if the purpose be lawful it may be accomplished by its own appropriate means, and if it is unlawful it should not be accomplished at all. Without this check it is obvious that Congress may by indirection accomplish almost any forbidden object. (Upshur on the Federal Government.)

The evils for which the bill intends to prohibit in no way affect commerce, but its purpose is to prohibit evils that are peculiarly of domestic concern, and these evils are anterior to the time when jurisdiction of Congress attaches. That is, when the article produced enters into commerce when it starts on its journey to another State.

Can Congress pass a law forbidding interstate commerce in cotton goods produced by adult labor who worked more than eight hours a day in a mill? I take it that no one will even pretend that we can. Then, Mr. President, to prohibit cotton goods from entering into interstate commerce because it was produced by children at the age of 14 years, or who worked 10 hours a day, shows that the purpose of this bill is to do exactly that which the distinguished Senator says can not be done, and which every lawyer will concede to be true. It is not the cotton goods you are after. You are after the cotton goods, and in my judgment will violate the Constitution in order, as you contend, to protect the children in the mills.

There is probably, Mr. President, no limit to the power of Congress to deal with commerce as soon as it begins its transit or journey and until it ends and to deal with it while in transit between the States; also it has full power to prescribe all the rules, regulations, and conditions under which it is governed. But as Congress has the exclusive power over interstate commerce, so the State has the exclusive power to control its own domestic and internal affairs, and it should be permitted to do so without question. Without the consent of the State the Congress has not only no business but no power to interfere. And for any fancied act of omission or commission, I must say it is going very far for one citizen of another State or one high in authority in this Government to condemn and threaten the extinction of her rights as a State.

I am free to admit, Mr. President, that in some matters affecting the interstate commerce where citizens or corporations of one State are so conducting their business as to work an injury to citizens of other States, and where the other States, even under their reserved power, are powerless to protect themselves against the wrong done them on account of the power which has been surrendered to the Government, it is necessary for Congress to interfere and legislate for the purpose of controlling and regulating in these matters—such as the rate bill, the pure-food bill, the food-inspection law, dangerous matches, diseased cattle, oleomargarine, white slave, lottery, and other bills of like character, all of which receive my hearty indorsement—and in my opinion no legislation for a century has done more for the good of all the people.

But when it is proposed to regulate and control these matters which can be controlled whether the State will or will not, as regards articles of commerce which in themselves can possibly work no injury upon citizens of other States, or the ultimate consumer, I deny the power of the General Government to interfere in any respect to the point where it begins its transit.

Though Congress and the scope of Congress over its regulations, under these laws, have been extended so as to include manufacture, the mere fact that goods are manufactured in the State for export to another, this fact in itself does not constitute in them interstate commerce within the meaning of the Constitution. This is so held by the Supreme Court of the United States in the celebrated case of *Coe v. Erroll* (116 U. S., 517).

In that case certain logs cut at a place in New Hampshire had been hauled to the town of Erroll, on the Androscoggin River, in that State, for the purpose of transportation beyond the limits of the State to Lewiston, Me., and were held at Erroll for a convenient time for shipment, and taxes were assessed on these logs for city and county and State purposes and the question was whether these logs were subject to taxation like other property in New Hampshire, as they were to be exported into another State, and Justice Bradley delivering the opinion of the court, says:

Does the owner's state of mind in relation to the goods—that is, his intent to export them and his partial preparation to do so—exempt them from taxation? This is the precise question for solution.

There must be a point of time when they cease to be governed exclusively by the domestic law and begin to be protected by the national law of commercial regulation, and that moment seems to us to be a legitimate one for this purpose in which they commence their final movement for transportation from the State of their origin to that of

their destination. When the products of the farm or the forests are collected and brought in from the surrounding country to a town or station serving as an entrepôt for that particular region, whether on a river or a line of railroad, such products are not yet exports, nor are they in process of exportation, nor is exportation begun until they are committed to the common carrier for transportation out of the State to the State of their destination or have started on their ultimate destination to that State.

Until then it is reasonable to regard this as not only within the State of their origin, but as a part of the general mass of property of that State, subject to its jurisdiction and liable to taxation. Then if not taxed by reason of their being intended for exportation, but taxed without any discrimination in the usual way and manner in which such property is taxed in the State, * * * the point of time when State jurisdiction over the commodity of commerce begins and ends is not an easy matter to designate or define, yet it is highly important both to the shipper and to the State that it should be clearly defined so as to avoid all ambiguity or question. But no definite rule has been adopted with regard to the point of time at which the taxing power of the State ceases as to goods exported to a foreign country or to another State. What we have already said, however, in relation to the products of a State intended for exportation to another State will indicate the view which seems to us to be the sound one on that subject, namely, that such goods do not seem to be part of the general mass of property subject as such to its jurisdiction and to taxation in the usual way until they have been shipped or entered with a common carrier for transportation to another State or have been started upon such transportation in a continuous route or journey.

The courts have universally held that the police power of a State is as broad and plenary as its taxing power, and the police power is in the State and not in the General Government. This being the doctrine as to the taxing power, Mr. President, all property in the State therefore is subject to the police power of that State so long as it remains in the State and before it starts upon its journey as commerce from one State to another.

If Congress can regulate child labor in our factories and mines under the interstate-commerce clause or any other clause of the Constitution, it has the power and can with the same reason regulate child labor upon the farm, can regulate the ages at which boys and girls of the farm can pick from the boll the fleecy staple which is taken to the gin and then to the factory to be manufactured into cloth. It can regulate the ages at which the farmers' children shall work in the great wheat fields in the States of the Northwest, for the farmers have in mind when the wheat is produced that a greater portion of it is for interstate commerce, and it is to be shipped abroad to other States and foreign countries. The production of wheat and its manufacture into flour, though intended for such, is not interstate commerce. Neither is the production of cotton and its manufacture into cloth interstate commerce, though intended for such. If it is within the power of Congress to enact such legislation as this, it would have the power to pass an act providing that no goods should be shipped in interstate commerce which was not produced by union labor. Congress would have a right also to fix the minimum-wage scale in the States and say that no goods should be shipped in interstate commerce that were made by any employee receiving less than \$3 a day. As Justice Bradley says:

It is not the owner's or producer's mind which makes the commodity interstate commerce.

CONSTITUTIONALITY.

Besides the court itself some of the greatest lawyers in the country, some of the greatest text-writers in this country, and others, have spoken upon this very question and declared without hesitation that such a bill as this is unconstitutional.

President Roosevelt in one of his messages to Congress said:

The horrors incident to the employment of young children in factories or at work anywhere are a blot on our civilization. It is true that each State must ultimately settle this question in its own way, but a thorough official investigation of the matter, with the results published broadcast, would greatly help toward arousing the public conscience and securing unity of State action in the matter.

Ex-President Taft, who is recognized as one of the great lawyers of the country, so recognized by his political friends and foes alike, in one of his great lectures to the students of Yale, discussing this very subject, said:

Bills have been urged upon Congress to forbid interstate commerce in goods made by child labor. Such proposed legislation has failed chiefly because it was thought beyond the Federal power. The distinction between the power exercised in enacting the pure-food bill and that which would have been necessary in the case of the child-labor bill is that Congress in the former is only preventing interstate commerce from being a vehicle for conveyance of something which would be injurious to people at its destination, and it might properly decline to permit the use of interstate commerce for that detrimental result. In the latter case Congress would be using its regulative power of interstate commerce not to effect any result of interstate commerce. Articles made by child labor are presumably as good and useful as articles made by adults. The proposed law is to be enforced to discourage the making of articles by child labor in the State from which the articles were shipped. In other words, it seeks indirectly and by duress to compel the States to pass a certain kind of legislation that is completely within their discretion to enact or not. Child labor in the State of the shipment has no legitimate or germane relation to the interstate commerce of which the goods thus made are to form a part, to its character, or to its effect. Such an attempt of Congress to use its power of regulating such commerce to suppress the use of child labor in the State of shipment would be a clear usurpation of that State's rights.

President Wilson in one of his lectures on Constitutional Law, in 1911, expressed himself as follows as to the unconstitutionality of this legislation:

Its power (the Federal Government) is "to regulate commerce between the States," and the attempts now made during every session of Congress to carry the implications of that power beyond the utmost boundaries of reasonable and honest inference show that the only limits likely to be observed by politicians are those set by the good sense and conservative temper of the country.

The proposed Federal legislation with regard to the regulation of child labor affords a striking example. If the power to regulate commerce between the States can be stretched to include the regulation of labor in mills and factories, it can be made to embrace every particular of the industrial organization and action of the country. The only limitations Congress would observe should the Supreme Court assent to such obviously absurd extravagancies of interpretation would be the limitations of opinion and of circumstance.

Watson, on the Constitution, says:

Closely akin to the question of regulating manufacturing is the question whether Congress can forbid the hauling of a commodity, by a carrier of interstate commerce, which was manufactured in a State, for instance, by women, or children under a certain age, as has recently been maintained. This question is of far-reaching effect, and if such power exists in Congress it would result in the most complete invasion of the sovereignty of the States by the General Government which has ever been accomplished under the Federal Government.

And he then proceeds with an argument and citations from the Supreme Court to show that Congress has no such power.

Now, what does the Supreme Court say upon the question?

In the case of *Kidd v. Pearson* (128 U. S.), Justice Lamar, in writing the opinion of the court, discusses this question at length, and I quote at some length, as it draws the line between the regulation of commerce and manufacture and the reserved rights of the States and the power of Congress to pass such a bill as this. Said the court:

No distinction is more popular to the common mind or more clearly expressed in economic and political literature than that between manufactures and commerce. Manufacture is transformation—the fashioning of raw materials into a change of form for use. The functions of commerce are different. The buying and selling and the transportation incidental thereto constitute commerce, and the regulation of commerce in the constitutional sense embraces the regulation at least of such transportation. The legal definition of the term, as given by this court in *County of Mobile v. Kimball* (102 U. S., 691, 702), is as follows:

"Commerce with foreign countries and among the States, strictly considered, consists in intercourse and traffic, including in these terms navigation and the transportation and transit of persons and property as well as the purchase, sale, and exchange of commodities."

If it be held that the term includes the regulation of all such manufactures as are intended to be the subject of commercial transactions in the future, it is impossible to deny that it would also include all productive industries that contemplate the same thing. The result would be that Congress would be invested, to the exclusion of the States, with the power to regulate not only manufactures but also agriculture, horticulture, stock raising, domestic fisheries, mining—in short, every branch of human industry. For is there one of them that does not contemplate more or less clearly an interstate or foreign market? Does not the wheat grower of the Northwest and the cotton planter of the South plant, cultivate, and harvest his crop with an eye on the prices at Liverpool, New York, and Chicago? The power being vested in Congress and denied to the States, it would follow as an inevitable result that the duty would devolve on Congress to regulate all of these delicate, multifarious, and vital interests—interests which in their nature are and must be local in all the details of their successful management.

It is not necessary to enlarge on but only to suggest the impracticability of such a scheme when we regard the multitudinous affairs involved and the almost infinite variety of their minute details.

It was said by Chief Justice Marshall that it is a matter of public history that the object of vesting in Congress the power to regulate commerce with foreign nations and among the several States was to insure uniformity of regulation against conflicting and discriminating State legislation. See also *County of Mobile v. Kimball* (supra, at p. 697).

While the courts have held that the commerce clause of the Constitution is plenary, provided it does not conflict with some other clause of the Constitution, yet it also says that this power can not be exercised by Congress arbitrarily.

Judge Harlan says in the Lottery case:

We may, however, repeat, in this connection, what the court has heretofore said, that the power of Congress to regulate commerce among the States, although plenary, can not be deemed arbitrary, since it is subject to such limitations or restrictions as are prescribed in the Constitution. This power, therefore, may not be exercised so as to infringe rights secured or protected by that instrument. It would not be difficult to imagine legislation that would be justly liable to such an objection as that stated, and be hostile to the objects for the accomplishment of which Congress was invested with the general power to regulate commerce among the several States. (*Idem*, p. 363.)

In the case of *Adair v. United States* (208 U. S., 161), decided at October term, 1897, in which a portion of an act passed by Congress, known as the Edmond Act, was declared unconstitutional—that section of the act which forbade railroads engaged in interstate commerce to discharge from their employment employees because of their membership in any labor organization.

The court declared, because this regulation had no real relation to commerce sought to be regulated, it was beyond the power of Congress to prescribe, was unconstitutional, and void.

Mr. Justice Harlan, who delivered the opinion of the court and who delivered the opinion in the Lottery case, said:

The power to regulate interstate commerce is the power to prescribe rules by which such commerce must be governed. Of course, as has often been said, Congress has a larger discretion in the selection or choice of the means to be employed in the regulation of interstate commerce, and such discretion is not to be interfered with except where that which is done is in plain violation of the Constitution. * * * In this connection we may refer to *Johnson v. Railroad* (196 U. S., 1), relied on in argument, which case arose under the act of March, 1893. That act required carriers engaged in interstate commerce to equip their cars used in such commerce with automatic couplers and continuous brakes, and their locomotives with driving-wheel brakes. But the act upon its face showed that its object was to promote the safety of employees and travelers upon railroads, and this court sustained its validity upon the ground that it manifestly had reference to interstate commerce and was calculated to subserve the interests of such commerce by affording protection to employees and travelers. It was held that there was a substantial connection between the object sought to be attained by the act and the means provided to accomplish that object. So in regard to the employers' liability cases (207 U. S., 463), decided at the present term. In that case the court sustained the authority of Congress, under its power to regulate commerce, to prescribe the rule of liability as between interstate carriers and their employees in such interstate commerce, in cases of personal injuries received by employees while actually engaged in such commerce. The decision on this point was placed on the ground that a rule of that character would have direct reference to the conduct of interstate commerce and would, therefore, be within the competency of Congress to establish for commerce among the States, but not as to commerce completely internal to a State.

Manifestly, any rule prescribed for the conduct of interstate commerce, in order to be within the competency of Congress under its power to regulate commerce among the States, must have some real or substantial relation to or connection with the commerce regulated. But what possible legal or logical connection is there between an employee's membership in a labor organization and the carrying on of interstate commerce? Such relation to a labor organization can have in itself and in the eye of the law no bearing upon the commerce with which the employee is connected by his labor and services. * * * It results, on the whole case, that the provision of the statute under which the defendant was convicted must be held to be repugnant to the fifth amendment and as not embraced by nor within the power of Congress to regulate interstate commerce, but under the guise of regulating interstate commerce and as applied to this case it arbitrarily sanctions an illegal invasion of the personal liberty as well as the right of property of the defendant Adair.

Then, Mr. President, I ask what real connection has the child who is employed in the mill, which manufactures the cotton goods, with commerce, any more than an employee of a railroad, which is one of the instrumentalities of commerce, who joins the labor union?

The denial of the manufacturer from shipping in interstate commerce his goods which were in part produced by child labor, in the language of Justice Harlan, is repugnant to the fifth amendment of the Constitution as not embraced by or within the power of Congress to regulate interstate commerce but under the guise of regulating interstate commerce, and such legislation arbitrarily sanctions an illegal invasion of the personal liberty of the manufacturer.

This legislation for the indirect purpose of regulating manufacture under the guise of regulating commerce is not only arbitrary but in violation of the fifth amendment of the Constitution.

In *People v. Hawkins* (157 U. S.), the court says:

The citizen can not be deprived of his property without due process of law. Any law which annihilates its value, restricts its use, or takes away any of its essential attributes comes within the provisions of the Constitution and its power.

We have cotton commission merchants who buy and sell cotton goods. The commission merchant buys and has shipped to him, within the State, goods produced in part by child labor. Now if this bill becomes a law he can not ship these goods to another State, and therefore the value of his property is lessened, its use is restricted, and his property destroyed without due process of law; and Congress is exercising a power which infringes on the rights secured by the organic law other than the commerce clause and, as Mr. Watson in his work on the Constitution also says:

There is no power in Congress to control the manufacture of goods in the States destined for interstate or foreign commerce, and consequently Congress is unable to control the labor of persons engaged in manufacturing products in the States which are intended for interstate or foreign business. Such regulations are left to the State. The power to make such regulations resided there before the Constitution was adopted, or the Union was formed, and it was not surrendered by the States to the General Government.

Those cases cited as authority for this legislation are where the article shipped in interstate commerce directly affects the health, the morals, or deceives the ultimate consumer, or has some real or substantial relation to or connection with commerce regulation, or where the article or articles deleteriously injure the public in the State or community or that from which it is shipped.

Cotton goods are not misbranded cotton goods and in no way injure the health or the morals of the ultimate consumer, nor are they in any way deleterious to anyone.

The Lottery case which is so confidently relied on prohibits the shipment of the lottery ticket in interstate commerce because of its gambling nature and, therefore, as in the doctrine laid down in the White-Slave case, is injurious to the morals of the people. In the Lottery case, which is the strongest case cited, that the decision might not be drawn upon as a precedent for future extension of the legislative power, the learned Judge Harlan confines it to the precise issue and notifies the profession that the court will not extend the power further, and says in one of the concluding paragraphs of the opinion:

We decide nothing more in the present case than that lottery tickets are subjects of traffic among those who choose to sell or buy them.

The Supreme Court, in the *First Employees' Liability Case* (207 U. S., 463), states very strongly the principle of law for which I am contending.

The learned Justice McKenna, in delivering the opinion, has this to say in paragraph 3:

3. It remains only to consider the contention which we have previously quoted, that the act is constitutional, although it embraces subjects not within the power of Congress to regulate commerce, because one who engages in interstate commerce thereby submits all his business concerns to the regulating power of Congress. To state the proposition is to refute it. It assumes that, because one engages in interstate commerce, he thereby endows Congress with power not delegated to it by the Constitution; in other words, with the right to legislate concerning matters of purely State concern. It rests upon the conception that the Constitution destroyed that freedom of commerce which it was its purpose to preserve, since it treats the right to engage in interstate commerce as a privilege which can not be availed of except upon such conditions as Congress may prescribe, even although the conditions would be otherwise beyond the power of Congress. It is apparent that if the contention were well founded it would extend the power of Congress to every conceivable subject, however inherently local, would obliterate all the limitations of power imposed by the Constitution, and would destroy the authority of the States as to all conceivable matters which, from the beginning, have been, and must continue to be, under their control as long as the Constitution endures (pp. 502-503).

Manufacture is transformation. Commerce is traffic, intercourse. Manufacture of cotton is taking the fleecy staple into the mill and transforming it into cloth. Commerce is the shipment of the cloth from one State into another. Manufacture is one thing, while commerce is entirely a different thing. Over one the State has absolute power, over the other Congress has plenary and absolute power to control and regulate.

In this connection and for the purpose of this argument I will read the tenth amendment or article:

ARTICLE X. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people.

And Mr. Madison declared the purposes of the Government to be under the Constitution—

To support the Constitution, which is the cement of the Union, as well in its limitations as in its authorities; to respect the rights and authorities reserved to the States and to the people and equally incorporated with and essential to the success of the general system.

As there was in those days of its adoption, there is to-day, it seems, a strong sentiment growing in this country for a consolidated or centralized government, for the extinction of the rights of the States, and abolition of State lines.

Mr. President, under our dual system of government the reserved and delegated powers respected and no intrenchment upon one nor the other, this country has progressed beyond the wildest dreams of the fathers, our civilization has rapidly advanced, our increase of wealth has been marvelous, and there is no reason why the system should be changed and the limitations placed in the Constitution be obliterated. There is no reason for any departure from the fundamental principles as construed and expounded by the founders of the Republic and by the highest court of the land.

And this great body which represents the States should see to it that there shall be no invasion upon these powers, should see to it that the fundamental principles of our free institutions are maintained in their full strength and vigor. For an encroachment upon these reserved rights to the extent which the tendencies of the time seem to be leading would be for the Central Government to interfere with, administer upon, and control the industrial, the local, and the domestic concerns of the people in the States, and when once begun and the precedent established there is no telling where it would lead nor where it would end, and State sovereignty would finally be no more. Instead of impairing the sovereignty of the State it is the duty of Congress to uphold and protect it to the last.

If more power is needed for the successful operation of the Government owing to changed conditions, the way is clearly pointed out, the method is provided for in the Constitution by Article V. Let an amendment be submitted to the States. In any event let the people be consulted, let their sacred will be known, let their consent be given to the surrender of any of their rights, and without their consent let nothing be done by an unwarranted construction.

It might be important here to observe that in the debates in the constitutional convention history shows that much more extensive grants of commercial power were proposed, asked for, and most strenuously advocated, but all such propositions were voted down and this simple clause adopted by the wise men who composed that convention and who, being fresh from the people, respected their will.

If Congress is to regulate the cotton mills and mines, why not let it go into the regulating business generally? Regulate the flour mills, the steel mills, the shoe factories, the clothing factories, and regulate the farms; regulate the laws in regard to health; let it regulate every branch of industry which contemplates an interstate or foreign market, and then there will be little left for the State to do.

Where the evils exist the States can and will correct them. I insist that in this Christian land of ours there is no less of higher moral ideas and humanitarianism—the brotherhood of man—in one State than another. We are all living and moving on a higher, nobler, and more Christian-like plane, I trust, and where one State has seen its duty and legislated in favor of humanity and corrected these evils you may soon expect that the Christian and patriotic sentiment in other States will cause their legislatures to act in these matters until we have the uniformity that is so much desired.

And again, Mr. President, the law which will suit one State might not prove satisfactory to the people of another State, where conditions are entirely different, and the regulation should be left to each State, which knows its own conditions best.

Mr. President, let the powers enumerated in the Constitution remain limited. Let the reserved powers in the people be undisturbed. Let the integrity and autonomy of the States be upheld; encourage State pride. Centralization would be a constant menace to the liberties of the people, breeding corruption and oppression. These reserved powers are in the people of the States. They are theirs to hold, they are theirs to surrender; but when once surrendered they can never be regained. I say with a great judge who wrote it, that that government is the best which while performing all its duties interferes the least with the lawful pursuits of the people.

In the language of the great father of Democracy, Thomas Jefferson:

It is not by the consolidation or concentration of powers, but by their distribution that good government is effected. Were not this country already divided into States, that division must be made that each might do for itself what concerns itself directly, and what it can so much better do than a distinct authority. Every State is again divided into counties, each to take care of what lies within its local bounds; each county again into townships or wards, to manage minuter details; and every ward into farms, to be governed each by its individual proprietor. Were we directed from Washington when to sow and when to reap we should soon want bread. It is by this partition of cares, descending in gradation from general to particular, that the mass of human affairs may be best managed for the good and prosperity of all.

Mr. Justice Hughes, in his recent address to the New York Bar Association, in January, said:

But in the face of the difficulties already before us, and destined to increase in number and gravity, we remain convinced of the necessity of autonomous local governments. An overcentralized government would break down of its own weight. It is almost impossible even now for Congress in well-nigh continuous session to keep up with its duties, and we can readily imagine what the future may have in store in legislative concerns. If we did not have States we should speedily have to create them. To preserve the essential elements of this system, without permitting necessary local autonomy to be destroyed by the unwarranted assertion of Federal power and without allowing State action to throw out of gear the requisite machinery for unity of control in national concerns, demands the most intelligent appreciation of all the facts of our interrelated affairs and far more careful efforts in cooperation than we have hitherto put forth.

Along this same line, I quote from a great speech of Senator Root in his address on "The Essentials of the Constitution," at Princeton University about two years ago:

If the power of the States were to override the power of the Nation, we should ultimately cease to have a Nation and become only a body of really separate, although confederated, State sovereignties, continually forced apart by diverse interests and ultimately quarrelling with one another and separating altogether. On the other hand, if the power of the Nation were to override that of the States and usurp their functions, we should have this vast country, with its great population, inhabiting widely separated regions, differing in climate, in production, in industrial and social interests and ideas, governed in all its local affairs by one all-powerful central government at Washington, imposing upon the home life and behavior of each community the opinions and ideas of propriety of distant majorities. Not only would this be intolerable and alien to the idea of free self-government, but it would be beyond the power of a central government to do directly. Decentralization would be made necessary by the mass of Government business to be transacted, and so our separate localities would come to be governed by delegated authority—by proconsuls authorized from Washington to execute the will of the great majority of the whole people. No one can doubt that this also would lead by its different route to the separation of our Union. Preservation of our dual system of Government, carefully restrained in each of its parts by the limitations of the Constitution, has made possible our growth in local self-government and national power in the past and, so far as we can see, it is essential to the continuance of that Government in the future.

Mr. President, I will close by reading from an address of Mr. Justice David J. Brewer to the Arkansas and Texas Bar Association July 11, 1906, on the subject "Two Periods in the History of the Supreme Court." Justice Brewer, as I have said, was a great judge and a great statesman, and he seemed to have in his mind's eye where it would lead if Congress should continue to invade the field of the local domestic concerns of the people.

Referring to political contentions on behalf of the extension of the commerce power, Justice Brewer said:

If we listen to the contentions of some, we shall be led to believe that when the farmer sows his wheat, having in view the gathering in the fall of a crop of grain which he intends to sell to a mill in some other State, the power of Congress attaches as upon a beginning of interstate commerce and continues until the wheat has been manufactured into bread and eaten by the consumer. * * *

Because a manufacturer may intend to dispose of some of his products in interstate traffic it is said that Congress has the right to supervise the entire action of his manufacturing establishment. Inasmuch as it is difficult to draw the line in our great industries between that commerce which is wholly within the State and that which is carried on between the States, the contention is that Congress may take full control of the entire industry, the greater power of the Nation swallowing up the smaller power of the States. I might go on and enumerate many other illustrations, but these serve my purpose.

Is there not danger in this tendency, and may we not wisely consider whether it ought not to be stayed? I know it is said that the National Government is more efficient than the States; can reach supposed ills in their entirety when the States can only reach them partially. But is efficiency the only test? If it is, then a centralized government with a dictator is the ideal government, for none has such efficiency and thoroughness as a government under the absolute control of a single individual. * * *

Never will we pass the danger line until those who dwell in all our communities realize that upon themselves rests the burden of our civilization. It is human nature to turn responsibilities off if possible, and if you develop in the locality a general feeling that in a government at Washington rests full responsibility the individual will steadily lose the spirit of independent, public-spirited citizenship. I am not pessimistic. I believe in the glorious future of this Republic, for though I clearly see the tendency to-day I as firmly believe that there will be a glorious resurrection of that spirit of individuality, that sense of personal responsibility which can alone give to this Nation an enduring and brilliant future. * * *

Where is that individuality to-day?

That which I wish to call attention to is that too much and too frequent interference by government blunts the sense of individual responsibility, and the danger is that we drift to a condition where the individual abandons his own duty and simply appeals to government. So that if a man buys a pair of shoes which pinch his feet he will rush to the legislature for some statute regulating shoemaking, and for fear the State legislature can not reach every shoemaker in the land, hasten to Washington to have Congress undertake the work of regulation under its power over interstate commerce.

APPENDIX.

State.	Total number of children 10 to 14 years of age, 1910.	Children under 15 committed to prisons, jails, workhouses, reformatories in 1910.	
		Number.	Number per 100,000 children 10 to 14.
North Carolina.....	265,964	41	15.4
Massachusetts.....	284,960	554	194.4
Rhode Island.....	47,014	146	310.5
Connecticut.....	95,272	168	176.3
Wisconsin.....	246,154	161	65.4
Illinois.....	520,955	457	87.7
Minnesota.....	214,402	104	48.5
California.....	173,945	87	50.0

District of Columbia.

Year.	Total number of children 10 to 14 years of age.	Children under 15 years of age committed to prisons, jails, workhouses, or reformatories.	
		Number.	Number per 100,000 children 10 to 14.
1904.....	123,525	82	348.0
1910.....	24,649	96	389.5

¹ Estimated.

Illiteracy decreasing.

	Total number of children 10 to 14 years of age, 1910.	Children under 15 years of age committed to prisons, jails, workhouses, or reformatories in 1910.	
		Number.	Number per 100,000 children 10 to 14 years of age.
United States.....	9,107,140	9,629	105.7
Geographic divisions:			
New England.....	559,556	1,061	189.6
Middle Atlantic.....	1,726,085	3,121	180.8
East North Central.....	1,706,759	1,723	101.0
West North Central.....	1,170,674	853	72.9
South Atlantic.....	1,396,038	1,327	95.1
East South Central.....	969,343	624	64.4
West South Central.....	1,016,531	408	40.1
Mountain.....	239,610	289	120.6
Pacific.....	322,523	223	69.1
New England:			
Maine.....	64,588	68	105.3
New Hampshire.....	36,271	37	102.0
Vermont.....	31,451	88	279.8
Massachusetts.....	284,960	554	194.4
Rhode Island.....	47,014	146	310.5
Connecticut.....	95,272	168	176.3
Middle Atlantic:			
New York.....	785,826	1,962	249.7
New Jersey.....	228,695	405	177.1
Pennsylvania.....	711,565	754	106.0
East North Central:			
Ohio.....	425,602	552	129.7
Indiana.....	255,508	279	109.2
Illinois.....	520,955	457	87.7
Michigan.....	258,480	274	106.0
Wisconsin.....	246,154	161	65.4
West North Central:			
Minnesota.....	214,402	104	48.5
Iowa.....	222,577	115	51.7
Missouri.....	324,191	398	122.8
North Dakota.....	59,392	17	28.6
South Dakota.....	60,021	4	6.7
Nebraska.....	121,782	63	51.7
Kansas.....	168,309	152	90.3
South Atlantic:			
Delaware.....	19,308	41	212.3
Maryland.....	129,605	340	262.3
District of Columbia.....	24,649	96	389.5
Virginia.....	237,563	212	89.2
West Virginia.....	131,027	111	84.7
North Carolina.....	265,964	41	15.4
South Carolina.....	192,406	186	96.7
Georgia.....	315,217	206	65.4
Florida.....	80,319	94	117.0
East South Central:			
Kentucky.....	252,905	240	94.9
Tennessee.....	243,328	167	68.6
Alabama.....	253,196	186	73.7
Mississippi.....	219,914	81	36.8
West South Central:			
Arkansas.....	179,879	81	45.0
Louisiana.....	193,791	179	92.4
Oklahoma.....	186,069	47	25.3
Texas.....	456,792	101	22.1
Mountain:			
Montana.....	29,686	74	249.3
Idaho.....	31,902	2	6.3
Wyoming.....	10,829	1	9.2
Colorado.....	69,688	133	190.9
New Mexico.....	34,408	13	37.8
Arizona.....	18,091	43	237.7
Utah.....	40,070	23	57.4
Nevada.....	4,936		
Pacific:			
Washington.....	92,802	99	106.7
Oregon.....	55,776	37	66.3
California.....	173,945	87	50.0

Sixteen States, including Florida, have laws that declare no child under 16 years of age shall be employed in any occupation injurious to health or dangerous to life, limb, or the morals of such child.

Florida provides a State inspector whose duty it is to see to the enforcement of the law. I know of no complaint in that regard. I deny that there is need of Federal inspectors to supervise the work of State officers, empowered to harass and inconvenience and oppress our people by arbitrary inspections, making complaints before United States commissioners, arresting and prosecuting them before the Federal courts in the process of earning their salaries. We have too many inspectors, special agents, secret service employees, and the like now, costing the people hundreds of thousands of dollars for the privilege of being watched from the time they arise in the morning until they retire at night, in order that they may be certain not to eat or drink, buy or sell, or do anything that would violate some law. If some ambiguous, omnibus statute should escape the citizen's notice or knowledge some inspector or special agent is on hand to hurry him to prison. Russia and Mexico must soon take lessons from the United States when it comes to restraining, under the guise of controlling, the liberties of the citizen. Laws have been and are being enacted by the States on this subject, as fast and as effective as the need for them is brought home to the people. Local conditions should not be ignored, and these conditions no general national legislation can adequately meet. Granted the legislation proposed would serve a high purpose, I can not believe it would be wise to pass this bill or that it is the best way to handle the subject. It is a field already occupied by practically all the States, and the States and local communities are in position to deal with it directly and to correct every evil, national or individual, which it is desired to correct.

It is argued that the State laws are not enforced, but I answer, Who is given the right to pass that judgment? and if that conclusion be true, it by no means follows the Congress has power for that reason to go into a State and interpose to correct such dereliction.

That would be an unwarranted, bold assumption of power by Congress.

I shall not argue the question. Senators' minds are made up. The bill will pass. My purpose simply is to state some of the principles involved, some we should preserve and some we will hark back to later. What we do here will be deliberately, not hastily and unthoughtedly, done.

Second. It seems to me even if we concede that child labor, as it exists in the United States, is a "national evil," that legislation by Congress is desirable to correct it, the more serious question is whether the remedy proposed in this bill is a constitutional remedy. If convinced it is not, my duty is to vote against it.

After serious consideration and no little study, no doubt rests in my mind on that point.

Let us keep in view that Congress can do nothing that is not granted in the Constitution, while the States may do anything not denied to them, and examine the provisions of Article I, section 8, paragraph 3, of the Constitution, to which we must look for the authorization of this power sought to be exercised under this bill, which reads:

The Congress shall have power to regulate commerce with foreign nations and among the several States and with the Indian tribes.

I do not believe that it was originally intended that in the power to "regulate commerce * * * among the several States" should be included the power to prohibit such commerce.

In the case of *Dooley v. United States* (183 U. S., 171), Chief Justice Fuller said:

But if that power of regulation is absolutely unrestricted as respects interstate commerce, then the very unity the Constitution was framed to secure can be set at naught by a legislative body created by that instrument.

Mr. Judson, in his work on Interstate Commerce, page 506, distinguishes between the three classes of commerce mentioned. Tucker on the Constitution, volume 2, pages 528-529, says:

The power to regulate foreign and interstate commerce was given in the same terms, diverse intuitu. In the first, to protect all against the machinations of foreign enemies; in the second, to protect and promote the free and unobstructed movement of men and things between the States in the family of the Union.

The States, in favoring the new Government, had for their object facilitating, not prohibiting, commerce—freeing commerce from the restraints which had existed.

Again, Congress, while having exclusive power to regulate commerce "among the States," has no such power to regulate the manufacture of goods in the States on the ground that such

Mr. FLETCHER. Mr. President, I would not delay action on the bill, for which I recognize there is widespread favor, but I can not vote for it for the reasons which I will state as concisely as possible:

First. Clearly the States have the power and authority to deal with the subject of child labor in all its phases. There is no dispute as to that. The States are dealing with it. Twenty-two States, having a population of 54,484,888, prohibit the working of children in mines and quarries. Some States, which have no such prohibition, have no mines or quarries. Twenty-eight States, including Florida, have standard provisions, without exemptions, fixing 14-year limit in factories and canneries. See page 9 of report.

goods may become the subjects of interstate commerce. If Congress has not the authority, granted or implied, to regulate manufacturing in the States, clearly it has not the power to control or direct or suppress the manufacturing plant.

This bill undertakes to provide for Federal regulation of the hours of labor in the States. We look in vain for any grant of power to Congress in the Constitution to regulate the hours of labor in the States.

I do not agree that Congress may do indirectly what under the Constitution it has not power to do directly, and the recent decision in the Oklahoma case, Two hundred and thirty-eighth United States, should eliminate the excuse for a sneer at that proposition.

It seems clear that an admission of the existence of such power would be full of danger, in that it might lead ultimately to the destruction of the reserved rights of the sovereign States.

The effort here is not to regulate commerce of any kind, but in order that the Federal Government may enforce the laws which Congress may enact respecting the employment of children in certain kinds of labor, to regulate the hours of labor, and to control the manufacture of products in the States.

To contend this may be done, no matter how noble the purpose, is to proclaim the doctrine advanced by Charles Sumner in the distressing period of the country's history, when desperate measures were resorted to, that—

Beyond all question the true rule under the National Constitution * * * is that anything for human rights is constitutional * * *. There can be no State rights against human rights; and this is the supreme law of the land, anything in the constitution or laws of any State to the contrary notwithstanding.

Two cases of the Supreme Court are principally relied upon to support the claims of the advocates of this bill, to wit:

What is known as the Lottery case (188 U. S., 331) and the White Slave case, *Hoke v. United States* (227 U. S., 308).

If we concede that these cases support the contention that Congress may prohibit interstate commerce, when the article of commerce is not inherently impure, not an "outlaw" of commerce, which I deny, still we must bear in mind it is commerce, and not manufacture, that may be prohibited, according to these cases.

It is not claimed that the article manufactured or produced by child labor as it exists in the States is in itself impure, unsound, unclean, dangerous to health and morals. The movement of such articles in commerce neither of these cases holds may be prohibited by Congress.

The fifth amendment to the Constitution protects such property from confiscation. The manufacturing plant is not the "outlaw" when the only complaint is the method, the practice employed in the process of manufacture. Can Congress prescribe that every cannery must have a glass roof, otherwise the goods coming from it can not move in interstate commerce?

The Supreme Court holds that even though, in certain circumstances, Congress may prohibit commerce in an article after its creation, it may not prohibit its creation.

The cases of *Kidd v. Pierson* (128 U. S., 1) and *United States v. E. C. Knight Co.* (156 U. S., 12) support this view.

These cases and the cases of *United States v. De Witt* (9 Wall., 47) and *Coe v. Erroll* (116 U. S., 517) seem to me conclusive against the constitutionality of this bill.

Justice Lamar said, in *United States against E. C. Knight Co.*:

The fact that an article is manufactured for export to another State does not of itself make it an article of interstate commerce, and the intent of the manufacturer does not determine the time when the article passes from the control of the State and belongs to commerce.

Justice Bradley said, in *Coe against Erroll*:

What we have already said, however, in relation to products of a State will indicate the view which seems to us the sound one on that subject, namely, that such goods do not cease to be part of the general mass of property in the State, subject, as such, to its jurisdiction and to taxation in the usual way, until they have been shipped or entered with a common carrier for transportation in a continuous route or journey.

Here the article, logs, had been cut and were intended for interstate commerce, and had started on their journey, but they were held to be subject to the jurisdiction and laws of the State where they were and had been cut.

These considerations oblige me to vote against the bill, while in cordial sympathy with every proper and lawful effort to protect the child from harm or injury, or oppression, or hardship by exactions or practices in respect to labor.

In the same breath I must say that there is no reason appealing to me why this protection of the child's rights and prevention of wrong and injustice should be limited to consideration of that one object, the child's labor.

Under the Senate amendment any producer, manufacturer, or dealer is prohibited from shipping or delivering for shipment

in interstate or foreign commerce any article or commodity the product of any mine or quarry in which within 30 days prior to its removal from the mine or quarry children under the age of 16 years have been employed or permitted to work.

If a manufacturer or producer permits a child under the age of 16 years to be employed in producing an article or commodity, a dealer in that article who ships or delivers for shipment in interstate or foreign commerce that article or commodity, if by oversight, accident, or neglect section 5 is not complied with, violates the law and may be arrested and punished as the act provides. He may have had nothing whatever to do with the employment of any of the labor employed in producing the article. He may have had no knowledge or information regarding the means employed in its production. The article or commodity may have no objectionable feature whatever on any ground, per se.

Again, no producer, manufacturer, or dealer shall ship or deliver for shipment in interstate or foreign commerce any article or commodity the product of any mill, cannery, workshop, factory, or manufacturing establishment situated in the United States in which within 30 days prior to the removal of such product therefrom children under the age of 14 years have been employed or permitted to work, or children between the ages of 14 years and 16 years have been employed or permitted to work more than eight hours in any day or more than six days in any week or after the hour of 7 o'clock p. m. or before the hour of 6 a. m.

Congress undertakes to say in effect by this bill that in no State shall there be employed or permitted to work in any "mill, cannery, workshop, factory, or manufacturing establishment" of any kind a child under the age of 14 years.

Further, that no child between the ages of 14 and 16 shall be thus employed or permitted to work more than eight hours in any day.

Further, that no such child shall be thus employed or permitted to work before the hour of 6 a. m. and after the hour of 7 p. m. nor more than six days in any week.

These are all matters which Congress is granted no power or authority, express or implied, to control or regulate. Any person who violates these provisions may be punished for the first offense by a fine of not more than \$200 and for each subsequent offense by a fine or not more than \$1,000 nor less than \$100, or by imprisonment for not more than three months, or by both such fine and imprisonment. The bill gives authority to the Secretary of Labor, or any person he may select, to enter and inspect at any time "mines, quarries, mills, canneries, workshops, factories, manufacturing establishments, and other places in which goods are produced or held for interstate commerce" and to employ assistance for the purposes of the act.

The opportunity for oppression under this bill is unlimited. The power to drive to bankruptcy and ruin producers, manufacturers, and dealers is given Federal agents in unmistakable terms.

These inspectors and assistants employed by the Federal authority will have in their hands the means to close the doors of mills, canneries, workshops, factories, or manufacturing establishments and other places where goods are made or held for interstate commerce and harass and have fined and imprisoned their owners and operators practically at their will.

Mr. BRANDEGEE. Mr. President—

The VICE PRESIDENT. Does the Senator from Florida yield to the Senator from Connecticut?

Mr. FLETCHER. I yield to the Senator.

Mr. BRANDEGEE. I do not think the Senator means exactly what he has stated in a part of his remarks. If I understood him correctly, he stated that this bill prohibits the employment of children within these hours. It only prohibits the transportation of the goods made in those factories if they do employ children over certain hours.

Mr. FLETCHER. My argument is that the effect of that is to accomplish the other result; that the real purpose is the prohibition as to the labor, not as to the transportation.

Mr. BRANDEGEE. Oh, certainly; but it is not prohibited. Everybody agrees that it could not be prohibited.

Mr. FLETCHER. Precisely; but I am arguing that that is the effect of the bill and the real purpose of the bill, and that it is attempting to do indirectly what it could not do directly.

Mr. BRANDEGEE. I agree with the Senator entirely.

Mr. CUMMINS. Mr. President—

The VICE PRESIDENT. Does the Senator from Florida yield to the Senator from Iowa?

Mr. FLETCHER. I do.

Mr. CUMMINS. The Senator from Florida has asserted, with a good deal of emphasis, that the Government of the United States can not in any instance do indirectly what it has

no power to do directly. Does he apply the same principle to every power granted to Congress in the Constitution? For instance, does the Senator say that the taxing power can not be used to accomplish indirectly what can not be done directly?

Mr. FLETCHER. I will not attempt to say that the taxing power can not be used with the result of working out a consequence which flows indirectly from the exercise of that power; but that should not be the primary purpose of the exercise of the power by Congress.

Mr. CUMMINS. I call the Senator's attention to what was done in the early days of the war, and which gave rise to a very well known decision of the Supreme Court. Congress wanted to prevent the circulation of State bank currency. It had no power to prohibit the circulation of that kind of money directly, but its only desire was to prohibit it; and I ask if it be not true that we did prohibit it by imposing upon it a tax of 10 per cent?

Mr. PENROSE. Mr. President—

Mr. FLETCHER. I quite agree with the Senator that when the 10 per cent tax was imposed on State bank circulation it had the effect of prohibiting that circulation; but that was done under a positive, direct grant of power to Congress—namely, the power to tax.

Mr. CUMMINS. But this is done under the direct, positive power given to Congress to regulate commerce.

Mr. FLETCHER. To regulate commerce—precisely. It is not the commerce regulation that I am finding fault with. It is the attempt on the part of Congress to regulate and control and direct the employment of labor, and the exercise of that power in directing and controlling and supervising manufacturing in the various States, which is purely a matter within the police power of the State.

Mr. CUMMINS. The prohibition against the employment of children under certain circumstances is simply the effect, the consequence, of prohibiting the shipment of certain goods, and the prohibition against the shipment of certain goods is a regulation of commerce just as the tax upon State bank circulation was in form a tax upon an article or an instrumentality with which Congress could not deal directly.

Mr. FLETCHER. Now, the Senator is branching off upon another proposition where an article is an outflow of commerce.

Mr. CUMMINS. What makes it an outflow?

Mr. FLETCHER. That power might be exercised where it is injurious to health, where it is dangerous to public morals, and that sort of thing, but there is no such claim made as to the goods manufactured in these factories, that the goods are impure, that they are unsound, that they are unhealthy, that they are immoral in themselves.

Mr. CUMMINS. I will put the Senator another inquiry, if he will permit me. Does the Senator doubt that Congress has the right to levy a tax upon an import that will be sufficiently high to prevent the importation?

Mr. FLETCHER. Whatever Congress does in the exercise of that power is in pursuance of a direct grant of authority in the Constitution.

Mr. WORKS. Mr. President—

The VICE PRESIDENT. Does the Senator from Florida yield to the Senator from California?

Mr. FLETCHER. I do.

Mr. WORKS. The illustration of the Senator from Iowa is quite an unfortunate one. It does not touch the real question involved here at all. That was a case where Congress had power and jurisdiction to act; but its effect was unlawful and it escaped an adverse decision of the Supreme Court only because that court would not inquire into the motives of Congress in enacting the law. It was doing a lawful thing, but really doing it for an unlawful purpose, and that was the question the Supreme Court did not inquire into.

Mr. CUMMINS. May I respond to the Senator from California?

Mr. FLETCHER. I yield.

Mr. CUMMINS. In my judgment, the illustration is a very pertinent and a very apt one. It of course is not precisely like the bill before us, but the express power had been given to Congress, and while taxation is ordinarily supposed to be laid for the purpose of getting a revenue, Congress can lay a tax to destroy as well as to create a revenue.

Mr. PENROSE. Mr. President, I rise to a question of order.

Mr. CUMMINS. A tax can be used to promote the general welfare of the country, just as every other express power in the Constitution can be used.

The VICE PRESIDENT. The Senator from Pennsylvania will state his point of order.

Mr. PENROSE. I have risen several times to be recognized and the Senator from Iowa has apparently gone on without

recognition from the Chair. This is a very important bill, constituting a radical departure in the policy of the American Government, this debate is impressive and interesting, and I think Senators ought to be here to listen to it. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

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

Bankhead	Gronna	Myers	Smith, Ariz.
Brady	Hardwick	Nelson	Smith, Ga.
Brandegee	Hitchcock	Norris	Smoot
Bryan	Hughes	Oliver	Sterling
Chamberlain	Husting	Overman	Thomas
Chilton	James	Penrose	Thompson
Clapp	Johnson, S. Dak.	Pittman	Tillman
Clark, Wyo.	Jones	Ransdell	Vardaman
Culberson	Kenyon	Robinson	Williams
Cummins	Kern	Shafroth	Works
Curtis	Lee, Md.	Sheppard	
Dillingham	Martin, Va.	Shields	
Gallinger	Martine, N. J.	Simmons	

The VICE PRESIDENT. Forty-nine Senators have answered to the roll call. There is a quorum present.

Mr. FLETCHER. Mr. President, perhaps I should not let pass the suggestion of the Senator from Iowa in regard to the legislation in connection with the tax on State banks and in connection with the prohibitive tariff as being unquestionably sound and proper and constitutional. I believe myself there is a very solemn protest against that sort of legislation, and that really there was an assumption of authority to a great extent on the part of Congress in respect to both the legislation with reference to the tax on State banks and in reference to laying duties that absolutely prohibit importation. It is very questionable whether under the Constitution Congress has not exceeded its power and authority in both those instances. A great many people feel that it has, and so contend in good faith. It seems to me, as I said, there was an assumption of authority there that it is doubtful whether it is justified by the language of the Constitution. But in both those instances Congress was acting under direct and express authority, which distinguishes the cases from the one presented by this bill.

I was proceeding to say, Mr. President, that under the provisions of this bill in several instances the assistants to the Secretary of Labor would be empowered to enter at any time any factory, mill, cannery, place of manufacture, or other place where these goods are held for the purpose of inspecting and endeavoring to enforce this law, and that such a power given to these special agents, unlimited in number, would arm them with authority to so hamper, hinder, and obstruct the exercise of the right of the manufacturers in respect to their business as to become an intolerable situation.

I would not for any consideration contribute to investing any such authority or power in any set of men. Especially is such a proposal abhorrent when the men chosen for that kind of work may be strangers to the people affected and alien in interest. I can not bring myself to believe that the policy advanced by the bill is wise. I am convinced it proposes legislation unsound in principle.

I can quite appreciate that in some circumstances and under some conditions the privilege of a child under 16, and even under 14, years of age to work is a blessing of the highest character. The welfare of the child, the good of society, may be subserved by the reasonable employment of such a child in useful labor. Work, under proper conditions—wholesome, healthful employment, not too hard or difficult—never on earth injuriously affected the morals of the child. Idleness, with its proximate consequences, on the other hand, voluntary or forced, has always been a fruitful source of vice and evil.

The situation does not make it necessary or justify the enactment by Congress, in the public interest, of a measure which must inevitably lead to conflict of jurisdiction, confusion of laws, and clashing of authority. The bill opens the way, moves far along that road which leads toward the gradual destruction of the rights of the States and the undermining of the constitutional liberty Americans have not ceased to love. The leadership of the future will be founded on commercial and industrial progress. Admit the constitutionality of this bill and you recognize a power in Congress to shackle commerce and strangle industry. When that day comes you will realize you have thrown to the winds the leadership and the power of the United States.

Mr. BRYAN. Mr. President, so much has been said, and so well said, in this discussion that I shall not undertake at any length to go into either the constitutionality or merits of the bill; but I do not feel at liberty to allow a vote to come without expressing my opposition to the principles and the provisions of this legislation.

It is of no consequence now to consider whether the Constitutional Convention intended in the grant to regulate com-

merce to include a provision to prohibit commerce. The judicial decisions construing acts of Congress have adopted that principle of prohibition; but heretofore neither the Congress nor the courts have undertaken to go outside the realm of commerce and deal with the production of articles which afterwards might go into commerce. Legislation heretofore has dealt with commerce. This legislation deals not with commerce but with production. Indeed, Mr. President, that is the purpose of the bill.

The report of the committee states in distinguishing the Senate committee's substitute from the bill as passed by the House:

The House bill seeks to stigmatize commodities produced in whole or in part by proscribed child labor in the processes of actual manufacture. The Senate amendment penalizes the producer.

Again, on page 5 of the report, there is this language:

The committee therefore recommends that the prohibition be of the shipment of the product of a factory, mine, etc., in which, within 30 days prior to the removal of the product therefrom, child labor has been used within the specified standards of ages and hours. This is placing the prohibition on the shipment of the products of a plant using child labor, and not on the shipment of the products actually made by the child.

In other words, it is not honest legislation. That is more clearly shown by reference to the last paragraph of the bill.

Section 6 provides that the word "person" shall include, among other things—

in the case of a dealer, means only to transport or to ship or deliver for shipment from the State, Territory, or District of manufacture or production.

What does that language mean? As explained in the committee report, it means that—

Under the House bill dealers in States other than that of production or manufacture are penalized unless protected by the manufacturers' guaranty, while in the Senate committee bill this very great burden which would thus be imposed upon commerce is totally removed.

The Senate committee, however, finds it necessary to retain a provision relating to guaranty in so far as dealers within the State of production or manufacture are concerned, in order to prevent evasions of the law.

In other words, Mr. President, the only penalty upon a dealer occurs in the State of production, in a jurisdiction with which Congress has no power to deal, and in the only place where Congress has the power to legislate the dealers are relieved from any restrictions at all in the interest of commerce. If that does not show that it is not the purpose of the bill to regulate commerce at all, but that the purpose is to legislate with reference to child labor itself, nothing could make it plain.

It is said that there is no harm in doing indirectly something that can not be done directly, and upon that basis appeal for the support of the bill is made because, Mr. President, no man in the Senate contends for a moment that Congress has the power to deal with the subject matter of the bill, to wit, child labor. Is there any objection to doing a thing indirectly that you can not do directly? In the first place, it is a plain usurpation of power. There is no subject of legislation under our Government that is not held either by the States or by the Federal Government. It is admitted that the Federal Government has no power to deal with this subject as such. Then, Mr. President, the conclusion is inevitable that we perpetrate a fraud upon the reserved powers of the States when we enact this legislation.

The Senator from Iowa [Mr. CUMMINS] propounded the inquiry to my colleague whether we have power to levy a prohibitive tariff. Of course we have the power. We have the power because the courts will not inquire into the motives of a coordinate branch of the Government. Mr. Justice Miller long ago held that it was robbery, although done under the taxing power of the Government.

Now, Mr. President, it does not lessen the responsibility of a legislator to say that the courts will not overturn the legislation. We too take an oath to support the Constitution, an oath as binding as the oath taken by the judiciary, and it is hardly fair to the judiciary when an item of legislation comes along that seems to have public sentiment behind it or upon which proposition there may be some doubt for Members of Congress to evade their responsibility and pass it on to the courts. When we have to deal with a question that might hurt there is an easy way of avoiding responsibility and of allowing the courts to assume it. But when we do that we are neither candid nor honest.

And then what happens, Mr. President? You place upon the judiciary the burden of seeming to overturn the will of the people as expressed in the legislative branch. It is to the credit of the courts that they have usually been true to their obligations.

Mr. President, is not the passage of legislation of this character which the court must finally consider responsible, at least in some degree, for several unfortunate conditions? Is it not

responsible, in a way, for the humiliating circumstances that men, even in official situation, even in the Congress of the United States, will rise up and say they have no respect for the Constitution of their country? Yet there are men who say they do not believe the Supreme Court has the right to pass upon the constitutionality of an act. It is unfortunate in another respect, that the people are made to believe that the court itself has usurped authority when it declares the act unconstitutional.

It is only a few years ago when we had quite a large element in this country expressing their disapproval upon the ground that the courts had usurped authority and held that we should recall judges, because they had assumed to overturn the acts of the legislative branch, not only recall judges but that we should recall the decisions of the judges. I say that puts a responsibility upon the courts that we ought not to transfer from our shoulders to theirs.

Again, Mr. President, there is a difference, as has been pointed out in several addresses during this discussion, between the duty of the legislator and the duty of the judge. In Congress and in legislative body the burden of showing that the act is constitutional is upon those who advocate it. We ought not to vote for a bill unless we are convinced that it is constitutional, and the court may not overturn an act of Congress unless convinced that it is unconstitutional.

So it comes about that a man may vote to sustain an act of the legislature in the capacity of a judge which he ought not to have voted for under his oath if he had been a member of the legislature that passed it.

Mr. President, what are the reasons urged for the passage of this bill? In the report of the committee it is said that it is done because the employment of child labor is a national evil. Yet in the report on page 7 we find this language:

With the passage of the South Carolina law, only three States—North Carolina, New Mexico, and Wyoming—remain with an age limit for the employment of children less than 14 years, though some of the States allow children as young as 12 to be employed for reasons of poverty, or during the vacation season, or in canneries.

So this legislation is asked for because it is supposed that North Carolina, New Mexico, and Wyoming have not enacted legislation that is satisfactory to Members of Congress.

We then turn to the table on page 12, and looking at the child labor employed in those States we see how pressing this demand is. North Carolina, in manufacturing and mechanical specified occupations, has employed children between 10 and 13 years of age, 6,344, and between 14 and 15 years of age, 8,475; in the extraction of minerals she has employed 15 children between the ages of 10 and 13 years and 27 between 14 and 15—that is, the total for North Carolina is 14,861.

In New Mexico, in manufacturing and mechanical occupations there are 29 employed between the ages of 10 and 13; 90 between the ages of 14 and 15. In the extraction of minerals there are 10 employed between the ages of 10 and 13, and 42 between the ages of 14 and 15; a total of 171.

In Wyoming, in the manufacturing and mechanical occupations, between the ages of 10 and 13 there are none; between 14 and 15 there are 17. In the extraction of minerals, between the ages of 10 and 13 there are none, and between the ages of 14 and 15 there are 39; making a total for Wyoming of 56—14,861 for North Carolina, 171 for New Mexico, and 56 for Wyoming; a total of 15,088.

The laws of the other States have been conformed in a general way to a standard bill, so there remains only one State employing any considerable number of children. It is pointed out in this report that some of the States make exceptions to standard provisions. The exception of poverty is the chief one in those States. A child between 12 and 14 years of age who must work because of poverty is exempt from the law.

Mr. President, I have never been in a cotton factory. I do not know of my own knowledge what the conditions are in North Carolina. I believe, however, the people of North Carolina know. I believe the people of that State have more interest in the welfare of their children than have the Members of Congress, because their lives are wrapped up in them. They are to be the future citizens of North Carolina, to govern it, and to carry it forward in its civilization.

I can understand that it might, whether wise or not, be necessary for a child to go to work, earning an honest living, rather than to be placed upon the charity of some State institution or of some individual. That is a question which I have no doubt has been considered in the various States. I have never understood that work was specially harmful and that idleness was of great benefit to children. A day or two ago, while this discussion was proceeding, I was sitting by one of the oldest and most influential Members of this body upon the other side of the Chamber, and he said when he was 12 years of age he was plowing with a yoke of oxen. I imagine that if men

accustomed to earn their living in the sunshine, out in the open, on a day like this, could have their way about it, they would think that work in the shade in a building was infinitely preferable.

This body is made up of men who, for the most part, were engaged in making their living in the shade, in buildings; so that they think that work in the shade in buildings is injurious to health. If it were made up of farmers, who have to work in the sunshine, and who have never in their actual experience found the theoretical benefits which occur to us from their labor, with their backs bended in the hot sun, they might pass legislation providing that if children worked in the fields they should not work more than eight hours a day; but if they had the opportunity to work in a building, where they were protected from the weather, they might work as long as they pleased.

What are you going to do with the children when you forbid them to enjoy the right to earn a living under this bill? That, too, is a serious question. This bill says they shall not labor; but it does not say to them what they can do. I do not believe we are going to much improve upon the policy that has heretofore obtained of allowing this Government to deal with the common interests of the States and allowing the States to deal with the matters that affect themselves, with the matters that they have reserved. I know it is unpopular to speak about State rights. When anybody mentions the rights of the States it is usually supposed that he is referring to the Civil War; yet, Mr. President, it seems to me that in the years ahead of us, there is nothing so important in our Government as the insistence upon the old-time division of powers between the Federal and the State Governments. This bill breaks down that distinction.

Mr. CUMMINS. Mr. President—

The PRESIDING OFFICER (Mr. MYERS in the chair). Does the Senator from Florida yield to the Senator from Iowa?

Mr. BRYAN. I yield.

Mr. CUMMINS. The Senator from Florida said a moment ago, if I understood him correctly, that this bill was intended only to take care of a few children in North Carolina, New Mexico, and Wyoming, and he read from the report showing the number of children in those States under 13 years of age, I think, who were employed in factories and in quarries. The Senator from Florida is always fair, and therefore I assume that he has overlooked what I regard as the chief purpose of the bill, which is to limit the hours of labor of all children employed in these industries, under 16 years of age, to eight hours per day. The figures that he has given, however, have no application whatever to the vast number of children in many States who are permitted to work more than eight hours a day.

Mr. BRYAN. Well, Mr. President, I was reading from the report of the committee; and I shall read further on page 7:

With regard to the exemptions from this age limit—

I suppose that is what we were talking about—

Mr. CUMMINS. No. The figures which the Senator gave, if I may be permitted to make the suggestion to him, covered the children in those three States who are permitted to work in the forbidden industries of the age of 13 or under, but they have no relation whatever to the number of children throughout the United States who are permitted under the laws of their respective States to work more than eight hours a day. North Carolina, for instance, has a great many more children working in excess of eight hours a day than she has children under 13 years of age working; and there are a great many States whose labor laws permit children under 16 years of age to work 11 hours—possibly 11 hours is the limit—and I think there are several States which permit them to work longer than that.

Mr. BRYAN. Of course, I do not want to draw any conclusions not warranted by this report; but I read this from page 7 of the report:

With regard to the exemptions from this age limit which still obtain in some of the States, it may be said that these are being rapidly repealed, it being almost universally claimed that such exemptions are against the best interests of the child, where the welfare of the child alone is considered.

Mr. CUMMINS. The Senator has but to refer to his colleague from Georgia, who is on his right, to learn that the laws of Georgia permit children under 16 years of age to work more than 8 hours a day; and that is true of many other States.

Mr. BRYAN. I have given the number of children in those three States which the committee state were not satisfactory in their legislation—the number of children employed between 10 and 16 years of age in the various employments, and I think I gave the total number; at least I gave it as it is reported by the Committee on Interstate Commerce.

Mr. CUMMINS. But when the Senator referred to three States as being the only States that would be affected by this measure, I think he fell into an error, so far as permitting children under 14 years of age to labor in those industries generally. He may be right; but so far as permitting children under the age of 16 to work more than 8 hours a day, he is not right. There are three prohibitions in the bill.

Mr. BRYAN. I understand that.

Mr. CUMMINS. First, that a child under 14 can work in these places; second, no child under 16 can work more than eight hours a day; and, third, no child under 16 will be permitted to work earlier than 6 o'clock in the morning nor later than 7 o'clock at night.

Mr. BRYAN. In order that there may be no false impression created, I will read again from the report of the committee, on page 11:

Taking the population figures of the country for 1910, it may be said that 89,242,314 out of 91,972,000 have declared for the 14-year age limit by State legislation; 86,496,694 have declared for the prohibition of night work for children under 16 years of age. In the States recognized as mining States 41,837,431 out of 53,565,917 have enacted the 16-year age limit as a standard for children employed in mines, while 52,551,796 people, a clear majority of all, have prescribed an eight-hour day for the employment of children under 16 years of age in factories, while several States, which have not yet reached the eight-hour day for children under 16, have a shorter working day for such children than for older workers.

Mr. HUSTING. Mr. President—

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

Mr. BRYAN. I yield.

Mr. HUSTING. I should like to call the Senator's attention to a statement on page 12 of the report, which is as follows:

According to the census of 1910 there were 2,266 children under 14 years of age employed in mines and 15,401 between 14 and 16 years of age. There were 22,000 children under 14 years of age employed in manufacturing and mechanical occupations specified and 176,137 between 14 and 16 years of age who would be affected by the provision relating to the eight-hour day and to the prohibition of night work.

Mr. CUMMINS. Mr. President, if I may be permitted, if the Senator from Florida will look on page 10, under paragraph (c), headed "Eight-hour day under 16 in factories and canneries," he will find the list of States, 19 in number, whose laws prohibit children under 16 from working more than eight hours a day. The other 29 do not prohibit them.

Mr. BRYAN. Mr. President, three States were selected out of the States which had not satisfactory child-labor laws or had not made efforts in that direction which, in the opinion of the committee, were satisfactory, and they are referred to in the report and were referred to by the Senator from Arkansas [Mr. ROBINSON] in his address. I was undertaking to find out how many children in those States were affected. That was the purpose I had in reading the figures.

The second reason the committee gives for urging legislation is found on page 12, as follows:

In some of the States there is only a slight pretense of enforcement; the power of factory inspection is denied the proper officials and the appropriations for the enforcement of the law are also withheld.

Mr. President, that means to say that the States themselves do not enforce their laws, and therefore Congress will pass and enforce its own act. It is claimed that the States, although in the first place many of them make proper laws, will not enforce them. That is a pretty serious criticism of the States of this Union. I believe that if the time ever comes when the States will not enforce their laws and that the enforcement of them must be had by Congress, then we will have to change our form of Government. But, Mr. President, not all the laws of the States and not all the laws of Congress are obeyed; men violate laws; and it would be so much easier to enforce laws bearing directly upon the things to be affected than in this roundabout way, under which you must have a large number of inspectors hunting the channels of interstate commerce for a bolt of cotton cloth, for instance.

The next reason given is that the conventions of the two great parties have indorsed this bill. Well, Mr. President, if we put it upon that ground, I say that, in my judgment, the conventions had better content themselves with dealing with questions of general policy. In neither of the conventions can constitutional questions be discussed under the most favorable circumstances. The Democratic convention indorsed the House bill; but we are to vote not for the House bill but for a Senate substitute for the House bill, which shows that there is nothing in that contention.

Mr. President, I have already said this is not honest legislation. It is to be acted upon here without due regard being had for constitutional requirements, and is then to be passed on to the courts. If this legislation shall be upheld by the courts

then the States will have no rights reserved to them worthy of mention.

Mr. KERN. Mr. President, I have here brief communications on the subject of child-labor legislation from three very able and thoughtful men, well known throughout the country—ex-President Charles W. Eliot, of Harvard University; Dr. Stephen S. Wise, the distinguished rabbi of New York; and Dr. Lyman Abbott, who is well known—all of which I should like to have read and printed in the RECORD.

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

The Secretary read as follows:

HON. JOHN W. KERN.

ASTICOU, ME., July 21, 1916.

MY DEAR SIR: I venture to express the opinion that in view of the coming presidential election it would be very unwise to postpone the passage of the child-labor bill until December next. The Democratic Party needs the support next November of the numerous Republicans and Progressives who are interested in the child-labor legislation. The party has nothing to lose by passing the bill, and possibly much to gain.

Sincerely, yours,

CHARLES W. ELIOT.

LAKE PLACID, N. Y., July 21, 1916.

MY DEAR SENATOR KERN: You know better than I the importance of passing the child-labor bill without delay. The professions of the platform will seem hollow, indeed, if at the behest of southern Senators the bill remains unpassed. The bill is of supreme importance in itself. Its passage may be decisive in respect to the fortunes of the party.

Faithfully, yours,

STEPHEN S. WISE.

OGUNQUIT, ME., July 24, 1916.

HON. JOHN W. KERN,

United States Senate, Washington, D. C.:

Being probably in favor of the passage of the Federal child-labor law, we beg you to give it your favorable consideration, and we very much hope that such a bill will be passed at this session.

LYMAN ABBOTT.

Mr. and Mrs. HERBERT LEE ABBOTT.

Mr. BRANDEGEE. Mr. President, I should like to have the first communication read again.

The Secretary read as follows:

ASTICOU, ME., July 21, 1916.

MY DEAR SIR: I venture to express the opinion that in view of the coming presidential election it would be very unwise to postpone the passage of the child-labor bill until December next. The Democratic Party needs the support next November of the numerous Republicans and Progressives who are interested in the child-labor legislation. The party has nothing to lose by passing the bill, and possibly much to gain.

Sincerely, yours,

CHARLES W. ELIOT.

Mr. BRANDEGEE. By whom is that signed?

The SECRETARY. By Charles W. Eliot.

Mr. HUSTING. Mr. President, I have listened to this debate with a great deal of interest and considerable edification. It involves an issue which, I think, affects profoundly the welfare of this country and the welfare of its people. I have just heard read at the desk the communications stating that child-labor legislation is a matter of great consequence to the Democratic Party in the present campaign. I agree with what has been said in that respect. I believe that any party intrusted with power that fails to heed the people's demand for this sort of legislation will have the consequences of not passing proper legislation along this line visited upon its head. I hope, however, that this will not be a mere party question. I desire to speak of the matter from a somewhat higher and broader point of view. In the few minutes which I am going to consume I wish to speak of the merits of the proposition and endeavor to meet some of the objections, if I can, which have been raised against this bill.

One remarkable thing about the debate on this bill has been the unanimity with which Senators have risen to their feet and said that they agreed with the fundamental principle underlying this bill, namely, legislation that should prohibit or at least reduce to a minimum child labor. I do not believe there is one Senator who has risen on the floor to argue that child labor is a good thing or that child labor in this country has anything but a demoralizing influence upon the welfare of the country; in fact, almost every Senator has prefaced his remarks with the statement that if the Government of the United States, the Congress of the United States, could prohibit child labor, then it should be done; and if I understood the arguments of Senators and their position correctly, I understand them to mean that if it were not for constitutional objections they would not only vote for this bill but would speak in favor of it and give it their most cordial and hearty support.

I do not believe that that statement will be challenged. I think it can be said, without fear of successful contradiction, that the Senate and the House of Representatives, almost to a man, agree that if Congress has the power to prohibit child labor

in this country it should pass such a law; and the only objections that have been raised by Senators, either upon this side of the Chamber or upon the other side, have been that they fear Congress has not the constitutional power to do so. Further than that, I think this discussion has brought the issue down to a few very narrow points.

It has been conceded here, I think, that the Supreme Court of the United States has held that the Congress may legislate in regard to interstate commerce; that it may pass laws regulating commerce, and that it has passed constitutional laws regulating commerce between the States; but that the only argument which has been made along that line is that nothing of the precise nature of this bill has ever come before the Supreme Court of the United States for adjudication. They say that while laws have been enacted prohibiting things evil or bad in themselves from being admitted from any State into another, never before has Congress passed a law and its constitutionality been upheld where it goes back of the act of commerce itself, namely, to the production of the article. So it would seem that the opponents of this bill, so far as its constitutionality is concerned, take this position: That while a law would be constitutional, and that legislation of this kind would be constitutional, if the thing of itself, the article itself, were inherently bad, if the commodity to be sent into another State were of such a nature that the very introduction itself would exert a sinister or bad influence upon the State into which it was being admitted, yet that this bill goes further than that and proceeds to prohibit trade upon articles good and wholesome in themselves.

I think the Senator from North Carolina [Mr. OVERMAN] made that point—that never had a bill been passed regulating commerce which went back to the question of its manufacture, instead of being attached only to the thing itself or to the traffic in the thing itself. I think that point was sufficiently answered by the Senator from Iowa, who pointed to the act which prohibits and forbids the commerce in trust-made articles from one State to another. I understand that we have a law which forbids interstate commerce in trust-made goods, goods made illegally, goods made contrary to the antitrust law. There at least is one example. Now, suppose a trust manufactures any article, whether it be tobacco or anything of that kind, bread-stuffs, crackers—take crackers, for instance—I do not know whether there is a cracker trust or not, but if there is, the law prohibits interstate commerce in those crackers. The crackers themselves are not any worse than any other crackers made by a concern not in the trust; and yet it is conceded here, I think, that we have a right to prohibit interstate commerce upon such crackers. I think the Senator from Connecticut [Mr. BRANDEGEE] admitted that in that case the law would hold good. Now, would not a law hold good, for instance, that forbade interstate commerce in stolen goods? Suppose some of the States had no criminal laws whatever affecting the sale of stolen goods. Would it not be incumbent upon Congress to prohibit interstate commerce in stolen goods? The goods would not be any worse because they were stolen. They might be articles of clothing; they might be foodstuffs, or things of that kind; and yet Congress could well regulate or suppress the sending of stolen goods from one State into another, notwithstanding that the articles in and of themselves were entirely innocent or, in fact, wholesome in their character or even might be necessities of life.

Take the smuggling of goods: Could we not pass a law prohibiting interstate commerce in smuggled goods?

Of course Senators can say that that power would rest upon and be necessarily incident to the power that we have to levy imposts and duties. That may be true; but why have we a right to forbid the shipment of these goods in interstate commerce, if we accept the arguments of the Senators, who say that we can not do indirectly what we can not do directly, and who say that if a thing is not bad in itself we have no right to forbid the shipment thereof from one State to another? Here, then, is another instance where the shipment of goods might be prohibited, even though the goods were no worse for having been smuggled. The bread does not turn to stone or poison even though smuggled. It is of the same quality that it was before, and yet we can prohibit its shipment into another State. The same is true of any other article that has been smuggled, and yet we could pass a law forbidding interstate commerce in stolen or smuggled goods. Would the Senator from Florida, for instance, say that it was a fraud just because we used the instrumentalities within our hands to forbid the interchange of such goods in order to promote the advancement of a sound public policy?

Take, for instance, the illustration of stolen goods. We have not any national laws against stealing as such. We have not national laws forbidding "fences" or punishing the receivers

of stolen goods. It is not at all in the jurisdiction of Congress; and yet, at the same time, would anybody claim that we could not pass a law forbidding the sending of stolen goods from one State to another?

Mr. FLETCHER. Mr. President—

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

Mr. HUSTING. I do.

Mr. FLETCHER. I want to ask the Senator if he can not see a distinction between the power of Congress, for instance, to protect its commerce against smuggling and against theft and the exercise of that power in connection with an article that is unlawful and that is condemned as an article of commerce, and on the other hand the exercise of that power with reference to goods that have none of these features in connection with them at all?

Mr. HUSTING. I will say to the Senator from Florida that no two cases are alike. No two propositions can be alike unless they are identical. There is always some distinction; but I want to ask the Senator from Florida whether there is any distinction in principle between the forbidding of commerce in stolen goods, so far as the quality of those goods are concerned, and the point the Senator has made here that this had nothing to do with commerce, and Congress had no power to prohibit interstate commerce in certain things unless the thing of itself was inherently bad? The only point that I am trying to make is that it is not a necessary essential to a law regulating commerce that the thing itself shall be bad, but what goes before it can be considered. That which in our judgment violates good, sound public policy in the production of the thing or in the exchange of it is a factor to be considered, and not only gives us the constitutional power but makes it our duty to legislate in relation to its transportation.

I should like to say to the distinguished Senator from Florida that in the case of trust-made articles, before the trust laws were passed there was nothing inherently bad, so far as laws were concerned, about trust-made articles; and yet Congress passed a law forbidding trusts, and passed a law forbidding the transportation of trust-made articles in interstate commerce. How did it come about that that tainted it? Because Congress decided that it was contrary to sound public policy to have trusts, and that since it was contrary to sound public policy to have trusts, that every means within our command should be brought to bear to prevent such a trust from taking advantage of the arteries or instrumentalities of interstate commerce, and that we could follow their goods—goods made contrary to law, goods made contrary to sound public policy, business run contrary to sound public policy—and say, "You shall not cross the State line. You will not be permitted to do an interstate business in goods manufactured at the expense and interest of a sound public policy."

One of the Senators—I believe it was the junior Senator from Florida [Mr. BRYAN]—said that it was a fraud for the Government of the United States, pretending to want to regulate commerce, to go back of that and regulate, and in fact prohibit, child labor in certain States. The same argument could be made against the antitrust laws. If it is a fraud to do this here and now, then it was a fraud for Congress to pass laws prohibiting the shipment of trust-made articles between the States, for those laws were aimed, not at the commerce, not at the interchange alone, but were aimed right back at the trusts which manufactured the product. I can not see any distinction in principle between the two cases.

Mr. FLETCHER. Mr. President—

The PRESIDING OFFICER (Mr. THOMPSON in the chair). Does the Senator from Wisconsin yield to the Senator from Florida?

Mr. HUSTING. Certainly.

Mr. FLETCHER. It seems to me that in one instance the Senator mentions, the article which is supposed to move in interstate commerce is an outlaw of commerce. That is a different case from a case dealing with articles that are in themselves pure and moral and otherwise untainted in any way and can not be stigmatized in any way. In the other case the Senator mentions, about preventing combinations and trusts, the act of Congress has reference to restraint of trade. It is the movement of those articles in trade that is prohibited; not that it has to do with the hours of labor, or other methods of manufacturing the article. The whole field that is covered there is one of trade and commerce.

Mr. HUSTING. I do not quite follow the Senator in his reasoning. I do not quite understand the point the Senator is trying to make, except that I want to ask this, in reply to the Senator's statement that the trust-made articles are outlawed: Why are they outlawed? They are outlawed because

Congress passed a law outlawing them to the extent that they can not cross the line of another State. And why? Not because the goods are harmful in themselves, but only because they were manufactured by agencies—instrumentalities not permitted by law to be used in the manufacture of articles so as to permit them to be shipped between the States. In one case commodities manufactured by unlawful trusts, in the other by children not lawfully authorized to perform such work. Aside from that, trust-made articles are not outlawed in the State where manufactured. They can be sold within the State in both cases as before prohibitory laws were passed by Congress.

Mr. FLETCHER. I had reference in that instance to the articles that were smuggled or stolen, which the Senator spoke of in the first reference he made.

Mr. HUSTING. I will point, first, to the trust-made proposition. Those articles are not outlawed. They are permitted to be sold within the State. They have the freedom of the marts of trade within the State. The goods are just as wholesome as any other. In fact, the trusts claim that they are better and more wholesome; and yet we have used the power of Congress to say: "You shall not cross the line and put those goods in another State." Why? "Because we think it is against sound public policy for you to engage in those practices in manufacturing what we think is contrary to public policy. If you dissolve yourselves, and manufacture the same goods with the same machinery and with the same laborers, this inhibition will be withdrawn, and your goods can be sold between the States, as they always have been."

In the case of the stolen goods, so far as any law of the United States goes, they are not outlawed. The goods themselves are not outlawed within the State. They can be sold within the State. Of course I presume every State has a law prohibiting people from engaging in the purchase of stolen goods, but suppose a State had not any such law and you had the same condition of affairs, could we not stop it by congressional action just the same?

Now, another word in reply to the charge that we are engaged in a hypocritical act in pretending to legislate to regulate commerce when in fact we are trying to stop child labor. In other words, we are engaged in a heinous conspiracy or a hypocritical conspiracy to do what? Why, to pass a law that the Members of Congress almost to a man admit would have a wholesome and beneficial influence on the country. We are held up to scorn before our own eyes because we want to do a good thing. The charge is made that we want to violate our oath of office; and the Senator from Florida claims that if we have any doubt of the constitutionality of an act—I think he went even further and said that even if we think that it possibly may not be constitutional—we have no right to pass this sort of a bill.

Mr. WORKS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from California?

Mr. HUSTING. Certainly.

Mr. WORKS. What does the Senator from Wisconsin understand the object and purpose of this bill to be?

Mr. HUSTING. The object of this bill is to prevent the shipment of goods made contrary to what we consider a good, sound public policy.

Mr. WORKS. The Senator does not understand, then, that it is for the purpose of preventing child labor?

Mr. HUSTING. I think its effect would be that—at least, to reduce the evils of child labor.

Mr. WORKS. We may just as well be fair and sincere about this matter. Does not the Senator know that the primary object of the bill is to prevent child labor; that the other object is only incidental?

Mr. HUSTING. I will say that undoubtedly the friends of this bill are against child labor. They are against the shipment of goods made in States contrary to the provisions of this law from being shipped into any other State.

Mr. WORKS. The Senator understands that there would be no such legislation as this as against the transportation of goods that were not manufactured by child labor, does he not?

Mr. HUSTING. Why, no more than there ever would have been a law against the shipment of trust-made goods in interstate commerce if there had not been any trusts, and if we had made no laws prohibiting trusts—certainly not.

Mr. BRANDEGEE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Connecticut?

Mr. HUSTING. I do.

Mr. BRANDEGEE. If the Senator will allow me to do so, I should like to answer the Senator from Nevada. I read from the hearings before the Committee on Interstate Commerce,

from the testimony of Prof. Parkinson, of Columbia University, who urged the passage of the bill before the committee. He says, on page 121:

The purpose of the bill is to withdraw the instrumentalities and facilities of interstate commerce from the employer or manufacturer who makes use of child labor in the manufacture of his products.

He says further:

The purpose is to prohibit the commerce in the interest of withdrawing Federal agencies from the continuance of a profitable market for the products of child labor, and I do not hesitate for a minute to assert that the underlying purpose of this legislation is to stamp out child labor.

He also says:

The means employed is the exercise by Congress of a power vested in it, which the Supreme Court of the United States has held was vested in it, to be exercised among other purposes for the general welfare of the country.

Mr. HUSTING. I will say to the Senator, speaking for myself alone, that the object of this bill reaches back to the evils of child labor. It would not be fair for me to say, nor would it be accurate for me to say, that it is for the purpose of preventing child labor in the States, because there is nothing in the bill that prevents or prohibits child labor in those States. It makes child labor unprofitable. It is going to minimize the evils of child labor. That is the object that I shall have, at least, in voting for the bill—to discourage as much as possible child labor in the country, because I believe it should be discouraged and minimized as much as possible if not entirely prevented.

Coming back to the constitutional proposition, I think there is far more danger of this body and of every State legislature of the United States not doing its full duty within the Constitution than there has ever been of its trying to do its duty beyond the authority of the Constitution. My experience in this body has been brief; but I have seen here, or at least in the legislature of my State, no matter of a remedial nature or of a constructive nature has been looked forward to but that the bugaboo of the Constitution was held menacingly over the head of any man that dared to talk in favor of it. Whenever an act of great merit comes up, and everybody is saying, "Why, it is a fine thing; it is a good thing; it is a wholesome thing; it should be passed," it is replied: "But you can not do it, because the Constitution will not let you." You can go back to the income tax, you can go back to every great thing that the Sixty-third Congress accomplished, and I think you will find very few of those measures but that were assailed as unconstitutional. The constitutional whip has been flourished over the head of almost everybody who has endeavored to do something which in his judgment would relieve certain serious conditions in this country.

Mr. FLETCHER. Mr. President—

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

Mr. HUSTING. Certainly.

Mr. FLETCHER. Will the Senator permit me to inquire whether he has any doubt about the constitutional power of the legislatures of the various States to deal with this subject? The Senator suggests that he is in favor of minimizing the evils of child labor. I do not think he will find anybody who is opposing him on that proposition; but will the Senator deny that the States are dealing with the situation and that they are capable of doing so under their constitutions?

Mr. HUSTING. I will say to the Senator that that brings another thought to my mind, and I am glad the Senator asked the question. It is true that some States have dealt with it and some have enforced the provisions in regard to child labor, while others have not. I know, however, that in my State and in my legislature when the child-labor proposition was approached, when the income tax was approached, or any other similar measure was approached, it was held up to us that we were going to ruin our own manufacturers by passing laws in Wisconsin which would render manufacturing less profitable, while in the State right next to it, where these things were not prohibited, they would enjoy increased profits by reason of not passing this legislation. So we are now confronted with that argument, and that is a stock argument used in every legislature in the country. I know it was used with effect in my own State: "You can not do this, because Illinois does not do it, or Indiana does not do it, or North Carolina does not do it, or Florida does not do it; and if you are going to make our manufacturers compete against these other men, who have the freedom of employing child labor in their mills, and make us sell our goods in competition with theirs, you are going to ruin us. You must not do it."

Mr. BRANDEGEE. Mr. President, will the Senator permit me to ask him a question right there?

Mr. HUSTING. Certainly.

Mr. BRANDEGEE. Has not the State of Wisconsin a good child-labor law?

Mr. HUSTING. Yes, sir.

Mr. BRANDEGEE. Is it not just as good in its provisions as this Federal law would be?

Mr. HUSTING. I will say that the law of Wisconsin is fairly satisfactory to Wisconsin.

Mr. BRANDEGEE. And the State of Wisconsin, in spite of the opposition that was made to the passage of it on the grounds stated by the Senator, did in fact have the courage and the good sense to enact a proper child-labor law?

Mr. HUSTING. Yes, it did; but it did it notwithstanding the things that were put up in front of it. I say that it is wrong, in a sense, or, at least, unfortunate, to subject one State to certain things in manufacturing competition with other States who do not choose to adopt the same laws and the same remedies and thus place them in a disadvantageous position, and in many cases actually deter—if it does not altogether prevent—humanitarian and wise legislation of this kind from being enacted.

Take, for instance, two States. One of them possesses a humane labor law, an eight-hour-a-day law, or a child-labor or any other kind of a law of that kind, and the State next to it does not wish to follow it. Here is one State struggling to render its conditions humane, to render its workingmen efficient, and here they are pulling the ground right from under the feet of their own manufacturers, putting them at a disadvantage in competition with the surrounding States. Now, that may be answered by saying: "Well, you increase the efficiency of your own people, and you will soon be in a condition to compete with the next State," and there is much force in that. That would be true altogether if there were not always a new crop of children growing up to take the place of those who have been cast into the scrapheap with the discard. Children are not looked upon in some States as anything that is worth money. They can produce lots more to take their place, and one set of children can go through the mines and the mills with the resultant loss of efficiency, of health, of morals, and there will be another crowd of children ready to take their place to go through the same treadmill and meet the same fate. It does not harm the manufacturers that produce these results, because they can get new recruits at the same price and under the same conditions; but I will tell you what it does affect, Mr. President. It affects the country at large, which depends upon the efficiency, health, and the morals of the race; and in my judgment that makes it a national question—a question with which we not only have a right to deal, but with which it is our duty to deal, in order to produce a race of men and women in this country who will be able to compete with all the world, as we are doing and will more and more have to compete with all the world.

So we might well look this thing squarely in the face. I think more and more this country will have to take steps that are necessary and with relation to which the world is beginning to recognize as necessary and essential to the upbuilding of the country and its people. The laws of efficiency are being applied in every country. Countries that are looked upon as leaders of the world in efficiency long ago had adopted measures calculated to conserve the labor, the lives, and the health of the people. There was a time in the past when these laws were not only unnecessary but inadvisable, when a man would work under the eyes of his principal and came in personal contact with his chief. So whether it was in mine or field or factory the common, ordinary instincts of human feeling, of human generosity, of humanity itself were a sufficient safeguard for the right of the workman as against his employer.

If the same condition obtained to-day which obtained 50 years ago, there would not be any need for changing that condition any more than there was 50 years ago. Everybody got along first-rate 50 years ago. There was not any demand for child-labor laws or labor laws of any kind. Why? Not because we were not just as enlightened then, but because there was no necessity for them then, and we wisely adopted the policy of not interfering with old practices until old conditions made such changes necessary. But to-day how many men know the man who owns the factory in which they work? How many employees know the men who own the mine? How many men ever see their employer, their boss, in the course of their career? Not many. I venture to say that some men work, for instance, in the mines and factories for men whom they never saw, do now know, nor are they known by their employer.

Now, what does the employer, the ordinary stockholder, personally do or care for his men who work for the corporation in which he holds stock? All he wants is the demand from officers of his company that they shall operate the plant

at a profit, and in the effort to operate the plant at a profit laws of humanity, laws divine, and laws human, I may also say, must oftentimes give way to the demand for profit in the operation of these things. So in the course of time men found it necessary to band themselves together for their mutual protection, and so we have the general labor problems and the child-labor problem coming up before us to-day.

I have here the proposed amendment of the Senator from Colorado [Mr. THOMAS]. I am going to vote against it, because I believe it is uncalled for, at least in part, and that there is no demand or reason for it, and for the reasons, largely, I have just stated, namely, that it relates to conditions as old as the country itself. I will read the proposed amendment, or a part of it, rather:

Or any article or commodity the product of any farm which is the material for the product of any mill, cannery, workshop, factory, or manufacturing establishment in the United States upon which children under the age of 14 years have been employed or permitted to work or children between the ages of 14 and 16 years have been employed or permitted to work more than 11 hours a day.

Mr. President, I do not think we ought to interfere unnecessarily between father and child. That is not within the purview of this bill. I think that a father, especially one who works a farm, almost without exception—of course there are exceptions to all rules—will not work his children unduly nor overwork them. That is an entirely different proposition. As to the question of labor about a farm, whether it is sitting upon a hayrack or some other employment which the father thinks is fit for his son, the condition has not changed materially in the last 75 or 100 years. That is not the condition which is calling for a remedy here. The bill before the Senate is a bill to meet conditions which have radically changed in the last 50 or 75 years. The employer—generally speaking, the stockholder—no longer has any personal interest in his men. There is no personal contact between the employer and the employee. The factories have become complex. The use of machinery has changed conditions. Piecework and stop watches have come into vogue and a thousand other things that make it now necessary for the State or the Nation to step in and intervene and protect the employee from the natural and inevitable results of these changed conditions.

So I say I am favoring this bill because the time has come when this Government, in its own defense, for its own benefit, must demand that children shall be permitted to have their opportunities in life, to have their opportunity to mature, with their vigor and morality and efficiency unimpaired, that the children may have a chance to live and become men and women who will be a source of strength and not of weakness to their country.

I regret conditions have changed. There is no longer any personal contract between the employer and the employee at all, and the factories have become so complex, the use of the machinery has so changed the conditions that it is necessary for the State or the Nation to step in and intervene and protect the employees from the natural result of these changed conditions. So, I say, I am favoring the bill myself. The time has come when this Government in its own defense, for its own benefit and the children, will be permitted to have their chances in life so that it will insure a race of men and women hardy enough, virtuous enough, and industrious enough, and able enough to perpetuate this country.

The children growing up in this country of to-day are the men and women of to-morrow. The boys of 12 and 13 and 14 of to-day are the defenders of their country to-morrow. Anything which is calculated to weaken them, anything which is calculated to impair either their efficiency industrially or their efficiency morally becomes a matter of national concern. The position I take is that it will not do for any State to say: "This is no concern of the Nation; this is none of the Nation's business; this, I claim, that you shall permit us to attend to, and us alone, regardless of its effect upon the Nation."

There is no disguising the fact that things have been moving along more and more in the direction of the strengthening of the national bonds. Look over the statute books and behold the legislation of the last 10 or 15 years. No one can be blind to the fact that it is considered necessary; nay, absolutely essential to the perpetuation of this Nation, for the Nation to put itself in a position where it can defend itself, where it can make laws to protect itself as a whole, where it can perpetuate itself; and I think that that is being done and can be done without violating any principle or letter of the Constitution. There is no danger here, in my judgment, of the National Government overstepping its constitutional bounds.

There were some inquiries directed here the other day by the Senator from Connecticut [Mr. BRANDEGEE] to the Senator from Idaho [Mr. BORAH] which would seem to indicate that that Sen-

ator had an idea that, if the National Congress passes a law of this kind, it then can do anything it pleases in the way of legislation. I remember one question that was put was to this effect, whether if Congress passed a law forbidding the shipment of goods not manufactured by organized labor that that would be constitutional also. If I understand the question correctly, from the cases that have been cited and the arguments that have been made by distinguished and able Senators on this floor, I do not understand that anyone contends or argues that Congress can do anything it wishes. I think their arguments sustain this proposition, that whatever police power we have in connection with interstate commerce can go no further and can not be greater than that of the State itself.

The State police powers are undefined. No court has ever set out to define the police power of any State. One eminent judge defined the police power as "the power to do an unconstitutional thing."

If there is such a police power and such a right, the States have always exercised it notwithstanding but subject to the limitations and restrictions of the Constitution. Scarcely any police power has ever been exercised by the State but what its constitutionality has been questioned, and rightfully so, because it is a power which should be held strictly within constitutional limits. There must be bounds, for instance, beyond which the State can not exercise the police power. There must be back of it a public opinion which necessitates its exercise, because many great questions never could have been successfully legislated for or against in States if the public demand and public pressure had not been back of them. Many laws are passed in response to a public demand, and in a country like this the people rule themselves and insist on getting what they ask. Of course it should and must be a demand not founded on caprice or bias or prejudice of the moment, but upon a demand founded on justice and necessity. It must have its roots stuck deep into the soil of humanity and nurtured by wisdom and prudence and intelligence. And who will say that the nation-wide demand for this child-labor legislation is not such a demand as I have just adverted to.

There is no question that from time to time new matters come up that are considered proper subjects for police regulation; we all know that to be the fact. Have the people of the States been deprived of their rights because the State has exercised its police power? No. At every session of the legislature in some if not all of the States measures have passed which depend for their validity on the rightful exercise of the police power. So this legislation might take away, just the same as they claim the National Congress may take away, the individual liberties of the people through the exercise of the police power.

When anybody complains that there is no definition limiting the exercise of the police power on the part of the United States, I say, of course not; no more than there is over the exercise of the police power on the part of any State itself. Each has unlimited right to exercise its police power within the control and within the confines of constitutional authority. But it is not defined. Every case has to stand on its own feet; and when the people fear, think, or believe, or any citizen fears, thinks, or believes, that the police power is encroaching upon his personal rights or liberty, as police powers always do encroach upon the liberty or license of the individual, the only way to stop it and to draw a ring around it is through the constituted authority, namely, the Supreme Court.

So, if any Senator asks what are the bounds of police power in the Congress, I say exactly the same bounds as that of the States; surely no greater.

Now, can the State pass a law prohibiting the manufacture of any goods within the State of Wisconsin, we will say, or of some State which prohibits the sale of any goods made by any labor organization? Of course, it can not. Neither can the United States Congress pass a law to do the same thing, because the measure of its power is the measure of the power of the whole State to take care of its interests. Moreover, it can not exercise the power directly as the State can. It can only exercise in this instance through a law affecting interstate commerce which minimizes many and manifold the real power of a State to legislate upon the subject of child labor. Here it is removed, at least one step, and we can not do it except through the exercise of the rights of power and control over the interstate commerce.

The United States has got control over interstate commerce. It has exercised such control in many and many an instance by the passage of laws claimed by opponents to be unconstitutional but now held good and wholesome and also constitutional. We have an Interstate Commerce Commission which protects

shippers in their rights so that they can not be discriminated against as to rates. We have an Interstate Commerce Commission that compels common carriers to give service to the people. The people were jealous of the shippers' rights, and that is why the Interstate Commerce Commission was established, to see that shippers could ship their goods and not be robbed by common carriers, and that there should be a fair and equal system of exchange of commodities between the States upon terms nondiscriminatory. All these things have been done through the Interstate Commerce Commission, or at least we pretend that we are doing them, only if we are exercising this guardianship, as it were, this suzerainty or this protectorate over the shipper, have we not a right to tell him that the goods he desires to ship shall at least be produced and manufactured and exchanged in accordance with what the country believes to be sound public policy and not repugnant to the laws of the State and Nation.

Again, if this law should be passed it can only pass by a majority of both Houses, and I say again that hearing the discussion here upon the floor by the opponents of the bill I am satisfied in my own mind that every Senator here thinks and believes that children of the ages mentioned in the bill ought not to be permitted to go into quarries and mines, into workshops and factories at those tender years, and be stunted and deformed and degenerated before they reach mature age.

It seems to me it must be the opinion of every Senator and every Member of Congress that a child should be treated with the same consideration at least as that accorded the dumb beast. What farmer or driver puts a harness and a collar on a yearling colt and expects him to haul a load to market? What would Senators think of any employer or user of dumb animals who uses them in such a manner as to destroy their usefulness before they arrive at an age when they in fact only could naturally begin to become useful?

In applying that sort of mean consideration to the subject, that purely of expediency and of policy, how can Senators think for a moment a good result can follow from such a bad practice as this? I venture to say that if slavery had not been wiped out in this country—that if the practice still obtained and the children of 12 and 14 years cost money and had to be purchased like horses and cattle—I am not referring now to any sectional part of the country; I am talking now of anybody in the world who would have to buy human labor as he buys his horses and his mules—would he think of putting for a moment such a human instrument as that where it would be old and useless before maturity had set in? I do not believe that any man who had any business sense and business sagacity would buy labor if he had to pay cash for the labor and take care of it and support it after it became useless, would think of doing any of these things that this act forbids.

Now, let us see what this bill is about. It provides—

That no producer, manufacturer, or dealer shall ship or deliver for shipment in interstate or foreign commerce any article or commodity the product of any mine or quarry, situated in the United States, in which within 30 days prior to the time of the removal of such product therefrom children under the age of 16 years have been employed or permitted to work, or any article or commodity the product of any mill, cannery, workshop, factory, or manufacturing establishment, situated in the United States, in which within 30 days prior to the removal of such product therefrom children under the age of 14 years have been employed or permitted to work—

Now, in a mine or quarry, what Senator on the floor will say that any boy under 16 years old ought to be sunk down into the bottomless pit of a mine or any quarry and labor there? To put a child just beginning to show the signs of manhood down at labor thousands of feet below the surface, to put him in a quarry to bend his back and strain his body in work of that kind, shocks the ordinary sense and feelings of mankind. Can it be that there is necessity for this in this country? Are we so hard up for material with which to do our labor that we must rob the cradle for the human commodity necessary to do our work? This bill seeks to discourage such a practice. That is all. That is the most severe thing this bill seeks to do.

All this bill first seeks to do is to try to prevent a boy under 16 years of age from being engaged in a mine or quarry. Do you think that if a law were passed that no yearling colt should be hitched to a wagon containing two tons of coal and be made to pull two tons of coal it would not be considered a pretty humane law? But it would not be necessary to pass it, because no man would want his animal to do that work under such conditions. He would rise up indignant at even such a suggestion and would denounce it as inhuman. Indeed, the humane societies would stop it if he tried to do it.

Yet when we say here that no miner or quarryman shall take anybody's boy under the age of 16 and put him to work and then ship his product into another State, then we are doing something wrong—then we are unreasonably interfering with the

rights of the State and our own citizens. What are the rights of the State? Is it the right of a State to insist that the boys of 15 years of age shall go down into the mines if they want them to do so, or if somebody wants to hire them, and let them work themselves to death or let them work themselves into such a shape that when they arrive at the years of real usefulness, or rather at years which otherwise would have been years of real usefulness, their usefulness is ended, and they become a public charge and are thrown upon the community for their living and support?

The question was asked a little while ago, "What are you going to do with boys if they can not work in mines or quarries until they are 16 years of age?" I might answer that by asking another question, "What are you going to do with the boys who have worked in the mines and quarries and at an early age have been thrown upon the scrap heap of useless things, who have stunted themselves, who become deteriorated both in mind and body, and who become your criminals and your outcasts in society, and who are thrown upon the country for their support?"

But more than that, why should a boy of less than 16 years of age have to go down into a quarry or mine to make a living? Why can not he work somewhere else in a place more fitted for his ability, for his strength, for his whole moral and physical make-up? Mines and quarries are not the only places of employment. Will these boys have no chance when they are above the age of 14 to get any other work except to go into a mine or quarry? Is that an unreasonable restriction to say that he can not work in such occupation? Is the provision of the statute going to make every boy between the ages of 14 and 16 a loafer, an idler? Is there anything in this bill which does not permit any boy to go into any other employment except that?

I say I think it is rather idle to claim that because a boy can not go into the mines and into the quarries that thereby he becomes a public charge or a loafer and idler for the period of two years.

There are exceptions to all rules. It might be sometimes that a hardship would be placed upon a dependent mother whose husband had been killed in the mines not to let the boy temporarily take his father's place and earn something in support of his mother. But it does seem to me as though that boy could find employment elsewhere and support his mother in some other way than in the way that means his certain deterioration both physically and otherwise or something worse. What mother would want her boy to do this work? What country ought not to feel ashamed to permit conditions to exist that would compel a boy of 14 or 15 to work in a mine to keep his mother from starving? An enlightened self-interest should move the country to remedy such conditions rather than to lower and degrade its future men by such practices of employment. Now what further does the bill provide?

Or any article or commodity the product of any mill, cannery, workshop, factory, or manufacturing establishment, situated in the United States, in which within 30 days prior to the removal of such product therefrom children under the age of 14 years have been employed or permitted to work, or children between the ages of 14 years and 16 years have been employed or permitted to work more than eight hours in any day, or more than six days in any week, or after the hour of 7 o'clock postmeridian, or before the hour of 6 o'clock antemeridian.

Mr. President, I want to submit that that is a reasonable restriction. Who would have children under 14 years of age to work in any mill, cannery, workshop, factory, or manufacturing establishment? I pause for a reply. He is not fit to work in any such establishments as that.

Still, there are plenty of avenues open for a child who must work to help his mother. Those are not so comprehensive that they close every avenue of employment. On the contrary, all the other avenues are still open for such a boy in such a stress of circumstances to get employment if he wants it, and for which he is better fitted and better qualified.

But again I ask, under the present conditions who is going to take care of a boy of 14 years, or under that age, who because he is permitted to work in a mill, cannery, workshop, factory, or manufacturing establishment, and thus to work himself out, becomes a charge upon a cruel and improvident country?

Mr. President, I do not think any country that expects to have a future, that expects to make a place for itself and to permanently keep it, has any right to have conditions obtain within its borders where it is necessary for any 14-year-old boy to support a dependent mother or where a 16-year-old boy has to go into a mine or a quarry. I say that any nation that holds up its hands and refuses to put the protection of the law about children of 16 years or less, any nation that fails to do its duty in protecting its seedlings that are to grow up into sturdy trees, is disgracing itself in hiding itself behind its own

Constitution and in refusing to do something that humanity demands and that an enlightened self-interest demands.

It would seem to me superfluous to point out to a generous and humane people that the laws of humanity—the dictates of common, ordinary humanity—ought to be against such conditions and such a practice. We ought to be able to rest there when we point out that a man would not use his horse or his ox as harshly as we permit the children of this country to be used. As I said a moment ago, no wise man would put the collar on the neck of the yearling colt and make him drag a load intended for a full-grown horse. I say the mere fact alone that it is wrong to compel children of 12, 13, 14, 15, and 16 years of age to sustain themselves ought to be sufficient to make us want to pass this bill.

We have laws for the protection of dumb beasts. We do not permit a man, in the exercise of personal liberty, to beat his horse or abuse his horse or put a load on him that he can not carry without injury to himself. In the exercise of the police power we stop him, do we not? We are sending millions and millions of dollars across the ocean in the name of humanity to alleviate the sufferings of people who are suffering not because of any fault of ours. This Nation, much maligned as it is and has been during this European trouble, at least, to my mind, has shown the highest spirit of disinterestedness, has played the good Samaritan across the ocean; has poured its millions and its plenty into the lap of want and misery over in Belgium, in Poland, and in other countries. We have been held up as a sordid, and avaricious, and a dollar-loving people; and yet in all the world no nation has set the example which this great Nation has set in the treasures spent in the old world. We have been generous to a fault; we are humane; we have never turned a deaf ear to the cry of distress from any corner of the globe. We have done it, too, without expecting any return; we have done it because we are a generous people; and yet here in our midst—oftentimes thoughtlessly, it must be, because it can not be explained in any other way—we close our eyes to the sufferings, the privations, and the hardships of our own, and we close our eyes and become deaf to the clamors and pleadings of humanity in the administration of our own affairs and even of our own people.

Shall we not listen to the voice of the children, purely because of our humanity, of our generosity? That ought to be enough; but if that is not enough, then we ought to take into consideration that in dollars and cents, because of the material good that will come to us, because of the profit that will come to us, we ought to make a law conserving that greatest national asset, that greatest national resource, that asset and resource which is not only an asset and resource, but which is the very end of the Government itself.

Why have we a Government; why have we banded together the United States? I do not know, unless it was for the purpose of advancing our material and mutual interests. I can not conceive of any other end of government than to promote the happiness and prosperity of its people and that of humanity. This Government has no excuse for living, it has no excuse for its existence, unless it makes this enterprise or leads or conducts this enterprise in the interest of all of the people who make up this country. When men grow into public service and get into places of responsibility and power, is it not a part of their business to look out for those who can not look out for themselves? Is it not a part of our business to protect the very root and tree of our national existence? Is it true that we have a Constitution that is so framed that it permits us only to do things that are bad, things that are not going to work out for the interest of everybody; that only permits us to legislate when it is for some form of special interests, but which raises an insurmountable obstruction to every generous and humane effort that would attempt to flow out of this Chamber and out of this Congress? Are things constitutional only when they are bad or indifferent and unconstitutional only when they are good? Or is the Constitution an instrument which, back of it all, underlying it, which is the very root of it, has for a purpose the advancement of the race, the advancement of the Nation, the promoting the happiness and prosperity of all the people? Is not that what a government is for? If that is what a government is for, how can you construe a Constitution to be a permanent obstruction to carrying out the very end which we are all seeking? How can a Constitution be so construed as to impede and to prevent this Nation from doing what is necessary and what ought to be done for its own permanent good?

We all say this proposed legislation is for the permanent good. I say, again, the Senators who have spoken upon this question all concede that it is a good thing, that it will do all its friends claim for it; that it will build up the children into good, strong men and women. I say how can you construe the

Constitution, then, to be an obstruction to all those kinds of things which are calculated and which it is admitted will promote the public good by legislation regulating what we will have to legislate? Of course there will surely be other things coming up here every moment over which we have the constitutional right to legislate.

If this Government lives to be 10,000 years old—which God grant that it may—there will be new things every year about which to legislate. New Senators will come here when we are gone, new Members will come to the other House who will have to deal with different problems from those with which we have to deal. Solomon has said: "There is no new thing under the sun"; but, congressionally, everything is new under the sun. This is an infant Government in point of age as compared with the history of the world; this is a new Government, compared with the history of the world; but it has been growing up into a magnificent institution based upon the Constitution. If that Constitution was made, however, so that it would outlive its usefulness in 20 years, or, if it is like the ordinary mortal, and is limited to threescore years and ten, and then is to die because it can not grow and mature and expand, we would have been dead long ago as a nation. We could not live now, and we never can continue to live as a nation, unless the Constitution is construed to be an ever-expanding, an ever-growing instrument that can take within it all that is good and keep out, or at least discourage, all that is wrong, to the end that this country may be built up into a country which its founders intended it to be, a country of, by, and for the people.

So I say the time is coming when we are going to have some more problems. I hope the time will come when we shall not find millionaires and paupers living on the same block. I do not believe there is any excuse for a condition of affairs which will permit men to own millions and permit a woman and her children to suffer starvation and distress within such narrow distances that their cries of distress may penetrate into the palaces of those owning the millions. That is not fair; that is not American, in my judgment. I think we all ought to recognize it as an evil that at some time we must correct, in part at least, in a proper way.

I say if a Government has any purpose to promote happiness and prosperity of its people it ought not to keep all of its favors for the favored few and thus enabling them to make or to inherit money in amounts away beyond the needs and demands of avarice and largely because of governmental favors extended. No one begrudges the fortunes enjoyed by some if within the bounds of reason and when earned or made by efforts or services of those enjoying it or of their descendants. But men do complain, and complain justly when the fortunes have been the result of laws passed for the benefit of a few for the very purpose of enabling them to reap where they have not sowed, and in so doing deprive the sower and the tiller of his just share of the fruits of his own labor. A fair division of profits and earnings is a growing demand that will become louder and louder and more insistent until it will be heeded.

One of the things that this Government will have to do in the next half century, I believe, will be to see to it that the men who toil may receive a fair proportion of the fruits of their own labor and that in their short travel through and along and upon this earthly sphere they may at least be assured of the means of making a living and a living wage, and that they may have an opportunity to have a family and to live with it; that they may not be compelled to toil so that when they rise in the morning they must rise before their children and their wives at home have arisen, and must toil so that when they reach home at night their children are in bed, as I know to be the case with the employees of many a factory in this country. It would seem to me that in a land like this "flowing with milk and honey" every man who works and is willing to work should find time to live, and that conditions should not be such that men—good men—should be compelled, as they are, to divide their days into three parts, namely, to sleep, work, and eat, and that they can spare no time in enjoying one constitutionally guaranteed right, viz, the pursuit of happiness. I think that every man ought to have an opportunity to raise his family, to educate them, and that at least he should have a chance and an opportunity to make good men and women of them.

So I say that these things—not immediately or perhaps entirely pertinent to this discussion—show that we have many, many problems to deal with, and when we have gone those who come after us will have their problems to deal with; but I hope that whatever may be done by this Congress and any other succeeding Congress will be to make conditions of humanity in general and your own people in particular just a little bit better when the individual Member of Congress comes out of it than they were when he got into it. I hope that this may

be the aim of every Member, and I say that so long as I remain in this body I hope, to the extent of my very humble ability, I may be permitted to help in legislation which will make conditions just a little bit better than they were when I came here. That is the business, I submit, of those intrusted with the responsibility of government, if I may be permitted to say so. We have this inheritance handed to us, and it is not only our privilege, but it is our business and our duty, to see that it is carried forward and perpetuated in the interest and for the good of all the people. It is their Government; they are running it. Those who appear here only too briefly, who come and go upon the stage of this theater, momentarily intrusted with power—is it not their bounden duty, I ask, under their solemn oath to take care of the interests of the people who sent them here, to recognize that theirs is the first, last, and sole consideration within legal and constitutional limits to enact legislation that will inure to their benefit and to the benefit of posterity? What would be thought of trustees who, invested with a solemn trust, dissipate that trust or waste it or favor a certain few with the corpus of it, with the result that the cestui que trust finds that it has been distributed without rhyme or reason amongst those who already had more than they knew what to do with and deprived those who were justly entitled to their share?

I say the mere fact that this question has never specifically come before the Supreme Court is no reason to hold the pending bill unconstitutional. We could not have anything new under the sun in the way of legislation if we had to show a precedent for it. Has it come to such a stage that when Congress undertakes to pass a law the burden is on them to show that the proposed law is constitutional, or are we going to adhere to the sound practice and principle that every act is presumed to be constitutional until it is held to the contrary?

As I understand the underlying principles of legislation and of the duties and responsibilities, rights, and powers of the coordinate branches of the Government, every act passed by Congress is held to be constitutional unless it is clearly shown to the contrary, and that is so ex necessitate. The Supreme Court has been vested with power to declare an act unconstitutional; but instead of being the rule of the court that an act is unconstitutional unless Congress proves it constitutional, the very wholesome, salutary, and sound doctrine has prevailed that every act of Congress is considered constitutional unless clearly shown to the contrary. That is the only principle that we ought to adhere to. If we do not do so, if before we legislate on any important question we have to put ourselves in the fear and trembling of passing an unconstitutional statute, then the Supreme Court has become the censor and overlord of Congress itself, it has become the dictator of legislation, and Congress has become a mere debating society, whose legislation and whose pronouncements are no more important than those of the famous "three tailors of Tooley Street" in London. I say that when an act of Congress is aimed at a salutary end and is designed for a good purpose, according to the dictates of an enlightened self-interest as affecting a question or a subject matter with which the Constitution has invested them with power to deal, we should not say to ourselves, "We can not do this because it may be unconstitutional," or, to put it in another way, we should not say that a great constitutional question has arisen just because somebody says so. If the constitutionality of any act of Congress is going to be made a controlling consideration because somebody has challenged it and has said that it is unconstitutional, we might as well adjourn and go home now without any further attempt to legislate.

As I interpret my oath of office, when I swore to uphold the Constitution of the United States and the laws made in pursuance thereof, I became invested, with others, with power to make laws in the light of judicial decisions, in the light of practices and principles laid down in the past, and I shall assume that an act is constitutional unless I am morally satisfied that it is not. I am not going to let myself be driven away from a meritorious purpose, as I conceive it to be, just because the cry of wolf or the cry of unconstitutionality is raised.

Mr. President, it seems to me that the decisions of the Supreme Court which have been cited in the debate and the principles laid down in those decisions uphold the constitutionality of this proposed child-labor law. While, of course, there is always some distinction between tweedledee and tweedledum, it is a distinction without a difference many times, and I have tried to show in this discussion that in this bill we are legislating no differently in principle than we have done in other similar acts whose constitutionality has been upheld or has not been challenged. I say that, in my judgment, the Supreme Court will hold that this bill, if enacted into law, is constitutional; that it is within our right to pass it; that

it is our duty to legislate along the line indicated in the interest of the Nation itself; that it is a matter that concerns intimately not only the welfare but the very life of the Nation itself; and that in the exercise of wise legislative discretion, in the exercise of a judgment which tells us that sound public policy demands this kind of legislation, the Supreme Court will not challenge our discretion or challenge our judgment. I think that they will hold it is a matter entirely of policy and not of constitutionality, and, as appears from the debate here, they will not fail to see that, if it were only a question of policy, then this Chamber would have been practically unanimous in favor of this law. With such unanimity of opinion as to what ought to be done, if we can do it, I submit as my own judgment that this proposed bill is entirely within the bounds of our constitutional powers and should be enacted into law.

Mr. WORKS. Mr. President, I am not going to take up the time of the Senate by any extended discussion of the merits of this bill or the important constitutional question involved. Both sides of this question have been very ably discussed, and I suppose all of the authorities bearing upon the question have been already cited to the Senate. I want to go home, where I can be comfortable. I think the sooner this Congress adjourns, after it has performed its duty, the better for all concerned.

I believe myself that if this bill is enacted it will be unconstitutional, but I am going to vote for it for what may seem to be a very peculiar reason. I think it will furnish the best opportunity the Supreme Court of the United States has ever had to determine this question definitely and for all time; and the question is not going to be settled until it is finally settled in that way. So we may just as well give the Supreme Court the opportunity to determine it now as at any later time.

We are not dealing fairly with this question, Mr. President. We are pretending to enact a law for the protection of interstate commerce. We are not really intending to do any such thing. We are purposely and intentionally invading the rights of the States and attempting to prevent the doing of something within the State that is entirely and exclusively within the jurisdiction of the State.

We all believe in protecting the young children from being overworked. There is no difference of opinion between us upon that question. If it were only the question of the merits of any legislation that was intended for their protection, there would probably be no opposition at all coming from any of the States to a bill of that sort; in fact, almost all of the States have legislation now to prevent child labor. We have a law of that kind in my own State, which is perfectly satisfactory, and there is no reason why the United States Government should come into my State and undertake to regulate the condition of the children or to protect them in any way whatever, and that is true of most of the States.

I know something about the overworking of young boys by my own experience, and there are probably a great many other Members of this body who have had like experience. At the ages of 13 and 14, which would be within the prohibition of this bill, I was doing a man's work on the farm. I drove an ox team and hauled saw logs; I swung the cradle and the scythe in the harvest fields; I did every kind of work that was to be done upon a farm. I worked out at \$43 a month; got up at 4 o'clock in the morning, had my team harnessed and ready to go out in the field by sunup, and worked until sundown. No one need tell me, Mr. President, that overhours of work like those are not injurious to a young boy, whether it is upon the farm or anywhere else. The memory of the little dark room in which I slept and the hardship, and almost the anguish, of being waked from the deep sleep of boyhood at 4 o'clock in the morning and being forced out to my work has been so stamped upon my mind that it will never be forgotten. Morning after morning, when I was forced out of my sleep at that time, my muscles were so sore and stiff that I could not walk without pain and suffering until I had, so to speak, exercised and warmed up the muscles.

Now, it may not have served other boys in that way; but I have every reason to believe that I have never, in the long life I have lived, entirely recovered from the effects of the work that I had to do in that way as a small boy.

But, Mr. President, these are things difficult to regulate by law. It is fair to assume that the States are just as much interested in the welfare and prosperity and protection of their children as is the National Government. They have shown, in almost every instance, evidence of the fact that they are trying to do that very thing, and do it in a proper and legitimate way. I do not believe the attempt of the Government to enter upon legislation of this kind and to attempt to control labor in the States is legitimate. I believe it is in violation of the Constitution. Ever since I came into the Senate, from time to time,

I have been protesting, as the Senators will bear witness, against the tendency of the States to surrender their rights to the National Government, and at the same time the tendency of the National Government, as represented here in Congress, to encroach upon the rights of the States. This tendency to surrender States' rights has come almost exclusively from the other side of the Chamber, strange to say, and from southern Senators. It has gone so far that I have come to think that the representatives of the South will surrender any of the sovereign rights of their States if they can get a sufficient price from the National Treasury. So I do not feel as sympathetic toward the South in this emergency as I might do otherwise.

Mr. HARDWICK. Mr. President—

The PRESIDING OFFICER (Mr. MARTINE of New Jersey in the chair). Does the Senator from California yield to the Senator from Georgia?

Mr. WORKS. I yield to the Senator.

Mr. HARDWICK. I was just going to suggest to the Senator that I should very much appreciate it if he would not make that indictment quite so sweeping. Not all of the southern Senators or southern Representatives in Congress are guilty of the conduct described by the Senator.

Mr. WORKS. Mr. President, I should not, because I know the junior Senator from Georgia has taken quite an opposite view of that subject, and has stood with me in the attempts I have made to protect the sovereign rights of the southern States. But, Mr. President, we are on the brink of a complete change in the policies of the Government. We are driving irresistibly, it seems to me, to centralized government; and if such a law as this can be enacted by Congress and be sustained by the Supreme Court of the United States, either upon the ground that it is a proper attempt to protect interstate commerce or that it is within the police powers of the National Government, there is no limitation, there is no dividing line between the powers of the National Government and the sovereignty of the States, because if legislation of this kind can be maintained upon either of the grounds I have stated, there is no industry within any of the States of the Union that will not be subject to the control and domination of the National Government through just such legislation and regulation as is now proposed.

Mr. CLAPP. Mr. President, will the Senator pardon me?

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Minnesota?

Mr. WORKS. Yes; I yield to the Senator.

Mr. CLAPP. Would the Senator, if it were possible for him to be placed in that position, in dealing with the question of the creation of a constitution, have considered it hostile to the best interests of the people, or hostile to the maintenance of States within a national government, if this power had been expressly granted by the States in the constitution itself?

Mr. WORKS. Why, Mr. President, anybody who believes in local government and the division of sovereignty and power as between the National Government and the States must conclude that that would have been an evil even at that time. I have no doubt about it myself. I believe in maintaining the integrity and the sovereignty of the States.

Mr. CLAPP. Yes; but what I wanted to get—and the Senator has very frankly met it—was whether, at the beginning of the Government, it would have been, from his viewpoint, considered essential to the best interests of the people and the maintenance of the States within a National Government to have granted this power expressly to the Federal Government. The Senator has been very frank in his answer.

Mr. WORKS. Mr. President, no one could tell what might have been the result of such a form of government as that. It would be a mere speculation or opinion on my part. But judging from our experiences under the form of government that we now have I should say it would have been a great misfortune if any such power as that had been given to the National Government at that time. It may be that I am looking at this phase of the subject too seriously. It may be that there is not the degree of danger involved in it that I think there is. It may be possible that the people of this country would be better served, and their rights better protected, if there were no division of power and it all belonged to the National Government as a centralized power. But I have not come to believe that. The centralization of power in the National Government, to my mind, means eventually a despotism, a dictatorship. It means the centralization of power not only in the General Government but in one man.

No step that has ever been taken in Congress leads so directly and so strongly to that outcome as the bill that is now before the Senate. It involves a great fundamental governmental question. There is not very much in it of itself. If the law should be enacted and go into force it would amount to very

little, in my estimation. As I have said, the children of the country in almost all the States are amply protected now so far as legislation can protect them; and like a good many other cases the Congress of the United States is being forced into this kind of legislation by public sentiment. It is all right that public sentiment should be regarded and respected. That is a part of our duty here. We are representing public sentiment to a large extent, but it is well to inquire whether the sentiment that has been aroused in favor of legislation of this kind has taken into account the ultimate consequences of such legislation, and whether it is founded upon a necessity that should control public sentiment.

I know very well that Members of this body are being controlled by their sympathy for the dependent and often helpless children who are overworked. I hope I have as much sympathy for those conditions as other Members of this body have; but when I propose by action of mine to protect them from these evil conditions I do want to know that I am doing so in a legitimate and constitutional way, and that I am really going to benefit them by the action that may be taken.

It is a great question, Mr. President. It would be an important question if it merely involved the protection of the children of the country, because that is a great thing to be accomplished; but it is an infinitely greater question, because, in my judgment, it goes to the very foundation of the institutions of this country. We are not only tending toward centralized government; it is leading us off into something that may be even worse than that—bureaucratic government. We are not governed any more by Congress. We are governed, in the first instance, by the dictation of the executive department, and much of the legislation that should be conducted by Congress and for which it should be responsible is conducted now not by Congress but by bureaus and commissions. I hope before I leave the Senate to discuss some of the evils that I think are imperiling the existence of this country, but I am not going to stop to do it now. I desired only to say a very few words respecting the proposed legislation in order that my own position might not be misunderstood and in order that I might express my views with respect to the legitimacy or illegitimacy of this kind of legislation and its probable effect upon the future of the country. Having done that, I shall leave the question at the present time.

Mr. KENYON. Mr. President, I have already taken a good deal of the time of the Senate on this bill, and I would not take more time now were it not for the amendment of the Senator from Colorado [Mr. THOMAS]. What time I do take will be very brief.

I share in the wish of the Senator from California to go home. I would be perfectly willing to waive the very interesting remarks that I am about to make if we should adjourn at once; but there is no probability of going home, and we shall be grinding on here for some time yet.

The Senator from Georgia [Mr. HARDWICK], I think has said about everything that could be said upon the opposition side of this question. Certainly everything has been said when that is supplemented with the argument of the Senator from North Carolina [Mr. OVERMAN]. The Senator from Georgia has said it with a courage, a clearness, and an independence that commands the admiration of everyone. On the other side of this question everything has also been said. I could not add, I feel, very much, if I should attempt to do so, to the constitutional arguments that have been made. I do rejoice that this bill is about to pass. It ought not to pass without a word being said as to a gentleman now out of public life who is entitled, I believe, to the most credit for the fight that has been made for a child-labor bill. He stood on the floor of the Senate nearly 10 years ago and fought alone for something that now has come to be a bill in principle, at least, demanded by both of the great political parties and by the great consensus of opinion in this country. That was the distinguished former Senator from Indiana, Mr. Beveridge.

With a frankness that is refreshing, even in this weather, the Senator from Georgia [Mr. HARDWICK] has said that in his judgment the purpose of this bill was merely to secure Bull Moose votes. He did not indicate as to which party he thought was trying hardest to secure those votes, but I judge the exigencies of the situation are more with his party than with ours. What he says may be true. So far as I am concerned, I am glad even if that is the reason that this bill is being pushed; but perhaps it should have been pushed with a little more speed, because I notice that on Saturday one of the great leaders of the Bull Moose Party who had been a Democrat before he went into that party, and one of the brainiest men in that party, came out for the Republican candidate for President.

The Senator from Georgia states that this is not Democratic doctrine and not Republican doctrine; that it is Bull Moose doctrine. Mr. President, I believe that President Roosevelt, in the days when there was no question as to his being a Republican—as there is apparently none now—was very earnest in the advocacy of a national child-labor law.

Mr. HARDWICK. Mr. President, if the Senator will permit me, can the Senator cite any public utterance of President Roosevelt's to that effect?

Mr. KENYON. No; I can not.

Mr. OVERMAN. I cited it in my speech this morning—his message to Congress, in which he said that it ought to be done if it could be done under the Constitution.

Mr. HARDWICK. In the only public utterance that President Roosevelt made, he expressed himself as being in doubt as to the constitutionality of it.

Mr. OVERMAN. I stated that this morning.

Mr. KENYON. Well, Mr. Roosevelt has written a great many articles for magazines and papers not of an official nature; and I am very certain, while I may not be exact as to the time, that ex-President Roosevelt has been an earnest advocate of a national child-labor law.

Mr. HARDWICK. If the Senator will pardon me once more; if so, it was in private and not in public.

Mr. KENYON. Oh, no.

Mr. HARDWICK. In no public printed utterance of his that I have ever seen.

Mr. KENYON. Oh, yes; I think he has.

Mr. HARDWICK. I wish the Senator would put it in his remarks.

Mr. KENYON. I take issue with the Senator on that point.

Mr. HARDWICK. The Senator can not cite it.

Mr. KENYON. I will try to cite it later. I have nothing with me now on that subject. Senator Beveridge was also a Republican—a Progressive Republican. Now, this has been a Progressive Republican doctrine. It may not have been the doctrine of those who had most to do with shaping Republican platforms.

We have heard a good many arguments here and questions which have seemed to me utterly foolish. I do not refer in that to the argument of the Senator from Georgia [Mr. HARDWICK] or the argument of the Senator from North Carolina [Mr. OVERMAN]; but in the questions that have been asked, and other questions and suggestions that go to the very heart of the difficulty, we have had many foolish questions suggested, such as these: If Congress can regulate the products of child labor, then Congress can declare that no goods made by parties who do not believe in woman suffrage can be carried in interstate transportation; that goods can not be carried in interstate commerce, if Congress so decrees it, where liquor has been used by the workmen who have been making the goods; that certain religious denominations, if they had the power and the influence, if such a law as this can be passed, could bring about a situation in this country where goods could not be transported in interstate commerce unless they were made by people belonging to certain religious organizations, or who did not belong to certain religious organizations. Those questions do seem to me so utterly silly that they must be attributed to the effect of the weather upon those who made them.

When the Hoke case was up for discussion I assume that the same kind of questions could have been asked, such as, If we can keep women out of interstate commerce and keep them from being transported for immoral purposes, then we can keep women out of interstate commerce unless they cut their hair in a certain way, or old maids unless they have had one or two proposals of marriage in their lifetime. There is not any proposition that can come up but that ridiculous and absurd queries can be made about it, as there have been in this case.

There is another line of questioning, however, that has gone to the very vitals of this subject—questions suggested by the Senator from California [Mr. WORKS]. I do not think that any candid man who thinks about these questions is willing to say that this question is free from doubt. If we had applied to the antilottery law the test which the Senator from Georgia believes should be applied, we never would have had it. I do not believe that many lawyers would have gone out at that time and proclaimed that there was no question about that law; and certainly when we came to the law in regard to the transportation of women in interstate commerce, that law never could have been passed under any such test, because there were very few lawyers at that time who believed that that law was constitutional; and I think that is the experience of most lawyers here who ever discussed that question with others.

Mr. President, I have just as much veneration for the Constitution as anybody, and just as much veneration for the constitutional lawyer. I do not believe the Constitution was ever intended to block forward, progressive legislation that was in the interest of the people. I think it was Dr. Samuel Johnson who once said that "patriotism was the last resort of scoundrels." I have sometimes felt that the constitutionality argument that is put in front of everything is the last resort of those inclined to block these progressive measures. We have seen it when the safety-appliance laws were before Congress. Gentlemen with reputations as constitutional lawyers arose and said they were in favor of all this, but "Ah, Mr. President, the Constitution." In the case of the employers' liability act, "We are in favor of all this; we wish it could be brought about; it is just and right; but ah, the Constitution." In the case of the pure food and drugs act exactly the same argument was made.

I have gone through, just as a matter of curiosity, the arguments that were filed in the Supreme Court in the White-Slave case. They are the same old questions that we are discussing here. It was going to change the form of government. It was taking from the States the power to regulate the morality of its own citizenship; and so we will always have these questions. While this objection has been rolled in front of all these great measures for the people of this country in the last 10 years, what one of them has the Supreme Court declared unconstitutional? The first employers' liability act, but for reasons which were very clear and very plain and which were remedied very easily by Congress.

No man can be absolutely certain in any of those cases, or in this case, that the act is constitutional. I confess very frankly that there are grave doubts in my mind about it; but I can not accept the theory that has been advanced here that if we have any doubt about it we should vote against the bill.

Mr. HARDWICK. Mr. President—

Mr. KENYON. Just a moment. If we had a fixed conviction, or, possibly, if the balance weighed the other way, then we should. Now, I yield to the Senator from Georgia.

Mr. HARDWICK. Does the Senator dispute the soundness of the rule laid down by Judge Cooley, to which I referred on Friday last?

Mr. KENYON. I do not remember the rule.

Mr. HARDWICK. Judge Cooley's rule, or the principle stated by Judge Cooley, was this: That when legislators were passing on the constitutionality of proposed legislation it was their duty to resolve all doubts against the constitutionality of the bill if there were serious doubts in their minds, for the very reason that the courts were bound to uphold the constitutionality of the bill when it was enacted into law unless they were convinced beyond a doubt that the act was unconstitutional. Is not that sound?

Mr. KENYON. Perhaps it is. Of course, I think the question of "a serious doubt" is a very broad question.

Mr. HARDWICK. Oh, yes; of course, that is always a question as to the mental attitude of every legislator as well as every judge.

Mr. KENYON. Exactly. It must depend upon his own mental condition—

Mr. HARDWICK. Yes, sir.

Mr. KENYON. Which comes after his careful study.

Mr. HARDWICK. I do not think the Senator would take issue with that as a general proposition.

Mr. KENYON. No; I will not take issue with that as a general proposition, because it is saved, to my mind, by the question of the serious doubt. Just how serious that doubt must be is a question. Few bills are passed involving constitutional questions absolutely free from doubt.

Mr. HARDWICK. And yet I understood the Senator to say just now that he had serious doubts about the constitutionality of this bill.

Mr. KENYON. I have some doubts about it.

Mr. HARDWICK. Well, if they are serious, then the Senator is bound to vote against it.

Mr. KENYON. No; they are not serious enough to cause me to vote against it. I said grave doubt. If that argument should be applied, we never should have had, as I said, the white-slave decision, and we never should have had the lottery case. Each Senator must decide for himself as to the doubt questions warranting him in voting against a bill.

Mr. HARDWICK. And with all deference to the Senator, I think we would have been a great deal better off.

Mr. KENYON. I know the Senator does. One Senator said to-day that the lottery case had made all the trouble.

Mr. HARDWICK. I think so, too.

Mr. KENYON. It has made a good deal of trouble for some and it has done a lot of good, in my opinion.

Now, one Senator asks, where are we going to stop with this kind of legislation, and suggests that we are going to have more drastic laws. If this legislation is sustained, I have not a bit of question that the next step will be the attempt to pass through Congress an act to prohibit the transportation in interstate commerce of goods made in factories where women work more than eight hours per day. I believe if this is good, that will be perfectly good. So this kind of legislation is going on if the Supreme Court sustains this act. It is going on for the better care of the people of this country who are toilers.

Mr. HARDWICK. Mr. President, I do not want to bother the Senator.

Mr. KENYON. I am very glad to have the Senator interrupt me.

Mr. HARDWICK. Now, then, the next step after that will be, will it not, that we will also have the proposition advanced and seriously supported and the same humanitarian reasons given in support of it that goods or articles produced by labor that works over a certain number of hours a day—we will say eight hours, for the purpose of illustration—shall not be admitted into interstate commerce; and, in the Senator's opinion, could not every argument that has been made for this bill be made for that proposition, also?

Mr. KENYON. Of course, that goes to the question of the reasonableness of the regulation, and the time will probably come in this country when there will be a general consensus of opinion that eight hours a day is all that a man should work in the interest of himself and of the public at large.

Mr. HARDWICK. We are about there now, are we not?

Mr. KENYON. We are getting pretty rapidly to that.

Mr. HARDWICK. So, getting down squarely to the situation that has arisen, if this legislation is held to be constitutional, we face the proposition that goods produced by women shall not be admitted to the channels of interstate commerce, and next we will face the proposition that goods made by anybody working over eight hours a day shall not be admitted to the channels of interstate commerce and finally we will regulate everything from this Chamber and the other House of Congress, will we not?

Mr. KENYON. If the people can, under the Constitution, bring about conditions of that kind, and if the country is behind the proposition and there is constitutional authority.

Mr. HARDWICK. The Senator has not based this proposition on the general welfare.

Mr. KENYON. Not at all.

Mr. HARDWICK. The Senator said if the general welfare demanded it.

Mr. KENYON. By a regulation that would be reasonable or unreasonable.

Mr. HARDWICK. The trouble about resting the proposition on general public sentiment under that theory is that power which will be constitutional to-day may be utterly unconstitutional to-morrow, and vice versa, and our Constitution will be nothing but shifting sand. It will depend on election returns if you depend on public sentiment, as it changes from day to day, and we will have no Constitution under that theory.

Mr. KENYON. The Senator claims that the passage of this bill is dependent upon the anticipated election returns.

Mr. HARDWICK. I think that has a good deal to do with it, and the Senator knows it.

Mr. KENYON. I think I agree with the Senator about that.

Objections, which seem to be foolish ones, have been raised; but some very legitimate ones have also been raised—that the bill does not deal with the article transported; that it prohibits transportation unless the article is made in accordance with congressional rules; that it is not really a regulation of commerce; that it is only detrimental because of the way in which it is made; that it attempts to regulate production.

I think those are difficult questions, Mr. President, but I believe, not without some serious doubt as to what the court may eventually say, the bill is constitutional. Judges on the bench in weighing propositions before them oftentimes have great difficulty in deciding as to how a case should be decided. They are oftentimes in doubt when an appeal is taken and the line is so close. I think we have here a line that is very close. I am simply going to reiterate in a moment, after reviewing the Thomas amendment, my reasons for thinking the bill is constitutional without going into the general argument as I have upon a previous occasion done.

I want to say a word about the amendment of the Senator from Colorado [Mr. THOMAS]. I shall vote against the amendment, and really my purpose in rising was to explain my reasons therefor. I believe the amendment is like other amend-

ments which are offered to bills of this character which weaken the bill itself. I think there is a great distinction between the proposition embodied in the amendment of the Senator from Colorado and the proposition embodied in this bill. There is a difference between that class of labor which builds up and that class of labor which destroys because of the conditions surrounding it.

The Senator from California has referred to a boy working on the farm. We have all probably had the same experience. It is hard work, of course, but it is different from work in a factory. There may be individual instances where it does harm, of course. I know by experience just what the Senator was picturing here to-day. I have had the same experience, getting up at 4 or 4.30 in the morning and going out and waking up the cows and getting them up off the ground and milking the cows and then going out to the fields after breakfast.

Mr. CLAPP. Mr. President—

Mr. KENYON. You are going to claim the same thing?

Mr. CLAPP. No; I am going to ask the Senator a question. Does not the Senator also remember, and I think many a man in this Chamber does, that oftentimes when he woke up the cows he put his feet on the warm soil the cows warmed because the ground around him was frosty and his feet were unprotected?

Mr. KENYON. I think we have all had that experience.

Mr. WORKS. I do not want the Senator or the Senate to understand that I have any objection to a boy working on the farm. I do not myself. I think it is the very best possible experience for them. But there may be reasons for limiting the number of hours the boy is required to work, however beneficial the work on the farm may be.

Mr. KENYON. I was going to say that work in the field is not so very hard. They come in at noon. I can remember very well when we had rest at noon. That rest generally consisted in turning the grindstone for half an hour. Then we worked in the afternoon and milked the cows at night. But the farmer boy gets away. He gets to the swimming pool, he goes a-fishing, goes to the circus, to the schoolhouse once in a while and hears a political speech, and all those things add a little zest to life; the factory boy does not get these. I have a very distinct recollection that as a boy on a farm I had to pitch to the thrashing machine the bundles, I used to think that that was about the hardest work that could possibly be in the world. But when you remember the farmer's dinner—the fried chicken, and mashed potatoes, and gravy, and corn on the cob, and tomatoes, and the bread, and the butter that melted in your mouth, and the apple pie with a piece of cheese—and then you could go out and lie under a tree, it was not so bad. Farm life is quite different from that of people in factories.

Mr. President, it seems to me that those who believe in this legislation and believe in this bill ought to try and defeat the amendment of the Senator from Colorado.

I want to refer now just to one or two things along the constitutional line. We have heard the argument made here that the article to be prohibited must be harmful. My colleague, I think, answered that in just a question the other day as to trust-made articles. The article in commerce as an article may be perfectly innocent, such as interstate trust-made goods. Take the commodity-clause cases, coal and hay. There is absolutely nothing in the hay or the coal that is injurious in itself any more than the articles made by child labor, but yet we have prohibited that under certain circumstances, because it is the part of a plan and scheme that may be injurious to the public welfare.

Take the case that was cited called the "Seven Cases" that refers to misbranded articles or diluted articles. Those articles in themselves are perfectly innocent as an article; they are just as innocent as an article made by child labor; there is nothing harmful in them or it is perfectly possible that there may be nothing harmful to them.

There may be a medicine that is diluted, there may not be a particle of anything harmful in it, but they are prohibited because they are a part of the general plan and scheme that is injurious to the public welfare. Take bars of metal bearing the stamp of the United States. What is the harm in those goods? Take cattle shipped from infected areas. Of course you may say there is danger in that kind of a shipment, but the cattle themselves are absolutely free from any disease, perfectly innocent articles in commerce. They are prohibited; and it can be sustained because it is a part of a general transaction that may be injurious to the public health.

Now, Mr. President, these propositions I believe are true. The power to regulate commerce under the Constitution is absolute. We have had that reiterated over and over again, there is one exception, and that is the fifth amendment. If it was not for the fifth amendment Congress could strike down every-

thing in interstate commerce. It could prohibit the shipment of corn and wheat and rye and anything else absolutely pure, just as we have the power to-day to declare war. That is a question of power. The question of the discretion and reasonableness and the desirability of it is a distinct question from the question of power. We could declare war to-day against every nation on the face of the earth. Great powers must be lodged somewhere and they are lodged in Congress. So with the exception I have cited we could do all these things that are questioned.

The tenth amendment with relation to reserved power in the States does not apply, because there is no power reserved in the State to regulate interstate commerce. There is no limitation in favor of the State, the power is absolute in Congress. The only limitation is that this regulation of commerce must not violate that fifth amendment, it must not destroy life, liberty, or property without due process of law, and that due process of law is merely an exception on the fifth amendment and on the fourteenth amendment. That due process of law is merely a freedom from an arbitrary and unreasonable action. The fourteenth amendment is exactly like the fifth amendment, and the only distinction is that one is a limitation as to Governmental action and the other is a limitation as to State action. One is as to what the Government can not do and the other is as to what the State can not do. Take liberty of contract, that we talk so much about. There is no freedom of contract. The liberty of contract under the fifth amendment or under the fourteenth amendment is merely the absence of arbitrary restraint. It is immunity from any kind of reasonable regulation. If the law of the State is not a violation of the fourteenth amendment then a similar law by Congress is not a violation of the fifth amendment.

We have the case of Miller against Oregon and the California case in relation to the hours of service of women. It was held in those cases in opinions both of which I think were written by the next President of the United States, that the State law was not a violation of the fourteenth amendment; it was due process of law, it was a reasonable regulation; and that is exactly similar to the child-labor question. If that had been a construction of a child-labor law by analogy the result must have been the same. Then, if that law is not a violation of the fourteenth amendment a national child-labor law is not a violation of the fifth amendment.

Of course it must be followed out by the assertion that it is in fact a regulation of commerce. On the other hand, we have had the famous New York case, the Bakery case, where the regulation was held to be so arbitrary and unreasonable that it was violative of the fourteenth amendment.

So, Mr. President, the seriousness of the situation, I think, does not arise over the question of the violation of the fifth amendment. What seriousness there is about it arises over the fundamental question whether it is a regulation of commerce or whether it is a regulation of manufacture or a regulation of production. Now, it assumes to deal with commerce. It assumes to be a regulation of commerce. In the Hoke case it was stated by the Supreme Court that if the Congress had the power, if it was in fact a regulation of commerce, it made no difference what the effect might be upon the manufacture within the State. I wish to call attention for just a moment to that. On page 322 of the Hoke case (227 U. S. Rept.) the court said:

It may be that Congress could not prohibit the manufacture of the article in a State.

We all agree to that.

It may be that Congress could not prohibit in all of its conditions its sale within a State. But Congress may prohibit its transportation between the States, and by that means defeat the motive and evils of its manufacture.

This bill is not regulating the manufacturing interest of the State. They can go on and manufacture just as they please. They can use child labor. They can manufacture everything they want to, sell it in their State, and when they bring it to the channels of interstate commerce, when they attempt to enter into transportation as a part of the general plan and scheme of making goods by child labor and selling them in other States, Congress then steps in and says, "We withdraw this necessary instrumentality for you to carry out the general plan, which plan we say is against the public welfare."

Mr. BRANDEGEE. Mr. President—

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Connecticut?

Mr. KENYON. I yield to the Senator.

Mr. BRANDEGEE. When the court used that language it was speaking about the article, which it described as follows:

Let an article be debased by adulteration, let it be misrepresented by false branding, and Congress may exercise its prohibitive power.

Mr. KENYON. That is true, of course; but I do not see how that makes any difference with the proposition that if Congress has the power to pass the act, it makes no difference what its effect upon the manufactures of a State may be, and having that power, while Congress could not prevent the manufacture in the State of the adulterated article or the misbranded article, it can say that it shall not be transported in interstate commerce, and in that way to a certain extent regulate its manufacture.

Mr. BRANDEGEE. It makes this difference, because that part which the Senator cites with approval, to wit, "But Congress may prohibit its transportation between States," is the very next sentence to the one where it talks about the misbranded or other deleterious article.

Mr. KENYON. Of course I did not intend to deceive anybody by the illustration.

Mr. BRANDEGEE. Certainly the Senator did not, but my own judgment is that the force of the declaration of the court that Congress could prohibit is broken by the fact that it is confined to an adulterated or misbranded article.

Mr. KENYON. I was citing the case to sustain the proposition I was endeavoring to make, that Congress in a certain way could regulate the manufacture within a State as incidental to prohibiting transportation of the article manufactured in interstate commerce.

Mr. BRANDEGEE. No; it could not.

Mr. KENYON. But it does.

Mr. BRANDEGEE. No; it does not say that Congress could regulate its manufacture by a State; but it says it could prohibit the transportation of such a misbranded or adulterated article between the States, and by that means defeat the grave evils of its manufacture.

Mr. KENYON. Well, that is true.

Mr. BRANDEGEE. A misbranded or adulterated article.

Mr. KENYON. But the Senator, of course, supplies those words in reading the part of the decision which he does.

Mr. BRANDEGEE. I only mean to say, Mr. President, that that is my construction of it. Of course the Senator may have another construction.

Mr. KENYON. Yet it gets down to this: The regulation that we are talking about does not have to be a regulation that is for the benefit of commerce; and it seems to me that we make a mistake in that we seem to assume that this must be something that is for the benefit of commerce; that that is the only power Congress has over the subject. This regulation of commerce can be for the benefit of the public health, of the public safety, of the public morals, or of the public welfare. It is ample and complete so long as it does not in any way violate the fifth amendment to the Constitution. We can do indirectly what possibly we could not do directly. Instances have been cited here of the taxation of the issues of State banks. We have also had the phosphorous-match tax to relieve what was known as the "phossy-jaw" situation. We have had the oleomargarine tax and the cotton-futures tax.

Mr. CUMMINS. Mr. President—

The VICE PRESIDENT. Does the Senator from Iowa yield to his colleague?

Mr. KENYON. Yes.

Mr. CUMMINS. May I suggest to my colleague that the tax which was levied on matches of a certain kind was not levied because they were dangerous after they were put into the hands of the users, but because the manufacture itself was a dangerous occupation?

Mr. KENYON. Yes. I thank the Senator for the suggestion.

Mr. LEWIS. Mr. President, may I ask the senior Senator from Iowa—I was at the time very much interested in the litigation to which he referred—does he not understand the doctrine to be that it was dangerous not as an occupation, but dangerous to those who were engaged in the occupation?

Mr. CUMMINS. I do not discriminate between the two things. It was dangerous to those who were engaged in making the matches; but after they were made and sent out, there was no evidence to show that they would bring about the disease known as "phossy jaw."

Mr. KENYON. Mr. President, the object of the tax, of course, was to stop the evils incident to the manufacture. It produced the condition which has been described among those who worked in the manufacture. Then the cotton-futures tax practically taxed that practice out of existence. Then there was the opium question and the water-power bill which we had here. That legislation was hung on the constitutional peg of our rights as to navigation. In fact, however, we were dealing with the water-power question—doing indirectly what we could not do directly.

Mr. President, Congress has the power to make any rule as to the regulation of commerce, subject to the one exception that it does not violate the fifth amendment. Congress itself is to be the judge, in the first instance, of whether the methods it adopts

and the rule it lays down for the regulation of commerce is an arbitrary one or not. I base my opinion on those propositions as to the constitutionality of the bill.

A question has been suggested by the Senator from California which has troubled me, namely, that this is purely a State matter; that the article itself is innocent; that it comes to commerce a perfectly innocent article, so far as it itself is concerned. We have got to face that. When the article made by child labor is presented to commerce it is an innocent article, except in the way in which it is made and the way that the use of it bears upon the way it is made.

Can you prohibit an article in commerce that is innocent in itself but that is made in a way that is contrary to the standards of civilization? There is no case in the books in which that has been held. It has been held that where the article is to be used in a way that is injurious to the public health, then it can be prohibited. So you have the question of whether or not there is the same power with relation to the production and the incidents surrounding production that there is as to consumption and the incidents surrounding consumption.

I go further than the question of the Senator from Connecticut [Mr. BRANDEGEE], which put it very aptly, as to the relationship between the hours of service in a mill and interstate commerce. We are not regulating those hours of service; we have no right to do so. They can go ahead with any hours they please and employ all the child labor they want, but when they come to bring this article to commerce they say: "Now, we have employed child labor in making this article; this article is just as good and as innocent as any article that was made by adult labor. Have you power to keep it out of commerce?"

Mr. BRANDEGEE. Will the Senator permit me to interrupt him there?

Mr. KENYON. Yes.

Mr. BRANDEGEE. And the article, not only innocent, but in all respects made in accordance with the provisions of the child-labor law of the State of origin.

Mr. KENYON. Well, I will assume that. Now, that is the question from the standpoint of the Senator from Connecticut and from the standpoint of the Senator from California. I do not myself accept that, but, even if that be so, I have been trying to find an answer to that in my own mind. Let us reason about it a little. Take *The Seven Cases v. The United States* (239 U. S.), that arose under the provisions of the food and drug act, section 3:

Third. If its package or label shall bear or contain any statement, design, or device regarding the curative or therapeutic effect of such article or any of the ingredients or substances contained therein which is false and fraudulent.

That article may be a perfectly innocent article; that is, it may not be a harmful article. It is to be used in what you may say is a swindling operation, and you may draw a distinction there. The transportation is a part of the general swindling scheme. The swindling scheme, in its last analysis, is to make money in some way that is contrary to public morals and this century's standard of civilization.

But the question remains—

The court says—

But the question remains as to what may be regarded as "illicit," and we find no ground for saying that Congress may not condemn the interstate transportation of swindling preparations designed to cheat credulous sufferers and make such preparations, accompanied by false and fraudulent statements, illicit with respect to interstate commerce, as well as, for example, lottery tickets.

Lottery tickets are exactly the same thing. They are a part of a swindling scheme. That scheme could go on in the States; Congress could not interfere with it; it would be a perfectly legitimate transaction within the State. When, however, you come to carry it beyond the State, when you go into interstate commerce with your ticket and sell your ticket in another State, that is not absolutely essential to the lottery, because it can be carried on in the State, but it is all a part of the same plan of a swindling operation.

Take a case which I have already cited along the same lines, namely, the case construing the commodities clause of the interstate commerce act, reported in Two hundred and thirty-first United States Reports, page 370. In that case it was said:

The commodities clause was not an unreasonable and arbitrary prohibition against a railroad company transporting its own useful property, but a constitutional exercise of a governmental power intended to cure or prevent the evils that might result if, in hauling goods in or out, the company occupied the dual and inconsistent position of public carrier and private shipper.

That article, absolutely innocent in itself, being a shipment of hay intended for use in the private business of mining, is prohibited by Congress in the channels of interstate commerce.

Why? It is just as innocent as the articles produced by child labor, but it is a part of a general scheme and plan that commences with its production, its transportation by the railroads, and then its use—it is a part of a general swindling transaction. Perhaps that word is a little too strong; but, at any rate, it is part of a general plan against the public welfare, whereby shippers could be discriminated against by the railroads.

Take the case of *McDermott v. Wisconsin* (228 U. S.), which has been relied upon very much in this discussion. That deals, of course, with illicit articles such as are injurious to the public health; but there was a general plan to be carried out which involved the shipment or transportation of these articles which would injure the public health. They could have been kept within the State, and Congress would have had nothing to say about it; but when in pursuance of the general scheme and plan it was sought to transport them in interstate commerce and sell them in other States, then the power of Congress could step in, because you have the chain with the link of transportation in it, and the chain is not complete without it. So, from the standpoint of the Senator from California, the child of the State is the child of the Nation. The Nation is just as much interested in the welfare of the children of the State as are the people of the State. These goods are made by child labor, thus dwarfing and injuring the children. Then the plan and the keeping on of making the goods by child labor necessitates a market for them, or the business will not go on. Hence you have the transportation in interstate commerce and the sales in other States; and you have the same philosophy in the scheme and plan that you have in the cases which I have cited. It is an attempt to make money in a way contrary to what Congress may decree to be according to the standards of our civilization, and hence it is against the public welfare, just as the lottery case is in its last analysis, and just as the commodities clause case and other cases that I might cite.

I know that that argument does not appeal to many minds. If we can get, as the Senator from California says, the transportation connected up with that production in the State, then it would probably be conclusive. But I say that the question, from my standpoint, is "Is it or is it not a regulation of commerce?" That is all there is to it. If it is a regulation of commerce and does not violate the fifth amendment of the Constitution, then that ends the controversy, in my mind.

Mr. BRANDEGEE. Mr. President, would it annoy the Senator if I should ask him a question?

Mr. KENYON. Not at all. I shall be very glad to have the Senator interrupt me.

Mr. BRANDEGEE. This is an exceedingly interesting question, of course, and the Senator is referring to questions that might be asked about it from this angle or from that angle, testing the application of the statements that are made in relation to it. The Senator has said that, in his mind, he has connected up the work of the child with the product attempted to be prohibited from interstate transportation so closely that jurisdiction attaches to Congress to prohibit the product of the labor of the child from entering interstate commerce. Would it make any difference to the Senator, in his opinion about it, if the consequences of that principle, if sustained, should be so far-reaching as to practically transfer to Congress the entire domestic regulation of the State?

Mr. KENYON. What is the question of the Senator?

Mr. BRANDEGEE. That is the question—would it make any difference, in the Senator's legal opinion, if the establishment of this principle and the vindication by the Supreme Court of the child-labor bill should have such far-reaching consequences as that the power of Congress to regulate commerce among the States could be used to regulate all the internal affairs of the State?

Mr. KENYON. Well, of course, I do not believe that Congress can regulate the internal affairs of the States.

Mr. BRANDEGEE. Well, let me put it in this way, then: For instance, if it be admitted, for the sake of the argument—but, of course, I am not convinced of it and therefore do not admit it—that we could pass this child-labor bill on the ground that it is a proper exercise of our authority to regulate interstate commerce—if we could prohibit the product of child labor from passing through interstate commerce, then the Senator would have to say, would he not, that if, in the judgment of Congress, it was for the public welfare that no women should work in factories, we could prohibit the transportation of any product in which female labor had entered, could we not?

Mr. KENYON. Yes; if that were considered a reasonable regulation. I would not consider it such myself. Limiting to certain hours the work of women would be a reasonable regulation.

Mr. BRANDEGEE. I mean, if we should become convinced of it, owing to a proper campaign, or if for any reason we should be sufficiently convinced of it to pass such legislation?

Mr. KENYON. I assume that the Senator, if he were on the Supreme Bench, would hold such legislation unconstitutional.

Mr. BRANDEGEE. Do you not think it would be unconstitutional?

Mr. KENYON. No; I do not say that. I say the Senator, if he were on the Supreme Bench, undoubtedly would hold such legislation to be unconstitutional. My doubt on that, however—the mere working at all of women in factories, with no reference to hours of employment—would be so serious that I would not now be willing to vote for such a bill.

Mr. BRANDEGEE. I think it would be, because I think the pending bill is unconstitutional; but I did not know whether the Senator would be willing to go that far now.

Mr. KENYON. I believe, of course, there is somewhere a line where the matter stops.

Mr. BRANDEGEE. I hope so.

Mr. KENYON. And I think that is the line of reasonable discretion.

Mr. BRANDEGEE. I hope so.

Mr. KENYON. I believe that Congress now could pass an act along the lines of the pending bill prohibiting in interstate commerce goods made in factories where women work over eight hours per day. I say that on the strength of the Oregon and California cases, where the Supreme Court has held that those statutes do not violate the fourteenth amendment of the Constitution, and that it would be a regulation of commerce.

Mr. BRANDEGEE. Then, would it not be equally true that Congress could provide that no goods shall be transported in interstate commerce which are made by men who have been worked over eight hours per day?

Mr. KENYON. I would not say that was an unreasonable regulation. It is in the region of doubt. I think the time may come, however, and is coming, when public opinion may be such, and when the general sentiment of the country may be such, that an eight-hour day is the only day that men should work; that that might be considered a reasonable regulation. I would not want to guess on what the Supreme Court would do. It may be that time has arrived.

Mr. BRANDEGEE. That is what I mean. Of course, I will not consume time in multiplying instances; but I mean, if it is so that the principle contended for in this bill is a valid exercise of the power of Congress, as public opinion becomes educated or demands this, that, or the other prohibition unless certain conditions have been complied with in the State of manufacture, there is a whole field of such regulatory power unexplored.

Mr. KENYON. Undoubtedly. I do not know that the Senator believes as I do about it; but I believe the Constitution has been marching on; that it has not stood still; that the fathers who formed this instrument had no idea of what was coming, of the new conditions and the changes which would ensue, and the Constitution has been construed in a way to meet most of them. I think the Constitution will keep marching on.

Mr. BRANDEGEE. I entirely agree with the Senator that, of course, the construction of the commerce clause has had a wonderful development, and the constitutional power of Congress in that respect has been greatly increased by judicial determination.

Mr. CUMMINS. Mr. President, will my colleague allow me to ask a question of the Senator from Connecticut?

Mr. KENYON. Yes.

Mr. CUMMINS. Does the Senator from Connecticut believe that the Legislature of Connecticut could constitutionally pass a law limiting the hours of labor for men to eight hours?

Mr. BRANDEGEE. I do.

Mr. CUMMINS. That it would not be a violation of the fourteenth amendment to pass such a law?

Mr. BRANDEGEE. I think they have that law now. I am not sure. I think they could, unquestionably. I do not, however, see the relevancy of the inquiry to the subject under discussion.

Mr. KENYON. I think the Senator asked that question himself, as to whether Congress could pass that kind of a law.

Mr. BRANDEGEE. But the senior Senator from Iowa asked me if the State legislature could pass an eight-hour law.

Mr. KENYON. Mr. President, I am going to stop now, because others are to follow me who will cover this question more thoroughly than I can, and I did not expect to say more than a word or two about it. My theory has always been that in the last analysis it is going to be simply a question of whether the regulation of commerce is a reasonable or an unreasonable

regulation. If it is in fact a regulation of commerce and reasonable, it is constitutional; and if it is unreasonable, it is unconstitutional.

I want to put in the RECORD an article on this subject from the paper owned by the Secretary of the Navy—I do not know whether he is the editor of the paper or not—the Hon. Josephus Daniels, on the subject "Trying to push back the ocean." It is very interesting reading, but I shall not take the time now to ask to have it read. I also have here two telegrams addressed to Hon. JOHN W. KERN, which I ask to have inserted without reading.

The VICE PRESIDENT. In the absence of objection, that may be done.

The matter referred to is as follows:

TRYING TO PUSH BACK THE OCEAN.

There was once a king—his name was Canute, we think—who thought that he could stand on the shore and sweep back the oncoming tides of the ocean. He used his broom vigorously, and at the first stroke, as the tide receded, thought that he had power over the ocean.

Yesterday in the State senate some very elegant gentlemen, who lacked the vision to see that the world will no longer tolerate child labor, essayed the task of King Canute, and with vigorous speeches succeeded temporarily in compelling a recession of the tide that is moving steadily everywhere else for the emancipation of the children who work in the mills. Behind these gentlemen was a committee composed of owners of cotton mills in the State.

The men who have built the cotton mills in North Carolina are among the State's best captains of industry, and nobody can give them too high praise for the work they have done in developing the State and giving it industrial supremacy. Most of them have also been liberal and kind and generous to those in their employ. If there were no organization of the cotton-mill men and each owner of a mill spoke his sentiments, many of them would have favored the bill which was defeated in the senate yesterday, and some of them do favor it; but, speaking as an organization, they have exerted their great power—and the cotton-mill men now exercise a greater power over such legislation than any other body of men in the State—against it. Their influence is paramount in many counties, and it has made itself felt in the State senate.

This organization is farsighted; it looks ahead to the senate, and for 10 years has been able to prevent any legislation that would secure real inspection of even the moderate child-labor laws which have been put upon the statute books. They consented some years ago to a law which was impotent to reach the need, but would not consent to proper and adequate inspection. Yesterday they were able to convince most of the senators that such inspection was not necessary or desirable, and senators killed all legislation looking to strengthening the labor law, even in the smallest detail. It is to be regretted that men who have done so much for North Carolina should be so shortsighted. It is more to be regretted that senators who legislate for all the people should have lacked the wisdom to put North Carolina abreast with the spirit of the times.

The victory yesterday against child labor is one that will be short-lived. No State in this day can stand for child labor any more than it could stand for slavery, for the duel, or for hazing. The hour has struck for the emancipation of the children in the factories. The sentiment of this country is overwhelmingly and irresistibly against using up the seed corn. These cotton-mill owners have persuaded themselves that their industry is dependent upon this utilization of the seed corn. They are grievously mistaken. No industry of this magnitude and character in the long run is dependent upon child labor. Whenever the mill-men stop long enough to consider the question as it has been considered in every industrial community in the world except our own, they will find a way to adjust their industry without compelling women to toil long hours and children to be denied their God-given right to play and live in the sunshine.

"Do you hear the children weeping, O my brothers,

Ere the sorrow comes with years?

They are leaning their young heads against their mothers,

And that can not stop their tears.

The young lambs are bleating in the meadows;

The young birds are chirping in the nest;

The young fawns are playing with the shadows;

The young flowers are blowing toward the west;

But the young, young children, O my brothers,

They are weeping bitterly;

They are weeping in the playtime of the others,

In the country of the free."

A few days ago the House of Representatives, in Washington, by a vote of more than six to one, passed the Palmer bill. This bill would prevent any factory selling its product in any other State if this product was produced by child labor. Only one vote was cast against this measure by a Member of Congress north of Mason and Dixon's line. If the bill could get before the Senate at this session, it would become a law. It is as certain to become a law in the near future as that Congress of the United States is responsive to the most enlightened public sentiment of America. Even if the North Carolina Senate should for some years to come be responsive to the demands of the cotton-mill owners that children should continue to work in factories, the reform will come through the passage of the Palmer bill or one like it.

This paper covets the honor of North Carolina, leading in the chivalrous spirit of not permitting the long hours of work for women or the working of children at all in cotton mills. The only question now to be considered in the near future is whether North Carolina, through its own legislature, will pass the enlightened laws which have been enacted by every other civilized nation in the world and nearly every State in the Union, or whether it will wait and be compelled to stop the working of children in factories by a Federal law. It is a matter of deep regret that the Senate yesterday thought it could stop the hands of the clock or sweep back the irresistible tide for the emancipation of children. North Carolina should lead, and it is to be hoped that two years hence the record made yesterday will be reversed, so that the State will of its own motion emancipate the children in the mills and not be compelled to do so by Federal laws.

Senator JOHN W. KERN,
Washington, D. C.:

We earnestly hope the Senate will heed President Wilson's request for prompt passage of the House bill for the regulation of child labor.

HIGH C. MOORE,
Editor Biblical Recorder, Organ Baptist State Convention.
CLARENCE POE,
Editor the Progressive Farmer.
E. E. BRITTON,
Editor News and Observer.
W. F. MARSHALL,
Editor North Carolina Education.

ASHEVILLE, N. C., July 24, 1916.

Senator JOHN W. KERN,
Senate Office Building, Washington, D. C.:

I voice the sentiment of the greater part of the press of North Carolina when I say that the southern people as a whole desire the passage of the pending child-labor bill.

JAMES H. CAINE, Editor Citizen.

Mr. POMERENE. Mr. President, I shall take only a few minutes of the time of the Senate. This bill has been discussed so ably on both sides that there is very little to be said which has not already been covered by the discussion.

I recognize that there are very serious questions involved in this bill. I will not concede that there is much doubt about the policy of regulating child labor. The serious question comes up when we consider the power that is conferred upon Congress.

If I were convinced of the unconstitutionality of this law, or had really serious doubts about it, I would not vote for it. I feel that there is some doubt, but in the light of the decisions that have been fully discussed during the past few days I believe that the constitutionality of the law will be sustained.

Mr. President, the preamble to the Constitution provides that this Constitution was established for the general welfare, among other things, of ourselves and our posterity. The Constitution gives to Congress the right to regulate commerce among the States, and my thought is that when we attempt to determine the full scope of the power which has been given to the Congress or to any other branch of the Government we construe it in the light of the purpose which was to be accomplished. And now, concretely, the question presents itself thus:

The Congress is given the right to regulate commerce for the purpose, among other things, of providing for the general welfare to ourselves and our posterity; so that when the court comes to pass upon the question as to whether or not we have gone beyond the scope of congressional power it will not alone look to the paragraph which confers upon the Congress the right to regulate commerce but it will also look to the preamble to see whether the regulations which we are contemplating will redound to the general welfare of ourselves and our posterity.

Mr. President, one of our judges, and perhaps more, has said that the power to regulate was without limitation. I think that is true, generally speaking. I have in mind, of course, the fifth amendment. But the difficulty with us has been to be able to see and determine what these limitations are, and we can only determine them in the light of experience and in the light of adjudications.

In my judgment, much legislation is held constitutional now which a century ago would have been held unconstitutional, and I predict that the courts in the future will hold legislation constitutional which they would not hold constitutional today; and that all addresses itself to the reasonableness, in large part, of the provisions of the bill itself.

The Seven Cases against The United States has been referred to, and I want to call attention to the first paragraph of the syllabus:

Congress is not to be denied the exercise of its constitutional authority over interstate commerce and of its power to adopt means necessary and convenient to such exercise merely because those means have the quality of police regulations.

I take it that if we were discussing the police powers of the States, and had before us a grant of the police power, it would not necessarily be held unconstitutional because it may perhaps have indirectly affected interstate commerce; and on the other hand because we have here a bill regulating interstate commerce it is not going to be held unconstitutional because indirectly it may affect the police power of the State.

Mr. BRANDEGEE. Mr. President—

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Connecticut?

Mr. POMERENE. I do.

Mr. BRANDEGEE. If the mere declaration in a law passed by Congress that it prohibits the transportation from one State to another as a penalty for the violation of the law can clothe Congress with jurisdiction to act upon the matter and make it a regulation of commerce simply because it is a prohibition of transportation, then we can clothe ourselves with jurisdiction

and say that anything is a regulation of commerce which prohibits.

Mr. POMERENE. Mr. President, I think the Senator understood that I was speaking generally. The question which he puts, of course, is the one which is being seriously considered both by himself and by myself, and here we get into what may be called, perhaps, the twilight zone.

In discussing this case, Mr. Justice Hughes, on page 514 of the Two hundred and thirty-ninth volume of the Supreme Court Reports, uses this language:

So far as it is objected that this measure, though relating to articles transported in interstate commerce, is an encroachment upon the reserved powers of the States, the objection is not to be distinguished in substance from that which was overruled in sustaining the white-slave act, chapter 395, June 25, 1910. (36 Stat., 825; Hoke v. U. S., 227 U. S., 308.) There, after stating that "if the facility of interstate transportation" can be denied in the case of lotteries, obscene literature, diseased cattle and persons, and impure food and drugs, the like facility could be taken away from "the systematic enticement of and the enslavement in prostitution and debauchery of women," the court concluded that the reassertion of the simple principle that Congress is not to be denied the exercise of its constitutional authority over interstate commerce, and its power to adopt not only means necessary but convenient to its exercise, because these means may have the quality of police regulation—

Citing Two hundred and twenty-seventh United States, page 322.

Mr. President, bearing in mind what I said with reference to the phrase in the preamble to the Constitution, we are now, by this legislation, attempting to regulate the transportation of articles of commerce between the States; and the question is: Is it within the power of Congress, in providing for the general welfare, to regulate goods which may be the product of child labor? Other Senators here have discussed the effect of child labor upon the community and upon the Nation at large, and it is not necessary for me to take the time of the Senate to go into the details of that branch of the discussion. In my own State, for instance, we have what may be called drastic legislation upon this subject. I am in entire sympathy with it. When our legislature adopted these laws I know that there was an intense fight made against them from some sources, but I dare say that if the question were to come up anew in the State of Ohio again, those who opposed the legislation before would not permit its being repealed.

Having adopted this legislation, believing that the general welfare of the children of the State of Ohio would be served by limiting the age at which children should go into the mines or into the factories or into other places of employment, we are now confronted with this situation, speaking not only as citizens of the State of Ohio but as citizens of the United States: Other States see fit to permit the employment of children at a very immature age—12 or 13 years, perhaps. Does it not concern the general welfare of the children of the country to say that the products of the children of tender years, 12 and 13, shall not cross the State lines into other Commonwealths where, in harmony with the public sentiment of the country, we have seen fit to refuse employment to children in some industries under 14 years, and in other industries under 16 years, and limiting the hours of employment?

Mr. President, the distinguished junior Senator from Iowa [Mr. KENYON] some days ago printed as an appendix to his speech a comparative statement of the legislation bearing upon this subject. I have not taken the time to compare his abstract of the laws of Ohio with the original statutes, but I want to call attention to just a paragraph or two:

States.	Employments prohibited.	Hours of labor.
Ohio..... Laws, 1913, 1914.	Under 14: In any acrobatic, mendicant, etc., occupations. Under 15: In any business whatever during public-school hours. Males under 15 and females under 16: In any mill, factory, workshop, mercantile or mechanical establishment, tenement house, manufactory or workshops, store, office, office building, restaurant, boarding house, bakery, barber shop, hotel, apartment house, boot-black establishment, public stable, garage, laundry, place of amusement, club, or as driver, in any brick or lumber yard, construction or repair of buildings, distribution, transmission, or sale of merchandise.	Boys under 16 and girls under 18: Not more than 6 days a week, nor more than 48 hours a week, nor more than 8 hours a day, nor between 6 p. m. and 7 a. m. Boys under 18 and girls under 21: Not more than 6 days a week, nor more than 54 hours a week, or between 10 p. m. and 6 a. m. Boys under 18 as messenger: Not between 9 p. m. and 6 a. m.

Mr. President, we had pretty full hearings upon this subject before the Interstate Commerce Committee of the Senate. We

heard much from southern employers and others, and I am here willing to concede that that testimony showed that the conditions of child labor in the Southern States have materially improved within the last few years. Their objections seemed to be that if we were to place an inhibition against child labor as provided for in this bill it would serve to disorganize their forces in the mills.

Mr. President, I am not going to take the time to refer in detail to that testimony, but suffice it to say that there was a comparatively small number of these children under the inhibited ages employed in the mills of some of those who testified, and with all due respect to their statements upon the subject, I do not believe if this bill is passed it is going to interfere with the operations of those mills so as to do them serious injury. I am willing to depend upon the ingenuity of our manufacturers and their superintendents to reduce to a minimum, if we consider it only from the standpoint of dollars and cents, the injury which they will receive if this bill is to become a law. More than that, the injury, if any, which it may do to these companies—if we grant that it will do an injury to some of them—will be more than compensated for by the vast benefits to the children and to the community at large.

Mr. President, I said a moment ago that I recognize the fact that there is some doubt about the constitutionality of this legislation, and as one of the friends of that measure, I should like to reduce to a minimum any danger there may be in that behalf.

I want to call the attention of Senators, and particularly those who are present, who as members of the Interstate Commerce Committee have this bill under advisement. Senators will remember that the first section of the bill as it passed the House provided that no producer, manufacturer, or dealer shall ship or deliver for shipment in interstate commerce products of any mine or quarry or mill which has been produced in whole or part by the labor of children under the prohibitive ages or which is produced within the prohibited hours. In other words, the House bill prohibited the transportation of products into which entered the labor of children within the prohibited age. This section was redrafted. The Senate committee provision, in substance, reads as follows:

No producer, manufacturer, or dealer shall ship or deliver for shipment in interstate or foreign commerce any article or commodity or the product of any mine or quarry or manufactory which is produced in any mine or quarry or any manufacturing plant where prohibited labor is employed.

In other words, under the provisions of the bill as passed by the House there must be child labor of the prohibited kind in the article which is the subject of transportation. Under the Senate committee bill, if it is to become the law, goods which are transported and which may not have any child labor of the prohibited character involved in that product can not be transported if any prohibited labor is employed within the mine, the quarry, or the mill. When we conceive that we are somewhat in the twilight zone with this legislation—I want to beg all Senators to consider this very seriously—will we not be better serving the purposes which we all have in mind if we should adopt the House bill in this behalf rather than the Senate committee amendment?

Mr. President, let me see if I can make my point a little clearer. Let us assume, for the sake of the argument, that in a cotton mill in North Carolina child labor should be employed, and employed in entire conformity with the State law. Let us suppose, further, that the child labor is employed in that mill upon products which are only to be transported in intrastate commerce, and that other articles are being manufactured there which are manufactured by labor in entire conformity with the Senate committee bill, so that the manufacturer could be shipping goods in interstate commerce which were manufactured by children in entire harmony with the Senate committee bill, and, on the other hand, they could have children employed in the manufacture of articles to be used in intrastate commerce in entire conformity with the public sentiment and the public law of the Commonwealth of North Carolina—and it is not impossible that such a situation could arise. I confess that it gives me graver doubt about the validity of the Senate committee bill than I would have about the bill as passed by the House if this were to become the law.

I think from what I remember of the discussions of this matter in the committee, one of the purposes of the Senate committee bill was to liberalize the administrative features of the bill. I recognize the fact that if it were to come to a prosecution of a defendant and the Government was required to prove that child labor within prohibited ages was employed in the mill where it was produced the task of the Government would be much simpler than it would be if they were compelled to prove under the House bill that there was prohibited labor in the article being transported. But—

Mr. CUMMINS. Mr. President—

Mr. POMERENE. Pardon me just a moment. Under the provisions of this bill the agents of the Government will have the right to visit these mills at any and all reasonable times, as I remember the provisions of the bill, and that being so—

Mr. FLETCHER. The bill omits the word "reasonable."

Mr. POMERENE. Possibly that is true. At any rate they are permitted to visit the shops and factories so that they may determine with reasonable certainty whether there was any of the prohibited labor involved. I yield to the Senator from Iowa.

Mr. CUMMINS. A little later in the consideration of the bill I intend to submit my views relative to the constitutionality of the House bill as compared with the constitutionality of the proposed Senate bill, but I may not think then to make the suggestion which I now desire to make to the Senator from Ohio. He has supposed an instance in which a child in harmony with the State law but contrary to the Federal law is engaged in the manufacture of commodities used only in the State of production. It is not likely that many such instances would occur, but it is possible that they may.

Mr. POMERENE. The Senator will agree with me that it is worthy of consideration when we are to determine the question of the constitutionality.

Mr. CUMMINS. My answer to the suggestion is this: The people of the United States are just as much interested in the children of a Commonwealth making goods for the people of that Commonwealth only as though the children were making goods for transportation throughout the country. The purpose of this bill is to prohibit the employment of these children under the ages specified or over the time specified.

Now, we want to prohibit the employment of these children, no matter what they are engaged in producing. I agree with the Senator from Ohio, that if the change in the form of the bill made by the Senate committee opens it to attack on its constitutionality widely or becomes more vulnerable to an attack on that account, then we ought very seriously and carefully to consider whether the substitution proposed should be made. I submit it with all deference. I know it is a subject upon which students of the matter may differ, but personally I think the substitute is more likely to be sustained in the Supreme Court than the House bill; and I will point out when we come to consider the matter the reasons which have led me to this conclusion.

Mr. POMERENE. The thought which the Senator has so well expressed had occurred to me as one that could be urged with considerable force in favor of the constitutionality of the Senate committee bill, and also the further thought, if I may be permitted to suggest it, that when it comes to legislation upon a subject of this kind the thought that is uppermost in the mind of Congress is to pass a law which is in harmony with the public sentiment of the country.

More than that, I think that a court in considering the question of the constitutionality of a law of that kind would give to Congress certain latitude in declaring the law in such a form that it would be less liable to be evaded.

I regret to say that I feel called upon to be away from the city to-morrow and perhaps the day following, and I wanted to give expression to my views to-day.

Mr. CUMMINS. Mr. President—

Mr. POMERENE. Pardon me a moment. If I can be present when the vote is taken, I think I would prefer the House section to the Senate section; but if the Senate did not agree with me in that thought, I would rather see the Senate committee bill enacted than have it fail.

Mr. CUMMINS. There is this further advantage in adopting the substitute proposed by the Senate committee, the differences between the House bill and the Senate bill will then be in conference and they can be very carefully and maturely considered by the conference committee.

Mr. POMERENE. I realize that very fully; but I think we ought to fully consider them on the floor of the Senate.

Mr. CUMMINS. The Senator is quite right about that.

Mr. POMERENE. I think that is all I care to say.

Mr. VARDAMAN. Mr. President, I rather agree with the Senator from Ohio who has just taken his seat that the House provision is preferable to the Senate committee amendment, and I expect to vote for that when the vote shall be taken; but whether that is adopted or the amendment of the Senate committee is agreed to, I expect to support the bill.

Mr. President, I think the most acceptable service to God is service to man. The highest end of government is the development and improvement of man, and if the man be improved the government will share his improvement and the moral sentiment will write the laws of the land. In the light of those self-evident truths a representative of the people truly desirous of

promoting the welfare of the people should experience no difficulty in finding the path of duty which leads to the final settlement of the question before the Senate.

Mr. President, the importance of the subject matter treated in the bill before the Senate is far above matters of ordinary legislation. Its moral aspect challenges my interest and compels my support. This bill deals with immortal stuff. Its effect upon the affairs of to-day are of inconsequential concern when we consider the larger issues of the future. The salvation of the child is the hope of the race—the source of strength and life of the Republic—the highest function of a great Government. The temporary moral welfare of society depends upon it, the permanent material welfare of the State depends upon it, the glory of our civilization draws life and inspiration from it, and the attainment by the individual of the infinite consummation in the realm of eternity is impossible without it. The great Carlyle once said in speaking of the child: "Good Christian people, here lies for you an inestimable loan; take all heed thereof; in all carefulness employ it; with high recompense or else with heavy penalty will it one day be required back." The wisdom of that warning will not be lost upon thoughtful conscientious minds. It is particularly pertinent to the consideration of the measure before the Senate. In this age of material expediency, when the gold dollar has become the first god and commerce the religion with so many of our people, we are too prone to minimize the importance of the man, the individual man, and his relations to society, to government, and his obligations to the God of our fathers, and to magnify the achievements of mankind in the mass. It is becoming more apparent each day that "the individual withers and the world is more and more." As the great river gathers its volume from the many springs that send their rippling rivulets down the hillside to join the great current which rolls on majestically to the sea, so are the material wealth and moral qualities of a great nation contributed to by the efforts of individual men and women who in aggregate compose the citizenship of the Nation. If the condition of our country is not what it ought to be, if the blessings and burdens of government rest not alike upon the rich and the poor, the weak and the strong, vouchsafing to every man, woman, and child an equal chance in the race of life, in so far as laws may, the cause or reason can be found in the delinquencies of the individual citizen. It is therefore of vital concern that we should make sure and certain that the individual child is given a chance to develop the latent qualities implanted by God Almighty in his soul and to bring out the physical forces that belong to every well-ordered human body. We may well understand that the child is "the fragile beginning of a mighty end." I have listened with unabated interest to everything that has been said pertinent to this question since the discussion began, and I have been reminded often of the epigrammatic utterances of the great President of the ill-fated Confederacy, who out of the anguish of a heart rendered desperate by the misfortunes that encompassed him about, like Laocoön in the cruel contortions of the serpent, of adversity exclaimed, "We must not grind the seed corn of the Confederacy." He realized that if the youth of his country were sacrificed to the god of war, no temporary success, however brilliant, would avail anything if that was the price we had to pay for it.

There may be differences of opinion founded on logic and bottomed on the highest order of patriotism regarding the tariff; we may differ on the money question, the forms of religious worship, the procedure in our courts of law—I repeat we may differ about all of these measures, but there can be no difference of opinion regarding the vital, pressing necessity, the essential importance of taking care of the child of the race. Now, I am not going to trespass upon the attention of the Senate by entering upon an extended discussion of the constitutionality of this bill. That phase of the subject has received exhaustive consideration at the hands of the great lawyers of this body. Indeed, everything has been said on the subject that could be said both for and against the measure. I think probably the last word has been said on the subject. I have been impressed, however, with the fact that the Constitution is usually the refuge of the statesman whose interests or preconceived notions are to be subserved or supported by the invocation of the terms of that instrument. It is rather a convenient document in that regard. But there is one thing, Mr. President, that I have observed, and that is that the Constitution of the United States has never stood in the way very long of the enactment of any measure which public sentiment demanded should be enacted for the good of mankind. And that is as it should be—for the reason that governments are made for men rather than men for governments. I do not desire to be understood as holding that the provisions of the Constitution should be lightly considered.

On the contrary, I believe with Thomas Jefferson that our only security is in a written constitution and the strict observance of its provisions. I have often felt that it would have been better if the people of the United States had changed the Constitution at least once in a generation, as Jefferson advised us to do, in order that its provisions might be made more adaptable without too much construing to meet the demands of our complex civilization. But that has not been done, and the original document, therefore, has been made to suit conditions which were probably never dreamed of by its framers.

Now, as to the policies embodied in this bill, I am very sure that at one time in the history of our Government the majority of Democratic statesmen entertained views which would have relegated the question of regulating child labor to the States. I am quite satisfied also that the framers of the Constitution intended that questions of this character should be treated by the authorities of the States. Of course the framers of the Constitution, in the widest stretch of fancy, did not dream of the conditions which exist in this country to-day. And the provisions of the National Constitution as they framed it and understood it, strictly construed, were ample to take care of any issues that might arise out of the civilization which existed contemporary with the adoption of the Constitution. But, Mr. President—

New conditions teach new duties,
Time makes ancient good uncouth,
They must upward still and onward
Who would be abreast of truth.

The things that were, were so different from the things that are, that old principles and policies must be readjusted in order to make them meet the demands of the ever-changing pregnant present.

The complexity of our system, the multiform material interests to be subserved, the mad rush for gold, the cruel, heartless greed for gain, and the ingenuity and cupidity of the modern manipulator of business affairs renders it absolutely necessary that the powers of government provided for in the Constitution of the United States must be employed for the good of the people of all the States. Not in derogation of the sovereign rights of the States, but rather in harmonious cooperation with the States for the good of humanity. Congress has the right to regulate interstate commerce. There is no question about that. When that power was given to Congress by the framers of the Constitution, I do not believe that they contemplated that it would be used even indirectly for the regulation or the remote control of the internal affairs of a State. I do not think our Constitution builders had the instant case or anything like it in mind at all. But nevertheless and notwithstanding they gave to the Congress the right to regulate interstate commerce. And since Congress has that right it becomes the duty which enlightened statesmen will recognize as a benign use of a great power—it becomes the duty of Congress to use that power for the good of the people of the United States. The weak must be protected against the inhumanity of the strong, and the individual few from the unjust exactions of the many. If child labor, as it is tolerated in some of the States, tends to lower the standard of manhood, to weaken the virility, sap the moral force, and impoverish the mentality of the constituent elements of the body politic, then it is a wise use of this great governmental function to interfere so as to prevent that pernicious consummation. We all realize that the child in the cotton mills and in the factory who breathes the dust-laden, lint-poisoned, mephitic atmosphere of the damp, poorly ventilated room of the factory becomes a stunted specimen of humanity unable and unfit to appreciate and enjoy the privileges of citizenship in this free country. I have seen them with their little pinched faces, hollow chests, starved bodies, and poisoned souls go out of this industrial prison after being confined for 10 or 12 hours, not with the elastic step of childhood, the flush of health in the face, and the bounding spirit of the normal boy, but rather like old men worn and wasted, with the horizon of life fringed with a cloud of hopeless pessimism. The picture was indelibly impressed upon my memory.

Down all the stretch of hell to its last gulf
There is no shape more terrible than this,
More tongued with censure of the world's blind greed,
More filled with signs and portents for the soul,
More fraught with menace to the universe.

And I said to myself, no government can prosper and long survive that would permit such a wrong to be done to even one of its most insignificant and unimportant citizens.

No State will be strong very long whose men and women come from that unfortunate class. Like begets like in the physical world, and the rose will not grow from the seed of the thistle. Therefore the wrong is not only to the generation

living, but it is a crime—a capital crime, against those yet unborn. What reason can be given, what statement, that rises to the dignity of an argument, can be made in favor of such a system? None can be made.

Ah! How unjust to Nature and himself
Is thoughtless, thankless, inconsistent man!

It is contended that the States are doing the things needful to protect their children. Very well, if that be true there is nothing in this bill that will interfere with the enforcement of the perfect State law or prevent the perfection of the State laws that need amending. There is one thing, however, which this law does, and that is, it puts all the States, so far as child labor is concerned, on an equal footing. Mr. President, I am going to vote for this bill. I am going to resolve the doubt of its constitutionality, if there be any, which seems to be pestering the minds of certain distinguished Senators—I am going to resolve that doubt in favor of the bill, because I recognize that the United States Government, acting with the States, is the only power beneath the stars that can save the children of America from the exactions of the conscienceless greed of the gold-worshipping capitalists of this country. The measure is full of good for the present generation, and it promises greater blessings for the generations of the future. I read an interesting story some days ago which gave an account of an Indian chieftain who went to New York City, and was shown the wonders of that great metropolis. He saw the cathedrals, and heard the soul-soothing music that came from the throat of the great organ, whose enchanting notes floated out upon the circumambient air like the melodies from a celestial choir. He was astonished by the skyscrapers, the hospitals, and the tenement houses, the imperial mansions, the crowded circus, and the airy span of Brooklyn Bridge—all filled his untutored mind with wonderment. "What is the most surprising thing you have seen?" asked a number of well-dressed, well-fed, luxuriously circumstanced Christian gentlemen of this benighted pagan who sees "God in clouds and hears Him in the wind." The savage lifted his red blanket and answered in three slow words, "Little children working." Edward Markham, commenting upon this, said:

It has remained for civilization to give the world an abominable custom which shocks the social ethics of the savage, for the Indian father does not ask his children to work but leaves them free to age and mature when they are ushered with solemn rites into the obligations of their fathers. Some of us are wondering why our savage friends do not send their medicine men as missionaries to shed upon our Christian darkness the light of barbarism.

I agree with Markham. I never see a little body-broken, soul-quenched specimen of humanity—the legitimate product of illegitimate conditions—the distorted things that grow out of "the social wants that sin against the strength of youth and the social lies that warp us from the living truth" that my heart is not filled with forbodings of ill for the State which tolerates such a thing. The day of settlement is inevitable. Nations, like individuals, in the end will be judged by the deeds done on the body. Then—

How will it be with kingdoms and with kings—
With those who shaped him to the thing he is—
When this dumb Terror shall reply to God,
After the silence of centuries?

But I should be surprised if Markham's suggestion does not provoke a supercilious sneer upon the lips of the Christian philanthropist, who weaves the bodies and souls of the little children working in his factory into fabrics and sells them and reaps the enormous profit of child-labor manufactured goods, with which he may fill his ungodly coffers. Child labor seems to be one of the peculiar fruits of what is called in our day and generation higher civilization. In the better days of Greece and Rome the children of both slave and master fared alike in the common nursery. In those glorious days the patriot and philosopher taught that the proper study of mankind was man.

The influences, shortcomings, and handicaps of heredity were resisted in a common effort to develop the child to become a masterful man. Even among the people from whom America gets her religion, by the commands of the Talmud, "children must not be taken from the schools even to rebuild the Temple." The wisdom of protecting the child is the first fruit of the finest and earliest civilization. All thoughtful men and women recognize the fact that—

'Tis education forms the common mind;
Just as the twig is bent, the tree's inclined.

Self-preservation should be the first law of nations as well as individuals. Excessive work in childhood universally results in mental and physical paralysis—it stunts the physique—empties the heart of passion and drives poetry from the brain. It results in general deterioration, which, in the course of time, will bring its victim on the dead level with the stolid ox. To

prevent this, I repeat, it is the proper use of the function of government which is necessary not only for the child of to-day but the child of to-morrow and the child of all the years to come. Every student understands the potentiality of prenatal environment—the handicap of hereditary delinquencies—influences when once put into motion go on through time into endless eternity. It is "the dreaded sweep of down-streaming seas" whose end the mind can not measure. Unfortunately, Mr. President, every question of far-reaching and national concern touches the peculiar issue in which we of the South are most vitally interested. It has been said that possibly if the Federal Government assumed the right even to indirectly regulate the hours of child labor in the mills that it may invade the cotton fields of Mississippi and undertake to proscribe the planter in the control of his negro labor. Of course that is only a bugaboo. There is no more danger of the Federal Government interfering with the management of the southern farm with its negro tenants than there is of the Federal Government interfering with the western and northern farmer in the management of his wheat fields. And, of course, we all know there is no possibility of the Federal Government interfering with the western and northern farmer in the management of his wheat field. The fact is, it will never become necessary to legislate for the regulation of child labor on the farm in any section of this Republic. Usually the child on the farm is under the care and tutelage of its parents. The labor is moderate, the hours reasonable; life in the open air and well-ventilated homes insure health and happiness. The farm is the breeding place of the statesman, the business man, and the philanthropist—men who dominate the business affairs of the Nation, blaze the way in State and national policies, who lead at the bar, in the forum, and in the field of science, as a general rule, either are the sons of farmers, reared upon the farm, or the first generation, who have gone from the farm to the city. The fact is, but for the great army of recruits that go into the cities from the rural districts every year the population in the urban districts would decay with the third generation. But I have wandered far afield from the question at issue. Let us come back to the main question. I have given a great deal of thought to the race problem of the South, because I regard it as the most difficult problem with which the white people of this or any other country were ever called upon to deal. I do not believe that God Almighty in His infinite wisdom ever intended that the negro and white man should live together in the same country on terms of political and social equality. I know it can not be done and preserve the integrity of the white race and the splendor of our civilization, and for that reason I and other southern men are very sensitive to any suggestion of pernicious outside interference with that peculiar problem. We know the danger of ignorant outside intermeddling. And yet at the same time we realize that nothing definite looking to the solution of the race problem can be effected without national aid. Because it is a national question. As national in all of its elements as ever emanated from the pregnant womb of time. It is a problem which the Nation made, and the Nation alone can solve it. But that question does not enter here and is not even remotely related to the question of child labor. The negro is not a laborer in the factory. Time has demonstrated his utter unfitness for any position that requires prudence, providence, foresight, and an alert sense of self-preservation and self-control. He has been tried in the factory and found wanting. The only place for a negro as a successful laborer is that of a servant about the home or in the cotton fields of the Temperate Zone.

If the negroes had been successful in the cultivation of cereals profitable to the farmers of the North, probably the war would not have been fought and slavery would have remained in this country for a century longer. No; the negro does not enter into the question of regulating child labor. It is the white man's problem and one the white man must solve. I do not believe this bill is violative of the Constitution. I do not believe it is a misuse of the power incidental to the interstate-commerce clause of the Constitution, but, on the contrary, it is my deliberate judgment that it is a proper employment of a power which the Federal Government alone possesses. It is the declaration of a policy which places the man above the dollar. It is the highest form of conservation which recognizes that all the just powers of government are derived from the consent of the governed, and that the government shall be good and wise and beneficent in the proportion that the individual man and woman is wise, prudent, and provident. It means the curbing of the greed for gain which brutalizes the beneficiaries and destroys the victims. It is a wise, beneficent use of a great governmental function, an augury of better things yet to be. If this Government is to live and fulfill the hopes and realize the dreams of the great men and women who gave it being, it must be through

the enactment into law the higher and nobler purposes which animate the patriotic heart.

You may talk of reformations, of the economic plan,
That shall stem the social evil in its course;
But the ancient sin of nations must be got at in the man—
If you want to cleanse a river, seek the source.

This bill strikes at the source—deals with the source—and from the enactment of this measure I look for large, beneficent, humanitarian returns.

Mr. BRANDEGEE. Mr. President, I send to the desk, and ask the Secretary to read in my time, a communication from the secretary of the State board of education of my State, and also the paper to which he refers in his letter.

The VICE PRESIDENT. In the absence of objection, the Secretary will read as requested.

The Secretary read as follows:

CONNECTICUT STATE BOARD OF EDUCATION,
Hartford, April 11, 1916.

To the Hon. FRANK B. BRANDEGEE,
United States Senate, Washington, D. C.

DEAR SIR: At a meeting of the State board of education, held April 5, 1916, the following vote was passed:

Voted: That the Keating-Owen child-labor bill is a violation of the right of a State to promote education and industry in the way best suited to its agricultural, industrial, and educational interests.

The reasons for this action are on the inclosed sheet.

Yours, truly,

STATE BOARD OF EDUCATION,
By CHARLES I. HINE, Secretary.

CHILD LABOR—KEATING-OWEN BILL.

First. The State board of education issues all certificates permitting employment in mechanical, mercantile, and manufacturing establishments. This employment law has been administered primarily as an education measure by which prohibition of labor has automatically operated to detain children in school until the age of 16, and has resulted in a distinct extension of education as well as a restriction of employment.

The physical condition of children has been an equal factor with education in determining whether they shall be employed in a particular occupation.

Second. The restriction of hours of labor to eight interferes with part time and continuation courses, which should be encouraged. Children can be effectively protected against so-called "blind-alley" or dead-end employment by ample opportunity for consecutive vocational training in connection with regular occupations.

Third. The penalty is so severe that it will lead to blackmail and evasion and the employment of officers whose business is spying and espionage, which interfere with personal liberty and harass business.

Fourth. Fifty-seven per cent, or 800,000 inhabitants, of the State are engaged in manufacturing and mechanical industry. The State provides nearly 200 days' schooling for each child and enforces its attendance and employment laws with success, so that practically all the children 7 to 14 years of age are regular attendants upon school. The child who completes the common-school course has had expended upon his education more than \$600. Having made this liberal and effective provision for schooling, the State has also entered upon a system of specific training in trades, including agriculture, adapted to the several localities and interests, which will be seriously jeopardized by the proposed legislation.

Mr. BRANDEGEE. I also ask the Secretary to read the substitute reported by the committee.

The SECRETARY. Strike out all after the enacting clause and insert:

That no producer, manufacturer, or dealer shall ship or deliver for shipment in interstate or foreign commerce any article or commodity the product of any mine or quarry, situated in the United States, in which within 30 days prior to the time of the removal of such product therefrom children under the age of 16 years have been employed or permitted to work, or any article or commodity the product of any mill, cannery, workshop, factory, or manufacturing establishment, situated in the United States, in which within 30 days prior to the removal of such product therefrom children under the age of 14 years have been employed or permitted to work, or children between the ages of 14 years and 16 years have been employed or permitted to work more than 8 hours in any day, or more than 6 days in any week, or after the hour of 7 o'clock p. m., or before the hour of 6 o'clock a. m.; *Provided*, That a prosecution and conviction of a defendant for the shipment or delivery for shipment of any article or commodity under the conditions herein prohibited shall be a bar to any further prosecution against the same defendant for shipments or deliveries for shipment of any such article or commodity before the beginning of said prosecution.

SEC. 2. That the Attorney General, the Secretary of Commerce, and the Secretary of Labor shall constitute a board to make and publish from time to time uniform rules and regulations for carrying out the provisions of this act.

SEC. 3. That for the purpose of securing proper enforcement of this act the Secretary of Labor, or any person duly authorized by him, shall have authority to enter and inspect at any time mines, quarries, mills, canneries, workshops, factories, manufacturing establishments, and other places in which goods are produced or held for interstate commerce; and the Secretary of Labor shall have authority to employ such assistance for the purposes of this act as may from time to time be authorized by appropriation or other law.

SEC. 4. That it shall be the duty of each district attorney to whom the Secretary of Labor shall report any violation of this act, or to whom any State factory or mining or quarry inspector, commissioner of labor, State medical inspector, or school-attendance officer, or any other person shall present satisfactory evidence of any such violation to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay for the enforcement of the penalties in such cases herein provided: *Provided*, That nothing in this act shall be construed to apply to bona fide boys' and girls' canning clubs recognized by the Agricultural Department of the several States and of the United States.

SEC. 5. That any person who violates any of the provisions of section 1 of this act, or who refuses or obstructs entry or inspection authorized by section 3 of this act, shall for each offense prior to the first conviction of such person under the provisions of this act, be punished by a fine of not more than \$200, and shall for each offense subsequent to such conviction be punished by a fine of not more than \$1,000, nor less than \$100, or by imprisonment for not more than three months, or by both such fine and imprisonment, in the discretion of the court: *Provided*, That no dealer shall be prosecuted under the provisions of this act for a shipment, delivery for shipment, or transportation who establishes a guaranty issued by the person by whom the goods shipped or delivered for shipment or transportation were manufactured or produced, resident in the United States, to the effect that such goods were produced or manufactured in a mine or quarry in which within 30 days prior to their removal therefrom no children under the age of 16 years were employed or permitted to work, or in a mill, cannery, workshop, factory, or manufacturing establishment, in which within 30 days prior to the removal of such goods therefrom no children under the age of 14 years were employed or permitted to work, nor children between the ages of 14 years and 16 years employed or permitted to work more than 8 hours in any day or more than 6 days in any week or after the hour of 7 o'clock p. m. or before the hour of 6 o'clock a. m.; and in such event, if the guaranty contains any false statement of a material fact, the guarantor shall be amenable to prosecution and to the fine or imprisonment provided by this section for violation of the provisions of this act. Said guaranty, to afford the protection above provided, shall contain the name and address of the person giving the same: *And provided further*, That no producer, manufacturer, or dealer shall be prosecuted under this act for the shipment, delivery for shipment, or transportation of a product of any mine, quarry, mill, cannery, workshop, factory, or manufacturing establishment, if the only employment therein, within 30 days prior to the removal of such product therefrom, of a child under the age of 16 years has been that of a child as to whom the producer or manufacturer has in good faith procured, at the time of employing such child, and has since in good faith relied upon and kept on file a certificate, issued in such form, under such conditions, and by such persons as may be prescribed by the board, showing the child to be of such an age that the shipment, delivery for shipment, or transportation was not prohibited by this act. Any person who knowingly makes a false statement or presents false evidence in or in relation to any such certificate or application therefor shall be amenable to prosecution and to the fine or imprisonment provided by this section for violations of this act. In any State designated by the board, an employment certificate or other similar paper as to the age of the child, issued under the laws of that State and not inconsistent with the provisions of this act, shall have the same force and effect as a certificate herein provided for.

SEC. 6. That the word "person" as used in this act shall be construed to include any individual or corporation or the members of any partnership or other unincorporated association. The term "ship or deliver for shipment in interstate or foreign commerce" as used in this act means to transport or to ship or deliver for shipment from any State or Territory or the District of Columbia to or through any other State or Territory or the District of Columbia or to any foreign country; and in the case of a dealer means only to transport or to ship or deliver for shipment from the State, Territory, or District of manufacture or production.

SEC. 7. That this act shall take effect from and after one year from the date of its passage.

Mr. BRANDEGEE. Mr. President, of course I know, as I assume every other Senator knows, that this bill is going to pass by a large majority; and those of us who are satisfied that it is an unconstitutional exercise of the power of Congress have, I am sure, no hope of defeating it, or even of delaying its passage. I certainly would not want to contribute to any delay. It is in behalf of a cause which I would be very happy to aid if I could do so. There may be a fair difference of opinion, I think, as to whether the cause will be aided by the passage of this bill. When I speak of the cause, I mean the proper regulation of the hours for which children may work at the occupations specified in the bill.

I think all the States in my section of the country have what everybody admits to be proper child-labor laws. They are enforced. There is no complaint there about their operation. The people are intelligent, and the children are well cared for. The mills and factories are sanitary and are under State inspection. That is true, I assume, of by far the largest part of the country. There may be here and there, in a few of the States, mills and mines and other places where children work which are not properly inspected, and several States which do not have sufficiently strict child-labor laws; but it must be remembered that even in those places the question is one of opinion and degree, and the circumstances differ, of course, in different parts of the country.

I am a member of the committee that heard the testimony upon this bill, and, of course, there was in the testimony evidence that in certain places conditions should be better than they are. I assume that that same statement could be made of the conditions of labor in general of men, women, and children. There are certain harsh employers, and many who are lost to any proper sense of being interested in the welfare of their employees; and there are certain sections where the State laws are ill enforced, not only as to child labor, but as to other kinds of labor.

I consider that those who have called in question the constitutional power of Congress to pass this legislation have performed a service to the country; and I think that even the strongest advocates of the bill would not want this kind of a bill to be allowed to slip right through the Congress of the United States

without any discussion, and have it go to the Supreme Court, and possibly be declared to be unconstitutional, without a word having been said about that feature of the bill upon the floor. I also rather suspect that there are those who, in the ardor of their advocacy of the measure, thoroughly believing that it will be an improvement over State regulation of the subject, are carried away by their advocacy into a more positive belief in its constitutionality than in their calmer moments, perhaps, they would be willing to admit. For instance, the junior Senator from Iowa [Mr. KENYON], who has made three most excellent arguments upon his side of the question during the session, and has reviewed and most carefully analyzed all the legal authorities upon the subject, declares here this afternoon that he has the gravest doubts about the constitutionality of the measure.

I do not misquote him when I use that expression; and I think quite a number of other Senators who are going to vote for the bill have the gravest doubts of its constitutionality. I think every lawyer, whether or not he can to his satisfaction squeeze this case in under the authority of the so-called White Slave case or any previous decision, must feel innately and intuitively that in certain respects, which it may be somewhat difficult to define, this does present a somewhat different principle from that involved in any of the previous cases. I feel so myself, and I feel also that the question is such a subtle one that it is not at all easy for me to state exactly, especially so that a layman would follow me, the exact point in which I think this bill proceeds upon a principle which is not involved in any of the previous decisions. I made a more or less unsuccessful attempt the other day to try to convey some of my feelings about this matter; and I am going very briefly this afternoon for a few moments to emphasize that, if I can.

In the Lottery case, One hundred and eighty-eighth United States—and I am reading from page 355—the court, in citing McCulloch against Maryland, state as a part of the opinion:

Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional.

We all agree to that.

Let the end be legitimate, let it be within the scope of the Constitution—

Of course, the end aimed at in the enactment of this legislation, as admitted by everybody, is the prohibition of child labor, the stopping of work by children who do not qualify under the terms and conditions of the act which we are proposing to pass—

Let it be within the scope of the Constitution.

Now, is the suppression of child labor in the several States within the scope of the Constitution? The advocates of the bill say that the power to regulate commerce, which, of course, is given to Congress, includes the power to prohibit commerce among the States, and therefore we have a right to prohibit transportation in products into which the labor of children has entered.

Of course nobody questions that the regulation of commerce among the States is within the authority of the Constitution, but why does that bring within the scope of the legislative power of Congress the right to prohibit interstate commerce in the products of child labor? The Senator from Iowa, in answering that, says that the commodity clause of the railroad-rate bill was sustained in relation to coal and hay and several other products which were perfectly innocent, honest, and legitimate articles of commerce. But, Mr. President, that, of course, was in the exercise of an unquestioned power conferred upon Congress by the Constitution. The railroad bill, whatever it was called, was passed for the purpose of preventing discriminations and rebates; and when it was found that preferences, discriminations, and so forth, were granted or acquired by the carriers themselves, carrying their own products and preferring themselves in the furnishing of the instrumentalities of commerce, so that they could more readily compete with outsiders, that brought the question of goods owned by carriers right within the rule. It was a part of the system of attempting to prevent discriminations, and it was a clear case of the exercise of power to regulate commerce among the States. As to the statement of the Senator regarding prohibiting counterfeiting tools, and such articles as that, which are made for a criminal purpose, and where Congress has passed statutes prohibiting counterfeiting and making it a crime, of course those, being the tools of crime, fall directly within the admitted decisions of the Supreme Court as to articles that are noxious and designed for immoral purposes.

On the same theory the white-slave act was sustained, the court distinctly putting it on the ground that the transportation of a woman with a shipper at one end and a receiver at the

other end for a distinctly immoral purpose, of course, was an immoral transaction, although the woman might have been perfectly pure and innocent, as the Senator from Idaho claims. The whole transaction was immoral in its inception and consummation, just as in the Lottery case, bringing it clearly within the purview of that case.

Mr. FLETCHER. Mr. President—

The PRESIDING OFFICER (Mr. ASHURST in the chair). Does the Senator from Connecticut yield to the Senator from Florida?

Mr. BRANDEGEE. I do.

Mr. FLETCHER. On that question of prohibiting commerce the senior Senator from Iowa [Mr. CUMMINS] raised the point to-day that Congress had exercised that power with reference to levying prohibitive tariff duties.

Mr. BRANDEGEE. Any kind.

Mr. FLETCHER. And I omitted to say at that time—I mention it now in order to see whether the Senator agrees with me or not—that there is a distinction between foreign commerce and interstate commerce within the meaning of our Constitution; that whereas the Constitution makers provided, as to foreign commerce, that situations might be taken care of which would result in protecting our people against foreign interference of any sort, as to interstate commerce the purpose was to facilitate and promote and make more free the commerce between the States.

Mr. BRANDEGEE. Mr. President, if I understand the Senator, I have not looked at that particular feature in thinking about the particular point involved in this bill, but my impression is that the power of Congress as to both interstate and foreign commerce is absolute and plenary, and I do not personally think there is any difference in the power of Congress.

Mr. FLETCHER. My impression is that the authorities on that subject make a distinction between foreign commerce and interstate commerce.

Mr. BRANDEGEE. I know it has been so claimed in the past, and it may have been so decided in some litigation, but not having thought that was particularly necessary to the decision of the point in this case I had not considered it.

Mr. CUMMINS. I asked the question because the Democratic Party has for a hundred years been claiming that tariff laws were unconstitutional, and I hoped the Senator from Florida would look at the subject from that point of view. I assumed that he was opposing this law for the same reason, practically, that his party has been opposing tariff laws through these many generations. However, I rose to ask the Senator from Connecticut to point out in the Constitution the authority of Congress to suppress immorality.

Mr. BRANDEGEE. I do not think any such power is given, Mr. President; but I noticed, of course, as the Senator has, that every decision of the court sustaining a case of misbranding or fraudulent transaction in relation to interstate commerce does put it upon that ground.

Mr. CUMMINS. But the Senator from Connecticut was reading from the opinion in the Lottery cases, I think.

Mr. BRANDEGEE. Yes.

Mr. CUMMINS. And he was quoting the decision of the Supreme Court in McCullough against Maryland.

Mr. BRANDEGEE. Yes.

Mr. CUMMINS. The quotation read something like this:

If the end is legitimate—

Is that the word?

Mr. BRANDEGEE. I will repeat it if the Senator wants me to do so.

Mr. CUMMINS. Will the Senator repeat it?

Mr. BRANDEGEE. "Let the end be legitimate; let it be within the scope of the Constitution."

Mr. CUMMINS. The end must be legitimate and be within the scope of the Constitution. The lottery law was passed to suppress lotteries. The white-slave act was passed to suppress certain forms of immorality. There is nothing in the Constitution with regard to either of those, but upon the reasoning that is being adopted by the Senator from Connecticut neither of them would be within the scope of the Constitution.

Mr. BRANDEGEE. The courts have, of course, held in the late decisions that the power to prohibit, being conferred under the power to regulate, could be used to prohibit from interstate commerce fraudulent, misbranded, and adulterated articles. That is all I mean to say about that. It seems to me that there is a distinction between the power to prohibit fraudulent, adulterated, dangerous, noxious, diseased articles from being transported in commerce for the purpose of preserving the safety of the transportation lines and the safety of the commerce with which they commingle and saying because that is true you have the power to prohibit transporting in interstate commerce

perfectly sweet, innocent, legitimate necessary articles because they were not manufactured in the State according to the conditions of some more elevated sentiment.

Mr. CUMMINS. In what possible way would a bottle of patent medicine that did not contain upon its label the ingredients of which it was composed tend to pollute or to contaminate or to infect a carload of merchandise or anything of that kind?

Mr. BRANDEGEE. Of course it would not.

Mr. CUMMINS. Is that simply intended to secure the general welfare of the people?

Mr. BRANDEGEE. The Senator uses the term "pollute." I said "to endanger." One element of it is the physical pollution and danger. I agree also that the Lottery case proceeded upon the theory that it was not physical pollution but was moral pollution. It is the same with the misbranded article. There is no danger from the bottle of consumption cure that is advertised to cure, when it is nothing but water, but there is a fraud connected with it.

Mr. CUMMINS. The end sought to be secured connected with the article is to protect the people.

Mr. BRANDEGEE. It is designed to protect the people from having these articles sent out from the State in which they were made into interstate commerce. Every one of these cases has proceeded upon the theory that Congress having exclusive jurisdiction over the control of commerce among the States, no matter what a State did under its own laws, if Congress thought what it did was to corrupt the rest of the country it could say, "Although we can not go into your State and say that you shall not manufacture this thing—that is your own business—still if you do manufacture it in a way that we think will corrupt the rest of the country, we will put a prohibition against bringing it into the rest of the country." That is what I think has been decided in those cases.

Mr. CUMMINS. Does the Senator think we could prevent the transportation of stolen property?

Mr. BRANDEGEE. I think it would be doubtful, I will say to the Senator. The crime of theft is a crime under the local State law. The fact that the goods were stolen I do not think would physically endanger the rest of the commerce of the country nor would it aid in crime. The crime has been committed, and I do not think that the object would be reasonable if Congress had it in mind that it could stop a man from stealing by prohibiting somebody else from transporting the goods.

Of course there is another objection to this bill. There are quite a number, but there is one in principle that occurs to me, even if the bill should be sustained as to its constitutionality, against the producer and mill owner. It makes it an equal crime for a dealer who has bought the article from the producer to send it into interstate commerce. I think even if the other proposition is sustained—if the bill is sustained as to the original producer—I do not believe it can be sustained after those goods have become a part of the lawful intrastate commerce and property of that State, that Congress could prohibit somebody else who now has the title of it from shipping it into another State and selling it after he has bought it, because the man from whom he bought it did not make it under conditions prescribed in the act of Congress. I may be wrong about that, as about everything else I have said.

Mr. THOMPSON. Mr. President—

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from Kansas?

Mr. BRANDEGEE. Certainly.

Mr. THOMPSON. To carry the question of the Senator from Iowa to a final conclusion, would not the prohibition of stolen property from entering into interstate commerce prevent a fraud upon the public; that is, by the stolen property getting into the hands of an innocent purchaser and he losing the property, if it should finally be determined to be stolen?

Mr. BRANDEGEE. I do not know what the effect would be in practice. Of course, when property is stolen in a State the thief always wants to dispose of the stolen property and convert it into money. I suppose he could do it in the State. We could not prevent that; and it may be that if its interstate transportation was prohibited to stolen property it would restrict the market for the resale of it, and possibly it would tend to stop thievery in that way.

It may be that we would have a right to prohibit stolen property in interstate transactions, but I do not see how that tends to help this situation one way or another. It would be one of those things that if sustained I think it would be sustained by the Supreme Court on the ground that the whole transaction was immoral and universally admitted to be so, and hence Congress could, under its right to regulate commerce

among the States, withdraw the instrumentalities of interstate commerce from this universally admitted immoral and fraudulent conspiracy to hurt people physically or morally.

We must remember that this subject is not one which is universally considered to be one of morals, for instance. It is a question—and a grave question—exactly as to the age a boy or girl should be allowed to go to work. States that have child-labor laws have to adopt arbitrary ages, based upon experience no doubt, and the State laws are based upon the experience of their own people, with their own factories, and their own children. We here have prepared a bill which makes no distinction whatever for latitude, longitude, climate, the age at which children develop, which in the extreme southern part of our country is perhaps a year or two earlier than the extreme northern part; and we here are attempting to prescribe hard and fast conditions which will apply all over this broad land, both in interstate and foreign commerce, the result of which legislation, even if held to be constitutional, no man is wise enough to foresee. It might utterly tear apart and rend the commercial business interests of this country. Of course, the answer to that would be all everybody has to do all over the country is to submit, and then there will not be any tearing apart. That may be true, Mr. President. Of course, people who think their own labor law is better adapted to their own situation will not submit, and, of course, we have to have the decision of the court upon it.

Mr. President, I think the principle upon which this bill is founded and proceeds is of such tremendous importance, if sustained by the court, that really I tremble for the consequences.

I have been reading the brief of the Columbia law professor, Mr. Parkinson, which appears in the hearings before the committee. He advocated the bill before the committee, and he claims, and I think perhaps generally the friends of the bill claim, that whatever Congress may think to be for the general welfare we can, by the exercise of the commerce clause of the Constitution, put into practice and require of the several States under a penalty of an embargo against their exporting their products into other States.

Personally I would be glad if an agreement could be made to pass this bill and stop there along this line. I would not hesitate for a minute if I thought there was not going to be a dangerous sequence of consequences following the passage of this bill if sustained. Because, Mr. President, no matter what Senators or others may think as to whether this can possibly be sustained by the Supreme Court under the logic of the white-slave decision, all admit there is no difference in principle between the requirement we are making here of the different States as to the conditions upon which the labor of children shall be performed in their mills and a thousand other conditions as to other things that we can all imagine easily. The junior Senator from Iowa [Mr. KENYON] has thought some of the suggestions along those lines were foolish and silly. But, Mr. President, I think they will all be met. I think the proponents of almost every propaganda that will arise in this country in the future will be sustained by the same arguments that are made here, to wit—

Mr. WORKS. Mr. President—

The VICE PRESIDENT. Does the Senator from Connecticut yield to the Senator from California?

Mr. BRANDEGEE. I yield.

Mr. WORKS. Does the Senator not think that the passage of this bill will furnish an opportunity to stop this thing at this point?

Mr. BRANDEGEE. It will give the opportunity, certainly, and I hope it will be availed of. I know that is the only reason why the Senator from California is thinking of voting for the bill. I am not quarreling with anybody who wants to vote for it or with his reasons for doing it, but I am perfectly satisfied that this question will come up over and over again. These people are enthusiastic about this matter; they think they are doing the Lord's work, and that everybody who does not agree with them is an ally of the devil. Being inspired with the zeal of a crusader, and having a well-filled ammunition chest and plenty of enthusiastic employees, they will be here probably until some decision is made upon some bill that will settle this question one way or the other. I am not at all inclined to oppose the passage of this bill. I am trying simply to let the Supreme Court know that there was somebody here who would give them a little moral support, if you can call it that, and they need not feel that the whole Congress of the United States was demanding of them to pass the measure and that we had a clear right to do it.

What I am about to read I do not read in any spirit of criticism, but to show you why these people are able to keep

this agitation up and why they will keep it up. The chairman of the committee asked Mr. McKelway what organizations he represented and how they were formed. Mr. McKelway says:

I am one of the secretaries—the southern secretary—of the National Child Labor Committee. It is an organization of people interested in the child-labor question, organized about 12 years ago.

The CHAIRMAN. How large a committee is that?
Mr. MCKELWAY. It has a board of trustees of some 15 members, whose general offices are in New York City. We have some eight or nine thousand contributing members scattered throughout the United States.

The CHAIRMAN. What is the basis of their contribution?
Mr. MCKELWAY. They contribute about \$60,000 a year—most of them from \$2 to \$25 a year.

They are a perfectly self-sustaining organization, and McKelway will sustain himself as long as they will permit him to keep his contract with the Treasury. So this agitation will go on, Mr. President. All I can say is that I hope and I know that when this bill is passed, either in the House or the Senate form, and is brought before the Supreme Court, that court will know that they are at the parting of the ways between a Federal Government of sovereign States with a central Government exercising only the powers that were delegated to it and necessarily implied from those delegated, and a centralized Government here in Washington, which, under the guise of controlling commerce among the States can say to any individual State in the land, whether it is the wheat-growing State of Minnesota, or the Dakotas, or the cotton-growing State of Texas, or the manufacturing State of New York, or the mining and mineral State of Pennsylvania, "Gentlemen, in our opinion, so-and-so is for the public benefit, and until you meet our views upon that question, change all your conditions and customs and laws according to the standard that the representatives of other States meet here in this centralized Government and set up, you have an embargo placed around you; you have a circle of fire around your State that you can not go through."

I know that the Supreme Court will understand that they are up against a change in the form of our Government. It is not simply the passage of this bill, but if it is sustained by the court we shall have changed our form of government. The Senate and the House of Representatives are sitting here almost like the British Parliament, not with the direct authority to do these things in any State, but saying, under the strained construction given to these opinions of our highest court—which is the law, and we can not question it—that we can exercise every power specifically granted by the Constitution to demand conditions and arrangements in your State, and nobody can question it. The Senator from Ohio [Mr. POMERENE], who, I think, is too good a lawyer to stick to the opinion that he delivered here this afternoon, intimates that because the preamble of the Constitution says that, in order to form a Union and to promote the general welfare these specific powers are delegated to Congress, and all other powers are reserved to the donors, that anything that we think is for the general welfare—I have heard of "the general" before—can be done. If we only think it is for the general welfare we can do it under any clause; we can need not hunt out the commerce clause of the Constitution, because every grant of power from the States or from the people of the States to the central Government was to be exercised for the general welfare, of course. Under that theory, we can tax them all to death, because we think it is for their welfare to tax them—and I do not know but what we have started upon that course also, Mr. President—but I do not see why other Senators can not see that they are opening an entirely new door in this country; and I can not see why they do not see that it is an undesirable door to open.

The Senator from Georgia [Mr. HARDWICK] the other day said that we were lifting the lid of Pandora's box of evils, and so we are. The worst of it is that we are doing it thinking that we are acting in a holy cause. But, Mr. President, it means the beginning of the downfall of the kind of Government that we and our fathers and everybody who has lived between them and us had thought had been established in this country.

I do not think Senators would feel about this thing if they were back home the way they feel about it here; at least I judge the way they feel by the way they are going to vote. I know if I were a member of my State legislature or the governor of my State and I saw that this proposition was pending in Congress—that Congress was assuming authority to control all the men, women, and children in my State, to fix the hours of labor and the wages at which people might earn a living, and the power to cast out into starvation and to make tramps of a lot of able-bodied boys who would not go to school, but wanted to work—that such a bill was pending here and my Senators or Representatives were going to vote for it I would take the first train down here and tell them what the people at home thought about that sort of thing.

You are transferring to the General Government your local home rule and your local home government and the control of your own personal affairs, which, of course, the Government is interested in, because the whole is interested in the welfare of all its parts; but this Government is founded upon the principle that everything shall be done by the people within their own States at home, especially about their own conditions of work and labor, and that nothing shall be done down here to interfere with that except what is expressly delegated to this Government to do.

Mr. LEWIS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from Illinois?

Mr. BRANDEGEE. I do.

Mr. LEWIS. I would ask the able Senator's legal opinion on that which I was a moment ago about to ask the distinguished senior Senator from Iowa [Mr. CUMMINS] when he took his seat. I ask the Senator now, he having addressed himself to a subject which I think is cognate, this question: The Supreme Court of the United States in several rulings has lately held that the interstate commerce law vesting in the Federal Government the regulation of commerce on railroads, practically superseded the laws of the several States. The Senator is aware of those decisions. I ask the Senator if, in his opinion, at the moment we pass the pending bill embracing this new field of Federal legislation, and being full in its terms to the extent defined, it would not then supersede the law of the State of Connecticut and the law of the State of Illinois and the law of the State of Iowa and the laws of other States on the same subject, bringing, therefore, all regulation by the States at an end, for that it had been superseded by national legislation?

Mr. BRANDEGEE. Well, Mr. President, I will say to the Senator that when the States delegated the power to Congress to regulate commerce with foreign nations and among the States, they gave the whole power to regulate interstate commerce to Congress; the States could not regulate it themselves; the States can regulate their intrastate commerce; but under recent rulings and the decision of the Supreme Court, of course, intrastate commerce in certain sections has become so mixed with interstate commerce that the Interstate Commerce Commission have taken jurisdiction of intrastate rates, I believe, to a certain extent.

Mr. CUMMINS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from Iowa?

Mr. BRANDEGEE. I do.

Mr. CUMMINS. The Senator from Illinois [Mr. LEWIS] will remember that this proposed law does not supersede any State law; it does not abrogate any State rights. It is not a regulation of the hours of labor or conditions of labor by children, but it is a regulation of commerce, which prevents certain commodities from being transported into other States, and I give it as my opinion that it will have no effect whatever on the law of any State, save indirectly it will have this effect upon the manufacturer or the producer, that if he employs children under the forbidden conditions he will have to confine his commerce to his State territory. If he employs children under the conditions permitted, then he can ship his goods beyond the State; but I should like to ask the Senator from Connecticut [Mr. BRANDEGEE], who has turned all at once into so uncompromising an advocate of State rights, whether he had anything to do with the plank in the Republican platform adopted recently at Chicago, which proposes to amend the Constitution and to transfer to the central Government all the power of regulating commerce, not only interstate but intrastate as well?

Mr. BRANDEGEE. The questions are coming thick and fast, Mr. President, and I will endeavor to shed a few of them. My belief in State rights is no modern acquisition, no sudden one. I have always believed in exactly what I now believe in. I believe that Congress has plenary power over everything that has been granted to it and everything that must be implied as necessary to carry out the grants, and that the States have the rest. I do not see how anybody who can read the Tenth Amendment to the Constitution can doubt that.

I am very glad I was not on the committee on resolutions at Chicago, because I could not then answer the question of the Senator from Iowa without betraying the confidence of the committee. I do not know how the plank to which the Senator refers got into the Republican platform, but I will say that if it ever gets into the Constitution, or if we pass legislation upon that subject, it will be done by a valid constitutional amendment, which will become to all intents and purposes a part of the Constitution.

Mr. LEWIS. Mr. President, I should like to say to the able Senator from Connecticut [Mr. BRANDEGEE], as well as to the distinguished senior Senator from Iowa [Mr. CUMMINS], that this is in my mind: Favoring, as we do, the spirit of this proposed enactment, if it is true, as the courts have decided, that where Congress has assumed the jurisdiction of a subject and covered it, with the object of reaching a result, then the State legislation upon the same subject is superseded, as it did hold in two cases in regard to interstate commerce, touching the regulation by a State and the influence of a State commission upon the railroads, may I ask the able Senators, might we not anticipate that, if this bill is being passed upon the theory that it is a regulation of interstate commerce, as I take it from the argument of the junior Senator from Iowa it is conceded that is the theory upon which the Federal Government is assuming to act, why will it not be contended, may I ask the able Senators, when it is passed that the laws of the States upon the same subjects have been superseded, for that the whole subject has already been covered by the Federal Government?

Mr. BRANDEGEE. This is not upon the same subject, Mr. President. The Senator confuses, I think, the situation. Everybody admits we would not have the right to say what the hours of labor or the ages of children who labor in the States shall be. We can not make State statutes. This bill does not impose requirements as to age or hours of labor upon a single child in any State.

Mr. LEWIS. But will not the Senator admit that is the object of the measure—to prohibit goods from being shipped in interstate commerce in order to prevent children from being employed?

Mr. BRANDEGEE. Certainly; the object of the bill is to do indirectly what the Congress can not do directly. Of course everybody admits that. Everybody admits that Congress can not directly impose these limits upon the hours of labor or ages of children in industry in the several States. Therefore Congress proposes to say that any employer in any of the States who has children working for him who does not conform to the requirements as to hours and ages that Congress lays down shall have his goods proscribed from interstate commerce. Congress will boycott goods made in Illinois which come out of any factory or mine or quarry or cannery where a man employs a single child contrary to the provisions of this bill in any department of his establishment. He may have a hundred departments—and in a great many of the industrial establishments of this country, especially in the factories, a thousand different articles may be made, and perhaps a tremendous mail-order business and other kinds of business are carried on—but if there is employed in a particular room in one of those factories one child under the age prescribed by this bill the entire product of that mill is prevented from going into interstate commerce.

Mr. WORKS. Mr. President, may I call the attention of the Senator to the fact that the goods which are shipped may have been manufactured entirely by adult labor, and the work of the children may have been devoted entirely to other things. Therefore the connection is not made between the manufacture by children of the article shipped and the actual transportation of it.

Mr. BRANDEGEE. Yes; the Senator is perfectly right about that. As I say, and as he says, there may be a great steel works with blast furnaces going, and if there is employed one child under 16 years of age or under 14, or whatever the limit may be for that kind of an industry, in a particular part of that establishment, who has anything to do with producing any of the goods that are made there, although the child may be employed in a capacity that has nothing at all to do with the actual manufacture of the articles sought to be shipped, the entire product of the mill, which is made by men and women of lawful ages, is boycotted from interstate commerce.

But, Mr. President, I do not care so much about the details of the bill, although I think they are defective in several respects and would result in a great deal of complication, ultimately, however, their meaning would be ascertained by the court, and the desirability of such a bill would be proved in practice. I am voting against the bill because I think it is an unconstitutional exercise of power by Congress, and therefore, I can not honestly vote for it. Although I have not felt it necessary to harp upon the subject that I was not a cruel person and that I did not want to grind all the young children into gold for the greed of multimillionaires and the advancement of privilege and pelf and such alliterative lingo as that, Mr. President, I think I would treat a child as kindly as anybody else. My State has a very good child-labor law, and I would vote for any amendment to make it better, and, if I

thought a National child-labor law would produce better results and would be constitutional, I would vote for that, but I will not vote for it because a lot of people delude a lot of other people into making a howl for it, and I will not vote for it under threats, nor can I change my views as to a question of law on account of prudential considerations concerning the number of ballots that may suddenly get into a box.

Mr. President, everybody agrees that the question of whether this is a constitutional exercise of power is an exceedingly doubtful one. Why do they not bring forward a constitutional amendment? Why do they not come forward, as the women suffragists have done, and say, "We want a constitutional amendment now, so that Congress can regulate the hours of labor of children in the 48 States of the Union?" Why do they not do that? Because they know that there is not a State that would ratify such a proposed constitutional amendment. There is not a State that would turn over its authority over its own children and its police powers to the Federal Government in that respect. Perhaps it would be inconsistent for them to ask for a constitutional amendment to the effect that "The Congress shall have power to regulate child labor." Then, let them come forward and ask for an amendment providing that Congress shall have the exclusive power to regulate the hours and ages at which men, women, and children shall work, and the States shall have nothing to do about it, because the States have fallen to such a low estate that they do not know enough to act wisely, or else they can not be trusted. How many votes do you think a constitutional amendment would get providing that Congress should regulate the internal affairs of the people of the several States? It would not get any. There is not a Senator here who would vote for such an amendment, and if he would not, why should he vote for the pending bill without any such amendment?

Mr. CHILTON. Mr. President—

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

Mr. BRANDEGEE. I yield.

Mr. CHILTON. The Senator speaks of a constitutional amendment. Suppose that Congress should adopt a constitutional amendment providing that the Congress shall have power to regulate child labor in interstate commerce, what would be the effect of that kind of an amendment?

Mr. BRANDEGEE. I think the effect would be that it would be unintelligible, because I do not know what child labor in interstate commerce would mean.

Mr. CHILTON. If in the regulation of interstate commerce Congress finds it necessary to regulate child labor, would that not be all right? Would not that necessity give the Congress the power?

Mr. BRANDEGEE. I think we have undoubtedly the right to regulate the hours of labor and the ages of labor in the instrumentalities of interstate commerce now, and I think we have done so repeatedly, as in the case of prescribing the number of hours that telegraphers and trainmen shall work.

Mr. CHILTON. When the Senator concedes that, does he not concede the entire case?

Mr. BRANDEGEE. I do not concede the case I have been talking about; I do not know what case the Senator refers to.

Mr. CHILTON. The Senator has been talking very interestingly about the case that is before the Senate; and I do not think he does his speech justice by intimating that he has not been confining himself to the immediate matter the Senate is considering. The Senator, however, made the point that in order to meet the question directly there should be an amendment to the Constitution. If we pursue that a little further, it might throw some light upon the question. Some of us contend that, under the power to regulate interstate commerce, Congress can regulate it as it pleases; and that the present grant of power is all sufficient for this bill. Now, as proof that that is true, let us see where we would be if we were to pass a constitutional amendment granting directly that power as suggested by the Senator. Certainly if the Constitution were so amended as to grant us the right to regulate labor in interstate commerce, that would be all-sufficient to embrace child labor and every other kind of labor. The present grant of power is to regulate commerce between the States; if we should add to that grant the words "including labor engaged in producing articles which are subject to such commerce," the question is, Would that enlarge the present grant? It seems to me that in answering the question that I asked, as he did, the Senator practically concedes that the power is in Congress now.

Mr. BRANDEGEE. No, Mr. President. Of course the Senator must remember, if he has read this bill, that it does not purport to control the ages or the hours of laborers in interstate commerce at all.

Mr. CHILTON. I understand that.

Mr. BRANDEGEE. It has nothing to do with laborers in interstate commerce. It prevents any mill or productive agency from shipping out of the State where it is located anything made by it if there was concerned in its manufacture any child under a certain age.

Mr. CHILTON. I understand that.

Mr. BRANDEGEE. They were not engaged in interstate commerce.

Mr. CHILTON. Now, if this be a regulation of interstate commerce there can be no doubt of the constitutional power.

Mr. BRANDEGEE. If what be a regulation of interstate commerce?

Mr. CHILTON. The bill.

Mr. BRANDEGEE. Why, of course not.

Mr. CHILTON. Construed as the Senator says, if it be a regulation of interstate commerce, there is nothing to argue here as to constitutionality.

Mr. BRANDEGEE. It is not.

Mr. CHILTON. There is not. Therefore a constitutional amendment making that perfectly clear could be in the language which I suggest. Those of us who think that the amendment suggested would add nothing to the grant may be excused for differing from the Senator.

Mr. BRANDEGEE. They would have nothing to say against the constitutionality of it; but they never would vote for it, because no Senator would have the nerve to deliberately stand here and delegate now to the National Government the right to invade his State and fix the hours of labor and the ages of labor.

Mr. CHILTON. That is the Senator's opinion.

Mr. BRANDEGEE. That is, in my judgment. I would not dare vote for it. The Senator from West Virginia is a courageous man, and he might do it. So I say I simply instance that, not because I expect anybody to introduce any such amendment, because they know it could not pass, and they want to worm this thing through between the hiatuses of these recent decisions of the Supreme Court, backed up by an intimidating sentiment. They think they can scare Senators into voting for this thing or defeat them for reelection, when they know that it is only by the most violent stretch of the Constitution that they can successfully make the Supreme Court sustain it. But they think that if they can bulldoze the whole Congress, both branches, the Supreme Court will lie down, and this vista will open wider and wider until every proposition that can not be gotten through Congress in any other way will be based upon the commerce clause of the Constitution, and all the commerce of all the States will be put under the ban unless they agree to it.

Even the Supreme Court, if it takes this fatal step, will be compelled to be led on from one step to another; and there is no end to it, Senators. There is no end to it. Now, to the Senator who says he does not want an end to it, I have nothing to say. The Senator who thinks that the Senate and the House of Representatives can govern all the people of this country, not as to their foreign relations and their legitimate interstate-commerce operations and as to the things that have been specifically delegated to us, but that it can govern all the people in every home town and village in this whole country better than those people can govern themselves in their local affairs, knows exactly what kind of a government he is trying to make of this.

Now, however righteous the cause may be, however anybody may dislike to be called reactionary and not responsive to the finer impulses and affections, and so forth, we have sworn to support the Constitution of the United States, and to maintain it against all foes, foreign and domestic; and some of the worst of them are right here—domestic.

Mr. President, I do not object to a Senator or anybody else voting for this bill if he is convinced, or 90 per cent convinced, that it is a constitutional exercise of power; but to the Senators who say they have the gravest kinds of doubts about it, I say that I think a man with the gravest kind of doubts about a matter of this kind, which is a novelty and an experiment, had a great deal better give the Constitution of his country the benefit of the doubt; and I think that as a coordinate branch of this Government the Senate at least ought to try to sustain the Supreme Court in maintaining and defending the Constitution of our country, and not assist in twisting and making it into something entirely different from what any of us thought it was.

Of course, I realize that the Constitution must expand and develop and grow with the growth of the country; but I have no sympathy with men who, when the highest tribunal of the country has to give the gravest consideration to the interpretation of the Constitution, will stand up here and say that "every

time anybody tries to do anything that is for the benefit of the people somebody raises the old bogey of the Constitution." I do not think that is a proper spirit at all. Of course, if the Constitution is simply something that is impeding the welfare of the people, they had better tear it up and get rid of it at once. Repeal it; be orderly about it, but repeal it, or pass an amendment that it is no longer in force and that Congress shall have power—just one article will do it—to promote the general welfare. Then you will not hear any more about "the old bogey of the Constitution."

Mr. CUMMINS. Mr. President—

Mr. BRANDEGEE. I yield to the Senator from Iowa.

Mr. CUMMINS. Ordinarily the Senator from Connecticut is very clear and perfectly easy to understand, but I do not know what he means by saying that we ought to give the Constitution the benefit of the doubt. When a question comes up for consideration, and a Senator is doubtful or balancing, if you please, with regard to its constitutionality, is it giving the Constitution the benefit of the doubt to decide it in favor of the law or against the law?

Mr. BRANDEGEE. As I said, Mr. President, I have no difference of opinion at all with the Senator who feels himself equally balanced; but I said when a Senator is of the opinion, or about 90 per cent of the opinion—to express it in that way—that a law is unconstitutional, then, I say, give the Constitution the benefit of the doubt and vote against the thing.

Mr. CUMMINS. I do not know anything about these percentages of doubt.

Mr. BRANDEGEE. Then I see why the Senator failed to understand me.

Mr. CUMMINS. I have heard the expression used here a good many times that a man has 25 per cent conviction, or 50 per cent conviction, or that a law is 75 per cent good. All that is very mysterious to me. I do not begin to understand it. To me, if there is a question which involves a doubt under the Constitution, I give the Constitution the benefit of the doubt when I decide that it is constitutional. That is my interpretation of the Constitution.

Mr. BRANDEGEE. It depends, perhaps, on how badly the Senator wants to get the legislation through.

Mr. CUMMINS. No.

Mr. BRANDEGEE. I think it is perfectly fair, as the Senator states, if a Senator is fairly balanced, and he can not make up his mind, to give the legislation the benefit of the doubt, if he thinks that it is good and he would like to have it that way.

Mr. CUMMINS. Let me explain to the Senator from Connecticut I think I fairly represent a type here of minds that have been considering this bill. A man has very little doubt after he has studied a question and reached a conclusion; that is, he has little doubt as to the manner in which he would decide the question if he were the judge. Now, I put my own case as an instance. I have given a good deal of study to this question. I know how I would decide it if I were a judge. If I were a member of the Supreme Court and the question came before me, I know certainly and absolutely how I would decide it; but when I am asked, "What will the Supreme Court decide when the law reaches that tribunal for decision?" the doubt arises. I do not know. I can only conjecture, drawing my conclusions or my conjectures from the opinions already rendered. Now, is that the sort of doubt which the Senator from Connecticut has in mind?

Mr. BRANDEGEE. No. I think, if I understand the Senator at all, if he thinks that if he were a judge of the Supreme Court he would decide this bill to be constitutional, and he would like to see this legislation in effect, he ought to vote for it, by all means.

Mr. CUMMINS. I have never had any doubt about my duty in the matter, but I have wondered, in the discussion about doubt, whether it really was a doubt in the mind of the person who was considering the matter here, or whether it was a doubt with respect to the ultimate decision of the question by the court. I think it is the latter.

Mr. BRANDEGEE. I know; but I did not use the word "doubt" in that way at all. I am talking about the doubts in the Senators' minds as to the constitutionality of the legislation, their construction of the Constitution. My construction of it is that this bill is unconstitutional. The Senator, I assume from what he says, is going to vote for the bill, and if he were a judge I think he would decide that it was constitutional. At any rate, he says he knows exactly how he would decide, and he is not in any doubt as to how he would decide it if he were a member of the court.

Mr. CUMMINS. None whatever.

Mr. BRANDEGEE. Neither am I. I think, therefore, the Senator is entitled to have his own judgment about whether a

proposed bill for a public act meets with the requirements of the Constitution under the decisions of the Supreme Court, which are the tools with which he has to work. I think it is his business to make up his own mind on that question, form his own construction of the Constitution, and vote it. Now, if the Supreme Court takes a different view, that is not his fault; but thenceforth it is his duty to construe the Constitution as the court has done, although he may think they really erred.

Mr. CUMMINS. Mr. President, I agree perfectly with the Senator from Connecticut about that proposition. The real doubt, the legitimate doubt, I have had with regard to this legislation is respecting its desirability—the policy of the legislation.

Mr. BRANDEGEE. I have a grave doubt about that.

Mr. CUMMINS. That gave me a good deal of concern in the beginning, knowing that the greater number of the States had very fair, and some of them very efficient, child-labor legislation.

Mr. BRANDEGEE. Mr. President, I had intended to speak 5 or 10 minutes, but I have been engaged in colloquies longer than I expected to be. I think that this would not only be considered to be an unconstitutional exercise of power, on the ground that child labor and the practice of children working at certain ages has no such relation to commerce among the States as that it gave Congress any authority to legislate about it, but I think the legislation would be in violation of the fifth amendment to the Constitution, which provides that no person shall be deprived of life, liberty, or property without due process of law. I think that to say to all these productive agencies of the country that their goods, which may be lawfully made and sold within the borders of their States, can not, unless their child labor conforms to the standards set up by us, circulate in interstate commerce, which we were given authority to regulate and control largely for the purpose of keeping the channels of communication open, but not exclusively so, is to take their property in contemplation of law without compensation, and I think on that ground it would be set aside by the Supreme Court.

As I say, I have no intention of trying to delay a vote upon this bill; and all I can say is that, as at present advised and unless converted to the other view, I shall be constrained to cast my vote against it when it comes up for final action.

Mr. ROBINSON. I ask unanimous consent that not later than 6.30 o'clock the Senate take a recess until 10 o'clock tomorrow morning, and that the pending bill be temporarily laid aside.

The VICE PRESIDENT. Is there objection to the request of the Senator from Arkansas? The Chair hears none. Without objection, the pending bill will be temporarily laid aside.

EXECUTIVE SESSION.

Mr. OVERMAN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 10 minutes spent in executive session the doors were reopened.

ENROLLED BILLS SIGNED.

The VICE PRESIDENT announced his signature to the following enrolled bills, which had heretofore been signed by the Speaker of the House:

S. 3069. An act to amend an act entitled "An act to amend an act entitled 'An act to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission," approved March 4, 1915; and

H. R. 12197. An act authorizing Ashley County, Ark., to construct a bridge across Bayou Bartholomew.

DISTRICT OF COLUMBIA APPROPRIATIONS.

The VICE PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 15774) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1917, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. SMITH of Maryland. I move that the Senate insist upon its amendments, agree to the conference asked for by the House, the conferees on the part of the Senate to the appointed by the Chair.

The motion was agreed to.

And the VICE PRESIDENT appointed Mr. SMITH of Maryland, Mr. ROBINSON, and Mr. GALLINGER conferees on the part of the Senate.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by E. T. Taylor, jr., one of its clerks, announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice President:

S. 4654. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors;

S. 5914. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors;

H. R. 6181. An act for the relief of Letitia W. Garrison;

H. R. 7883. An act for the relief of Charlotte M. Johnston;

H. R. 11240. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors;

H. R. 12194. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors;

H. R. 13620. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors;

H. R. 14576. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors;

H. R. 16380. An act granting the consent of Congress to the Board of Supervisors of Highland Township, Pennington County, Minn., to construct a bridge across Red Lake River;

H. R. 16534. An act to authorize the commissioners of Lycoming County, Pa., their successors in office, to construct a bridge across the West Branch of the Susquehanna River from the foot of Arch Street, in the city of Williamsport, Lycoming County, Pa., to the borough of Duboistown, Lycoming County, Pa.;

H. R. 16604. An act to authorize the commissioners of Lycoming County, Pa., and their successors in office, to construct a bridge across the West Branch of the Susquehanna River from the borough of Montgomery, Lycoming County, Pa., to Muncy Creek Township, Lycoming County, Pa.;

H. R. 16764. An act to authorize the commissioners of Northumberland and Union Counties, in Pennsylvania, their successors in office, to construct a bridge across the West Branch of the Susquehanna River from the borough of Watsontown, Northumberland County, Pa., to White Deer Township, Union County, Pa.;

H. R. 16875. An act granting the consent of Congress to Crisp County, Ga., to construct a bridge across Flint River, Ga., between Crisp and Sumter Counties; and

H. R. 16891. An act granting the consent of Congress to Traill County, N. Dak., and to Polk County, Minn., to construct a bridge across the Red River of the North.

PETITIONS AND MEMORIALS.

Mr. TAGGART. I present a communication in the nature of a petition from the South Bend Woolen Co., of Indiana, and also a communication from the president of the University of Notre Dame, Indiana, with reference to a bill which I had the honor of introducing, being S. 6721, authorizing the formation and organization of volunteer motor car reserve companies. I ask that the communications be printed in the RECORD and referred to the Committee on Military Affairs.

There being no objection, the communication was referred to the Committee on Military Affairs and ordered to be printed in the RECORD, as follows:

SOUTH BEND WOOLEN CO.,
South Bend, Ind.

Mr. E. A. STOLL,
263 Farmers' Trust Building, City.

MY DEAR MR. STOLL: I am in receipt of your general circular letter of July 17 with reference to your proposition to form a volunteer organization to assist the United States Government in case of war, and we are in hearty sympathy with the idea.

We believe it is a splendid movement and should receive the support of all loyal Americans who have the means to be of service through the motive which you have devised.

If this becomes a successful movement, we believe you, whom we understand to be the originator of this idea, can be proud of performing a great service to our country, and while we have no automobiles which we could place in military service, nevertheless we might be able to assist in some other way, and you can count on our hearty cooperation as well as membership, and we will be pleased to sign the charter application when presented to us.

Yours, very truly,

SOUTH BEND WOOLEN CO.,
By E. L. BURCH, Manager.

UNIVERSITY OF NOTRE DAME,
Notre Dame, Ind., August 4, 1916.

Mr. E. A. STOLL, *South Bend, Ind.*

MY DEAR ED: Thanks for your letter and for the invitation to become a charter member of the new organization. You have my permission to enter me as such.

I am returning the newspaper clipping according to your request.
Cordially, yours,

JOHN CAVANAUGH, *President.*

Mr. MARTINE of New Jersey. I present telegrams in the nature of memorials from Fred Garretson, mayor; Richard F. White, postmaster; Ira R. Crouse, alderman at large; William Hilker, alderman; John W. Kelly, alderman; H. E. Pickersgiel, police recorder; Andrew S. Wight, city attorney; John K. Sheehy, president board of education; Samuel J. Mason, city engineer; and J. Logan Clevenger, editor of the Evening News, all of Perth Amboy, in the State of New Jersey, and from H. Calder, of Glenridge, N. J., remonstrating against the proposed tax on munitions of war and copper. I ask that the telegrams may be received and properly referred.

The VICE PRESIDENT. The telegrams will be referred to the Committee on Finance.

Mr. PHELAN presented a memorial of the Board of Supervisors of Siskiyou County, Cal., remonstrating against the proposed inheritance tax, which was referred to the Committee on Finance.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. HARDWICK:

A bill (S. 6800) to authorize suits against the United States to test the constitutionality of the cotton tax paid between the years 1861 to 1868, inclusive; to the Committee on the Judiciary.

By Mr. CHILTON:

A bill (S. 6801) granting an increase of pension to William A. Byus (with accompanying papers); and

A bill (S. 6802) granting an increase of pension to Carrie L. Barnes (with accompanying papers); to the Committee on Pensions.

By Mr. JOHNSON of South Dakota:

A bill (S. 6803) granting an increase of pension to John W. Thomas (with accompanying papers); to the Committee on Pensions.

By Mr. ASHURST:

A bill (S. 6804) to authorize the advancement of funds to survey, construct, and maintain roads, trails, and bridges within Indian reservations; to the Committee on Indian Affairs.

By Mr. STONE:

A bill (S. 6805) granting a pension to Francis M. Wright (with accompanying papers); to the Committee on Pensions.

By Mr. CULBERSON:

A joint resolution (S. J. Res. 162) proposing to amend section 2971 of the Revised Statutes of the United States; to the Committee on Finance.

VOLUNTEER MOTOR-CAR RESERVE COMPANIES.

Mr. TAGGART. I submit an amendment intended to be proposed by me to the bill (S. 6721) authorizing the formation and organization of volunteer motor-car reserve companies, which I ask may be printed in the RECORD and referred to the Committee on Military Affairs.

There being no objection, the amendment was referred to the Committee on Military Affairs and ordered to be printed in the RECORD, as follows:

On page 1, line 5, amend by striking out the word "responsibility" and inserting the word "accountability";

On page 1, line 13, after the words "granted the," insert the word "following";

On page 1, line 13, strike out the words "whose names are subscribed hereto" and insert "to wit, Rome C. Stephenson, Rev. John Cavanaugh, C. S. C., Gabriel R. Summers, F. A. Miller, C. B. Stephenson, Samuel Leeper, Edgar A. Stoll, F. A. Bryan, Fred. L. Dennis, E. Louis Kuhns, John J. McErlain, J. C. Ellsworth, Robert Robertson, Clyde M. Valentine, Dr. Charles E. Varler, P. K. Goetz, Samuel M. Adler, H. W. Eldredge, George A. Robertson, Samuel Spiro, Julius Seeberger, Thomas H. Brandon, Fred W. Keller, E. H. Miller, Richard Elbel, Charles Coonley, W. G. Crabill, Samuel Parker, Dr. Stanley A. Clark, D. B. J. Schafer, R. B. McInerney, Abe Livingston, Walter A. Funk, George M. Sherman, Dr. F. R. Carson, C. N. Chubb, Dudley M. Shively, E. L. Burch, Arthur M. Russell, Dr. Frank D. Hager, Herman A. Tobulka, Abe Frank, William K. Lamport, George L. Hager, W. R. Baker, O. A. Clark, Frank B. O'Brien, Fred. J. O'Brien, Charles L. Zigler";

On page 2, line 19, strike out the word "the" and insert the words "a valuable";

On page 2, line 20, strike out the word "of," the first word in the line, and insert the word "for";

On page 2, line 21, strike out the word "is"; and

On page 2, line 22, after the word "hereby," insert the word "is."

ARMY APPROPRIATIONS—CONFERENCE REPORT (S. DOC. NO. 526).

Mr. CHAMBERLAIN. I present the conference report on the Army appropriation bill.

Mr. GALLINGER. Mr. President, I desire to ask the Senator from Oregon if this is a complete report?

Mr. CHAMBERLAIN. It is a complete report on the Army bill. I desire to have it printed and lie on the table. I shall probably ask to have it taken up for consideration some time to-morrow.

The VICE PRESIDENT. The conference report will lie on the table and be printed.

The conference report is as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 16460) making appropriations for the support of the Army for the fiscal year ending June 30, 1917, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 42, 43, 52, 54, 57, 58, 60, 72, 75, 77, 88, 96, 101, 104, 130, 131, 135, and 140.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 8, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 23, 27, 32, 33, 34, 35, 36, 38, 39, 40, 44, 45, 47, 49, 53, 55, 62, 63, 65, 68, 78, 79, 81, 82, 83, 85, 86, 87, 89, 90, 91, 92, 93, 94, 95, 97, 98, 103, 105, 107, 110, 111, 114, 117, 118, 126, 127, 128, 129, and 136, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"Contingencies of the Army: For all contingent expenses of the Army not otherwise provided for and embracing all branches of the military service, including the office of the Chief of Staff; for all emergencies and extraordinary expenses, including the employment of translators and exclusive of all other personal services in the War Department, or any of its subordinate bureaus or offices at Washington, D. C., or in the Army at large, but impossible to be anticipated or classified; to be expended on the approval and authority of the Secretary of War, and for such purposes as he may deem proper, including the payment of a per diem allowance not to exceed \$4, in lieu of subsistence, to employees of the War Department traveling on official business outside of the District of Columbia and away from their designated posts, \$50,000."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "\$14,281,766"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment as follows: On page 7 of the bill, line 10, after the word "section," insert the following: "Provided further, That of the sum last above mentioned \$900,000, or so much thereof as may be necessary, will be available for paying and otherwise providing for such officers of the Officers' Reserve Corps of the Aviation Section of the Signal Corps and such enlisted men of the Enlisted Reserve Corps of the Aviation Section of the Signal Corps as may be called into active service"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment, and in lieu of the matter inserted by said amendment insert the following:

"The Secretary of War is hereby authorized to accept for the United States from any citizen of the United States a donation of a tract or tracts of land suitable and desirable in his judgment for the purposes of an aviation field and remount station, the terms of the donation also to authorize the use of the property donated for any other service of the United States which may hereafter appear desirable."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"The Secretary of War is directed to investigate the suitability of the various military reservations for aviation purposes, and should any of the reservations be found not suitable and not available for aviation he is authorized, in his discretion,

to acquire, by purchase, condemnation, or otherwise, for the United States of America, such land as may be necessary for aviation purposes, and there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$300,000, or so much thereof as may be necessary, for said purpose."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "\$10,000,000: *Provided*, That in applying section 25 of the national defense act approved June 3, 1916, the President shall assign to officers of the Army such constructive dates of original commission, from which lengths of commissioned service shall be computed, as will preserve their rights to promotion in accordance with their relative order on the lineal lists of their arms and continue in effect losses of files occasioned by sentences of courts-martial or failures to pass required examinations for promotions, said constructive dates of original commission to be subject to change whenever a change thereof may be necessary in order to carry into effect losses of files hereafter incurred by any officer through a sentence of court-martial or a failure to pass a required examination for promotion: *Provided further*, That in determining the arm from which a detail is to be made to a vacancy in the detached officers' list, as provided in the third proviso of section 25 of the national defense act approved June 3, 1916, the officer of any grade who is the senior in that grade according to the constructive dates of original commission provided for in the preceding proviso shall be considered the senior in length of commissioned service of all officers of that grade: *Provided further*, That in determining the rights of officers in the last proviso of section 24 of said national defense act, officers retired before the separation of the Field Artillery from the Coast Artillery shall be regarded as having belonged to the Field Artillery: *Provided further*, That when by reason of increase in the arm, corps, or branch of the service in which an officer is commissioned his loss of files in lineal rank due to suspension from promotion on account of failure to pass the required examination therefor exceeds the loss he would have sustained if no such increase had occurred, he shall, if promoted upon reexamination, be advanced to the position he would have occupied in the grade to which promoted had no increase occurred: *And provided further*, That the general officers of the line who were appointed as such pursuant to the act of March 4, 1915 (38 Stat. L., p. 1191), shall take rank in their present grades over all officers hereafter appointed to like grades"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment as follows: In lieu of the amount proposed by said amendment insert "\$2,225,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment as follows: In lieu of the amount proposed by said amendment insert "\$9,000,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment as follows: In lieu of the amount proposed by said amendment insert "\$18,000,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"*Provided further*, That nothing in this act or previous acts of Congress shall be construed to prohibit the paying of men enlisted by State authorities of any State for militia organization for the purpose of bringing said organization up to the minimum necessary to permit of the muster in of said organization, from the date of such enlistments to the date of muster in or from date of enlistment to date of rejection, after physical examination."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment as follows: In lieu of the amount proposed by said amendment insert "\$700,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment as follows: In lieu of the amount proposed by

said amendment insert "\$300,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment as follows: In lieu of the amount proposed by said amendment insert "\$2,000,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment as follows: In lieu of the amount proposed by said amendment insert "\$800,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment as follows: In lieu of the amount proposed by said amendment insert "\$1,500,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment as follows: On page 9 of the printed amendments, line 1, strike out the word "may" and insert the word "shall"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment as follows: In lieu of the amount proposed by said amendment insert "\$675,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment as follows: In lieu of the sum proposed in said amendment insert "\$700,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "\$375,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment as follows: Add at the end of said amendment the following: ", which limitations shall include the grades of brigadier general, major general, and lieutenant general"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment as follows: In line 2 of said amendment strike out the following: "by and with the advice and consent of the Senate"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"That the President be, and he is hereby, authorized to appoint to the grade of major general on the retired list of the Army any brigadier general now borne on said list who served with credit in the Army throughout both the Civil War and the War with Spain, as well as during the interval between said wars, and who, being a general officer, exercised with efficiency and gallantry the command of a brigade or of a higher unit in action or in actual operations against an enemy, and who in consideration of services so rendered was recommended to be a major general, United States Volunteers, by the commanding general of the Army, as shown by the records of the War Department: *Provided*, That any brigadier general on the retired list who as senior colonel commanded with credit a brigade or higher unit in the Civil War, though not so recommended, may be advanced in grade as authorized by this paragraph if he fulfills the other requirements thereof."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "\$712,500"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "For three months' additional pay to enlisted men reenlisting within the period of three months from date of discharge from first enlistment"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "For temporary employment,

under the direction of the Secretary of War, of additional clerks in the field on account of the induction of additional forces into the service of the United States, \$50,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment as follows: Omit the matter inserted in said amendment; on page 20, line 13, of the bill, strike out the comma, and on the same page of the bill, line 5, after the word "Army," insert the following: "\$20,000,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment as follows: In lieu of the matter inserted in said amendment insert the following: "\$11,000,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "Provided, That \$250,000 of the appropriation provided for in this paragraph shall be expended in the purchase of material and the construction of tent floors, framing for screens, and screens, to be added to the equipment of the tents now being used by the Army of the United States"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment as follows: In lieu of the matter inserted in said amendment insert the following: "\$2,000,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment as follows: Insert the matter inserted by said amendment on page 26 of the bill, line 3, after the word "discharge," where it occurs the first time in said line; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "\$23,000,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "and the preparation of camp sites, including the procurement of water, installation of water and sewer systems, construction of roads, and the construction of temporary kitchens, mess shelters, latrines, bathhouses, and storehouses for the storage and safekeeping of supplies at mobilization camps in the several States for the forces called or drafted into the service of the United States, and to be available from June 18, 1916, \$4,000,000"; and on page 29 of the bill, line 18, strike out the word "and" and insert a semicolon after the word "employees" in the same line and on the same page of the bill, instead of the comma; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "\$20,280,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 76, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "Provided further, That hereafter the accounting for Army supplies or property and the fixing of responsibility therefor shall be according to such regulations as may be prescribed by the Secretary of War"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment as follows: In lieu of the amount proposed in line 2 of said amendment insert "\$3,146,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "\$860,534: Provided, That \$6,000 of this sum may be used for repairing the military road in front of the east side of Arlington Cemetery; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "\$4,500,000, of which sum

\$500,000 may be used under the direction of the Secretary of War in the erection or rental of temporary hospitals for the care and shelter of the sick and injured: *Provided*, That so much of the act of June 3, 1916, as relates to the age limit for eligibility to appointment of first lieutenants in the Medical Department of the Army, be, and the same is hereby, repealed: *Provided further*, That after January 1, 1918, the maximum age limit for eligibility to appointment of first lieutenant in the Medical Department of the Army shall be 32 years"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"For the purchase of material to be used in the construction of a trade school building at the Engineer School, to remain available until expended, \$9,000."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "Provided, That authority is granted for the purchase, maintenance, and repair and operation from this appropriation of not to exceed 38 motorcycles, including those on hand"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "\$475,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 108, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "\$10,000,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 109, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "Provided, That not more than \$5,000,000 of this appropriation may be used in the purchase of ammunition"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "\$3,000,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "Provided, That not more than \$1,500,000 of this appropriation may be used for the purchase of articles not manufactured by the Government and necessary for small-arms target practice"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"The Secretary of War is hereby authorized to issue, under such rules and regulations as he may prescribe, for use in target practice, targets, target materials, and other necessary accessories, to rifle clubs organized under the rules of the National Board for the Promotion of Rifle Practice and to schools having a uniformed corps of cadets and carrying on military training, in sufficient number for the proper conduct of target practice."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 116, and agree to the same with an amendment as follows: In lieu of the amount proposed by said amendment insert "\$9,500,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 119, and agree to the same with an amendment as follows: In lieu of the amount proposed by said amendment insert "\$6,000,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 120, and agree to the same with an amendment as follows: In lieu of the amount proposed by said amendment insert "\$6,000,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 121, and agree to the same with an amendment as follows: In lieu of the sum proposed by said

amendment insert "\$500,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 122, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "\$10,000,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 123, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "\$5,000,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "\$10,000,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 125, and agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert "\$5,000,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment as follows: Strike out all after the period in line 8 of said amendment; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 133, and agree to the same with an amendment as follows: Omit the matter inserted by said amendment and restore the matter stricken out by said amendment, except as follows:

On page 49 of the bill, line 2, strike out "\$200,000" and insert "\$50,000."

On page 49 of the bill, line 6, strike out "\$100,000" and insert "\$25,000."

On page 49 of the bill, line 16, strike out "\$100,000" and insert "\$25,000."

On page 52 of the bill, line 7, strike out the words "Territory of Hawaii" and insert "Territories."

On page 52 of the bill, line 20, strike out "\$2,000,000" and insert "\$1,000,000."

On page 53 of the bill, line 8, after the word "laborers," insert the following: "at \$660 each per annum."

On page 53 of the bill, line 14, strike out "\$35,000" and insert "\$17,500."

On page 53 of the bill, line 17, strike out "\$15,000" and insert "\$7,500."

On page 53 of the bill, line 19, strike out "\$60,000" and insert "\$30,000."

On page 53 of the bill, line 23, strike out "\$60,000" and insert "\$30,000."

On page 54 of the bill, line 2, strike out "\$4,000" and insert "\$2,000."

On page 54 of the bill, line 6, strike out "\$175,000" and insert "\$75,000."

On page 54 of the bill, line 9, strike out "\$100,000" and insert "\$50,000."

On page 54 of the bill, line 12, strike out "\$25,000" and insert "\$12,500."

On page 54 of the bill, lines 20 and 21, strike out the word "Territory" and insert the word "Territories."

On page 55 of the bill, line 3, strike out the word "Territory" and insert the word "Territories."

On page 55 of the bill, strike out line 20.

On page 55 of the bill, strike out all on line 21, down to and including line 25, on page 56 of the bill, and in lieu thereof insert the following:

"Supplying and exchanging Infantry equipment, National Guard: For the purpose of manufacturing, procuring, exchanging, and issuing model of 1910 equipment to the Infantry and other dismantled organizations of the National Guard of the several States, Territories, and the District of Columbia: *Provided*, That whenever in the opinion of the Secretary of War a sufficient number of Infantry equipment, model of 1910, shall have been procured and shall be available for the purpose the Secretary of War is hereby authorized to issue on the requisition of the governors of the several States and Territories, or the commanding general of the District of Columbia National Guard, such numbers thereof as are required for equipping the National Guard in said States, Territories, and the District of Columbia, without charging the cost or value thereof or any expenses connected therewith against any allotments to said States, Territories, or the District of Columbia: *Provided*, That the equipment thus issued shall be receipted for and shall remain the property of the United States and be annually ac-

counted for by the governors of the several States, Territories, and the commanding general of the District of Columbia National Guard as now required by law, and that each State, Territory, and the District of Columbia shall, upon receipt of new equipment, turn in to the Ordnance Department of the United States Army, without receiving any money credit therefor and without expense for transportation of Infantry equipment now in its possession, the property of the United States, and replaced by articles of the model of 1910 equipment, \$400,000."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 134, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"To establish and maintain indoor and outdoor rifle ranges for the use of all able-bodied males capable of bearing arms, under reasonable regulations to be prescribed by the National Board for Promotion of Rifle Practice and approved by the Secretary of War; to provide standard military arms and ammunition, indoor gallery rifles and ammunition; for the employment of labor in connection with the establishment of outdoor and indoor rifle ranges, including labor in operating targets; for the employment of instructors; for clerical services; for prizes, trophies, badges, and other insignia; for the transportation of employees, instructors, and civilians to engage in practice; for the purchase of materials, supplies, and services, and for expenses incidental to instruction of citizens of the United States in marksmanship, to be expended under the direction of the Secretary of War and to remain available until expended, \$300,000: *Provided*, That the President be, and he is hereby, authorized, in his discretion, to appoint, as director of civilian marksmanship, under the direction of the Secretary of War, an officer of the Army or of the Marine Corps."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 137, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"That the sum of \$2,000,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of War, and under such rules and regulations as he may prescribe, for the support of, at a cost of not more than \$50 per month, or so much of said amount as the Secretary of War may deem necessary, and not more than such enlisted man has been contributing monthly to the support of his family at the time of his being called or drafted into the service of the United States or during his enlistment period in the Regular Army at the time of such call or draft of the Organized Militia or National Guard, the family of each enlisted man of the Organized Militia or National Guard called or drafted into the service of the United States until his discharge from such service, and the family of each enlisted man of the Regular Army until his discharge from active service therein or until the discharge of the Organized Militia or National Guard from such service if such enlisted man is at that time in active service in the Regular Army, which family during the term of service of such enlisted man has no other income, except the pay of such enlisted man, adequate for the support of said family: *Provided*, That the action of the Secretary of War in all cases provided for in this paragraph shall be final, and no right to prosecute a suit in the Court of Claims or in any other court of the United States against the Government of the United States shall accrue to such enlisted man, or to any member of the family of any such enlisted man, by virtue of the passage of this act: *And provided further*, That this paragraph shall not apply to any such enlisted man who shall marry after the 15th day of July, 1916; and the word 'family' shall include only wife, children, and dependent mothers."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 138, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"Sec. 2. That a Council of National Defense is hereby established for the coordination of industries and resources for the national security and welfare, to consist of the Secretary of War, the Secretary of the Navy, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of Labor.

"That the Council of National Defense shall nominate to the President, and the President shall appoint, an advisory commission, consisting of not more than seven persons, each of whom shall have special knowledge of some industry, public utility, or the development of some natural resource, or be otherwise specially qualified, in the opinion of the council, for the performance

of the duties hereinafter provided. The members of the advisory commission shall serve without compensation, but shall be allowed actual expenses of travel and subsistence when attending meetings of the commission or engaged in investigations pertaining to its activities. The advisory commission shall hold such meetings as shall be called by the council or be provided by the rules and regulations adopted by the council for the conduct of its work.

"That it shall be the duty of the Council of National Defense to supervise and direct investigations and make recommendations to the President and the heads of executive departments as to the location of railroads with reference to the frontier of the United States so as to render possible expeditious concentration of troops and supplies to points of defense; the coordination of military, industrial, and commercial purposes in the location of extensive highways and branch lines of railroad; the utilization of waterways; the mobilization of military and naval resources for defense; the increase of domestic production of articles and materials essential to the support of armies and of the people during the interruption of foreign commerce; the development of seagoing transportation; data as to amounts, location, method and means of production, and availability of military supplies; the giving of information to producers and manufacturers as to the class of supplies needed by the military and other services of the Government, the requirements relating thereto, and the creation of relations which will render possible in time of need the immediate concentration and utilization of the resources of the Nation."

"That the Council of National Defense shall adopt rules and regulations for the conduct of its work, which rules and regulations shall be subject to the approval of the President, and shall provide for the work of the advisory commission to the end that the special knowledge of such commission may be developed by suitable investigation, research, and inquiry and made available in conference and report for the use of the council; and the council may organize subordinate bodies for its assistance in special investigations, either by the employment of experts or by the creation of committees of specially qualified persons to serve without compensation, but to direct the investigations of experts so employed.

"That the sum of \$200,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be immediately available for experimental work and investigations undertaken by the council, by the advisory commission, or subordinate bodies, for the employment of a director, expert and clerical expenses and supplies, and for the necessary expenses of members of the advisory commission or subordinate bodies going to and attending meetings of the commission or subordinate bodies. Reports shall be submitted by all subordinate bodies and by the advisory commission to the council, and from time to time the council shall report to the President or to the heads of executive departments upon special inquiries or subjects appropriate thereto, and an annual report to the Congress shall be submitted through the President, including as full a statement of the activities of the council and the agencies subordinate to it as is consistent with the public interest, including an itemized account of the expenditures made by the council or authorized by it, in as full detail as the public interest will permit: *Provided, however*, That when deemed proper the President may authorize, in amounts stipulated by him, unvouchered expenditures and report the gross sums so authorized not itemized."

That the House recede from its disagreement to the amendment of the Senate numbered 139, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"Sec. 3. That section 1342 of the Revised Statutes of the United States be, and the same is hereby, amended to read as follows:

"Sec. 1342. The articles included in this section shall be known as the Articles of War, and shall at all times and in all places govern the armies of the United States.

"I. PRELIMINARY PROVISIONS.

"ARTICLE I. Definitions: The following words when used in these articles shall be construed in the sense indicated in this article unless the context shows that a different sense is intended, namely:

"(a) The word 'officer' shall be construed to refer to a commissioned officer;

"(b) The word 'soldier' shall be construed as including a noncommissioned officer, a private, or any other enlisted man;

"(c) The word 'company' shall be understood as including a troop or battery; and

"(d) The word 'battalion' shall be understood as including a squadron.

"ART. 2. Persons subject to military law: The following persons are subject to these articles and shall be understood as included in the term 'any person subject to military law,' or 'persons subject to military law,' whenever used in these articles: *Provided*, That nothing contained in this act, except as specifically provided in article 2, subparagraph (c), shall be construed to apply to any person under the United States naval jurisdiction, unless otherwise specifically provided by law.

"(a) All officers and soldiers in the active military service of the United States, or in the Regular Army Reserve, including volunteers from the dates of their muster or acceptance into said service; and all other persons lawfully called, drafted, or ordered into, or to duty or for training in, said service, from the date of notice of such call, draft, or order;

"(b) Cadets;

"(c) Officers and soldiers of the Marine Corps when detached for service with the armies of the United States by order of the President: *Provided*, That an officer or soldier of the Marine Corps when so detached may be tried by military court-martial for an offense committed against the 'laws for the government of the naval service' prior to his detachment, and for an offense committed against these articles he may be tried by a naval court-martial after such detachment ceases;

"(d) All retainers to the camp and all persons accompanying or serving with the armies of the United States without the territorial jurisdiction of the United States, and in time of war all such retainers and persons accompanying or serving with the armies of the United States in the field, both within and without the territorial jurisdiction of the United States, though not otherwise subject to these articles;

"(e) All persons under sentence adjudged by courts-martial;

"(f) All persons admitted into the 'Regular Army' Soldiers' Home 'at Washington, D. C.'

"II. COURTS-MARTIAL.

"ART. 3. Courts-martial classified: Courts-martial shall be of three kinds, namely:

"First, general courts-martial;

"Second, special courts-martial; and

"Third, summary courts-martial.

"A. COMPOSITION.

"ART. 4. Who may serve on courts-martial: 'All officers in the military service of the United States,' and 'officers' of the Marine Corps when detached for service with the Army by order of the President, shall be competent to serve on courts-martial for the trial of any persons who may lawfully be brought before such courts for trial.

"ART. 5. General courts-martial: General courts-martial may consist of any number of officers from '5' to 13, inclusive; 'but they shall not consist of less than 13 when that number can be convened without manifest injury to the service.'

"ART. 6. Special courts-martial: Special courts-martial may consist of any number of officers from three to five, inclusive.

"ART. 7. Summary courts-martial: A summary court-martial shall consist of one officer.

"B. BY WHOM APPOINTED.

"ART. 8. General courts-martial: The President of the United States, the commanding officer of a territorial division or department, the Superintendent of the Military Academy, the commanding officer of an army, an army corps, a division, or a separate brigade, and, when empowered by the President, the commanding officer of any district or of any force or body of troops may appoint general courts-martial; but when any such commander is the accuser or the prosecutor of the person or persons to be tried, the court shall be appointed by superior competent authority, and no officer shall be eligible to sit as a member of such court when he is the accuser or a witness for the prosecution.

"ART. 9. Special courts-martial: The commanding officer of a district, garrison, fort, camp, or other place where troops are on duty, and the commanding officer of a brigade, regiment, detached battalion, or other detached command may appoint special courts-martial; but when any such commanding officer is the accuser or the prosecutor of the person or persons to be tried, the court shall be appointed by superior authority, and may in any case be appointed by superior authority when by the latter deemed desirable; and no officer shall be eligible to sit as a member of such court when he is the accuser or a witness for the prosecution.

"ART. 10. Summary courts-martial: The commanding officer of a garrison, fort, camp, or other place where troops are on duty, and the commanding officer of a regiment, detached battalion, detached company, or other detachment may appoint summary courts-martial; but such summary courts-martial may in any case be appointed by superior authority when by the latter

deemed desirable: *Provided*, That when but one officer is present with a command he shall be the summary court-martial of that command and shall hear and determine cases brought before him.

"ART. 11. Appointment of judge advocates: For each general or special court-martial the authority appointing the court shall appoint a judge advocate, and for each general court-martial one or more assistant judge advocates when necessary.

"C. JURISDICTION.

"ART. 12. General courts-martial: General courts-martial shall have power to try any person subject to military law for any crime or offense made punishable by these articles and any other person who by the law of war is subject to trial by military tribunals: *Provided*, That no officer shall be brought to trial before a general court-martial appointed by the Superintendent of the Military Academy.

"ART. 13. Special courts-martial: Special courts-martial shall have power to try any person subject to military law, except an officer, for any crime or offense not capital made punishable by these articles: *Provided*, That the President may, by regulations, which he may modify from time to time, except from the jurisdiction of special courts-martial any class or classes of persons subject to military law.

"Special courts-martial shall not have power to adjudge dishonorable discharge, no confinement in excess of six months, nor to adjudge forfeiture of more than six months' pay.

"ART. 14. Summary courts-martial: Summary courts-martial shall have power to try any person subject to military law, except an officer, a cadet, or a soldier holding the privileges of a certificate of eligibility to promotion, for any crime or offense not capital made punishable by these articles: *Provided*, That noncommissioned officers shall not, if they object thereto, be brought to trial before a summary court-martial without the authority of the officer competent to bring them to trial before a general court-martial: *Provided further*, That the President may, by regulations, which he may modify from time to time, except from the jurisdiction of summary courts-martial any class or classes of persons subject to military law.

"Summary courts-martial shall not have power to adjudge confinement in excess of three months, nor to adjudge the forfeiture of more than three months' pay: *Provided*, That when the summary court officer is also the commanding officer no sentence of such summary court-martial, adjudging confinement at hard labor of forfeiture of pay, or both, for a period in excess of one month shall be carried into execution until the same shall have been approved by superior authority.

"ART. 15. Not exclusive: The provisions of these articles conferring jurisdiction upon courts-martial shall not be construed as depriving military commissions, provost courts, or other military tribunals of concurrent jurisdiction in respect to offenders or offenses that by the law of war may be 'lawfully' triable by such military commissions, provost courts, or other military tribunals.

"ART. 16. Officers; how triable: Officers shall be triable only by general courts-martial, and in no case shall an officer, when it can be avoided, be tried by officers inferior to him in rank.

"D. PROCEDURE.

"ART. 17. Judge advocate to prosecute: The judge advocate of a general or special court-martial shall prosecute in the name of the United States, and shall, under the direction of the court, prepare the record of its proceedings. The accused shall 'have' the right to 'be represented before the court by' counsel 'of his own selection' for his defense, 'if such counsel be reasonably available,' but should he, for any reason, be unrepresented by counsel, the judge advocate shall from time to time throughout the proceedings advise the accused of his legal rights.

"ART. 18. Challenges: Members of a general or special court-martial may be challenged by the accused, but only for cause stated to the court. The court shall determine the relevancy and validity thereof, and shall not receive a challenge to more than one member at a time.

"ART. 19. Oaths: The judge advocate of a general or special court-martial shall administer to the members of the court, before they proceed upon any trial, the following oath or affirmation: 'You, A. B., do swear (or affirm) that you will well and truly try and determine, according to the evidence, the matter now before you, between the United States of America and the person to be tried, and that you will duly administer justice, without partiality, favor, or affection, according to the provisions of the rules and articles for the government of the armies of the United States, and if any doubt should arise, not explained by said articles, then according to your conscience, the best of your understanding, and the custom of war in like

cases; and you do further swear (or affirm) that you will not divulge the findings or sentence of the court until they shall be published by the proper authority, except to the judge advocate; neither will you disclose or discover the vote or opinion of any particular member of the court-martial unless required to give evidence thereof as a witness by a court of justice in due course of law. So help you God.'

"When the oath or affirmation has been administered to the members of a general or special court-martial, the president of the court shall administer to the judge advocate an oath or affirmation in the following form: 'You, A. B., do swear (or affirm) that you will not divulge the findings or sentence of the court to any but the proper authority until they shall be duly disclosed by the same. So help you God.'

"All persons who give evidence before a court-martial shall be examined on oath or affirmation in the following form: 'You swear (or affirm) that the evidence you shall give in the case now in hearing shall be the truth, the whole truth, and nothing but the truth. So help you God.'

"Every reporter of the proceedings of a court-martial shall, before entering upon his duties, make oath or affirmation in the following form: 'You swear (or affirm) that you will faithfully perform the duties of reporter to this court. So help you God.'

"Every interpreter in the trial of any case before a court-martial shall, before entering upon his duties, make oath or affirmation in the following form: 'You swear (or affirm) that you will truly interpret in the case now in hearing. So help you God.'

"In case of affirmation the closing sentence of adjuration will be omitted.

"ART. 20. Continuances: A court-martial may, for reasonable cause, grant a continuance to either party for such time and as often as may appear to be just.

"ART. 21. Refusal to plead: When the accused, arraigned before a court-martial, from obstinacy and deliberate design stands mute or answers foreign to the purpose, the court may proceed to trial and judgment as if he had pleaded not guilty.

"ART. 22. Process to obtain witnesses: Every judge advocate of a general or special court-martial and every summary court-martial shall have power to issue the like process to compel witnesses to appear and testify which courts of the United States, having criminal jurisdiction, may lawfully issue; but such process shall run to any part of the United States, its Territories, and possessions.

"ART. 23. Refusal to appear or testify: Every person not subject to military law who, being duly subpoenaed to appear as a witness before any military court, commission, court of inquiry, or board, or before any officer, military or civil, designated to take a deposition to be read in evidence before such court, commission, court of inquiry, or board, willfully neglects or refuses to appear, or refuses to qualify as a witness, or to testify, or produce documentary evidence which such person may have been legally subpoenaed to produce, shall be deemed guilty of a misdemeanor, for which such person shall be punished on information in the district court of the United States or in a court of original criminal jurisdiction in any of the Territorial possessions of the United States, jurisdiction being hereby conferred upon such courts for such purpose; and it shall be the duty of the United States district attorney or the officer prosecuting for the Government in any such court of original criminal jurisdiction, on the certification of the facts to him by the military court, commission, court of inquiry, or board, to file an information against and prosecute the person so offending, and the punishment of such person, on conviction, shall be a fine of not more than \$500 or imprisonment not to exceed six months, or both, at the discretion of the court: *Provided*, That the fees of such witness and his mileage, at the rates allowed to witnesses attending the courts of the United States, shall be duly paid or tendered said witness, such amounts to be paid out of the appropriation for the compensation of witnesses.

"ART. 24. Compulsory self-incrimination prohibited: No witness before a military court, commission, court of inquiry, or board, or before any officer, military or civil, designated to take a deposition to be read in evidence before a military court, commission, court of inquiry, or board, shall be compelled to incriminate himself or to answer any questions which may tend to incriminate or degrade him.

"ART. 25. Depositions—When admissible: A duly authenticated deposition taken upon reasonable notice to the opposite party may be read in evidence before any military court or commission in any case not capital, or in any proceeding before a court of inquiry or a military board, if such deposition be taken when the witness resides, is found, or is about to go beyond the State, Territory, or District in which the court, commission, or board is ordered to sit, or beyond the distance of 100 miles

from the place of trial or hearing, or when it appears to the satisfaction of the court, commission, board, or appointing authority that the witness, by reason of age, sickness, bodily infirmity, imprisonment, or other reasonable cause, is unable to appear and testify in person at the place of trial or hearing: *Provided*, That testimony by deposition may be adduced for the defense in capital cases.

"ART. 26. Depositions—Before whom taken: Depositions to be read in evidence before military courts, commissions, courts of inquiry, or military boards, or for other use in military administration, may be taken before and authenticated by any officer, military or civil, authorized by the laws of the United States or by the laws of the place where the deposition is taken to administer oaths.

"ART. 27. Courts of inquiry—Records of, when admissible: The record of the proceedings of a court of inquiry may be read in evidence before any court-martial or military commission in any case not capital nor extending to the dismissal of an officer, and may also be read in evidence in any proceeding before a court of inquiry or a military board: *Provided*, That such evidence may be adduced by the defense in capital cases or cases extending to the dismissal of an officer.

"ART. 28. Resignation without acceptance does not release officer: Any officer who, having tendered his resignation and prior to due notice of the acceptance of the same, quits his post or proper duties without leave and with intent to absent himself permanently therefrom shall be deemed a deserter.

"ART. 29. Enlistment without discharge: Any soldier who, without having first received a regular discharge, again enlists in the Army, or in the militia when in the service of the United States, or in the Navy or Marine Corps of the United States, or in any foreign army, shall be deemed to have deserted the service of the United States; and, where the enlistment is in one of the forces of the United States mentioned above, to have fraudulently enlisted therein.

"ART. 30. Closed sessions: Whenever a general or special court-martial shall sit in closed session, the judge advocate and the assistant judge advocate, if any, shall withdraw; and when their legal advice or their assistance in referring to the recorded evidence is required, it shall be obtained in open court, and in the presence of the accused and of his counsel if there be any.

"ART. 31. Order of voting: Members of a general or special court-martial, in giving their votes, shall begin with the junior in rank.

"ART. 32. Contempts: A court-martial may punish at discretion, subject to the limitations contained in Article XIV, any person who uses any menacing words, signs, or gestures in its presence, or who disturbs its proceedings by any riot or disorder.

"ART. 33. Records—General courts-martial: Each general court-martial shall keep a separate record of its proceedings in the trial of each case brought before it, and such record shall be authenticated by the signature of the president and the judge advocate; but in case the record can not be authenticated by the judge advocate, by reason of his death, disability, or absence, it shall be signed by the president and an assistant judge advocate, if any; and if there be no assistant judge advocate, or in case of his death, disability, or absence, then by the president and one other member of the court.

"ART. 34. Records—Special and summary courts-martial: Each special court-martial and each summary court-martial shall keep a record of its proceedings, separate for each case, which record shall contain such matter and be authenticated in such manner as may be required by regulations which the president may from time to time prescribe.

"ART. 35. Disposition of records—General courts-martial: The judge advocate of each general court-martial shall, with such expedition as circumstances may permit, forward to the appointing authority or to his successor in command the original record of the proceedings of such court in the trial of each case. All records of such proceedings shall, after having been finally acted upon, be transmitted to the Judge Advocate General of the Army.

"ART. 36. Disposition of records—Special and summary courts-martial: After having been acted upon by the officer appointing the court, or by the officer commanding for the time being, the record of each trial by special court-martial and a report of each trial by summary court-martial shall be transmitted to such general headquarters as the President may designate in regulations, there to be filed in the office of the judge advocate. When no longer of use, records of special and summary courts-martial may be destroyed.

"ART. 37. Irregularities—Effect of: The proceedings of a court-martial shall not be held invalid, nor the findings or sentence disapproved, in any case on the ground of improper ad-

mission or rejection of evidence or for any error as to any matter of pleading or procedure unless in the opinion of the reviewing or confirming authority, after an examination of the entire proceedings, it shall appear that the error complained of has injuriously affected the substantial rights of an accused: *Provided*, That the act or omission upon which the accused has been tried constitutes an offense denounced and made punishable by one or more of these articles; *Provided further*, That the omission of the words 'hard labor' in any sentence of a court-martial adjudging imprisonment or confinement shall not be construed as depriving the authorities executing such sentence of imprisonment or confinement of the power to require hard labor as a part of the punishment in any case where it is authorized by the Executive order prescribing maximum punishments.

"ART. 38. President may prescribe rules: The President may by regulations, which he may modify from time to time, prescribe the procedure, including modes of proof, in cases before courts-martial, courts of inquiry, military commissions, and other military tribunals: *Provided*, That nothing contrary to or inconsistent with these articles shall be so prescribed: *Provided further*, That all rules made in pursuance of this article shall be laid before the Congress annually.

" E. LIMITATIONS UPON PROSECUTIONS.

"ART. 39. As to time: Except for desertion committed in time of war, or for 'mutiny' or murder, no person subject to military law shall be liable to be tried or punished by a court-martial for any crime or offense committed more than two years before the arraignment of such person: *Provided*, That for desertion in time of peace or for any crime or offense punishable under articles 93 and 94 of this code the period of limitations upon trial and punishment by court-martial shall be three years: *Provided further*, That the period of any absence of the accused from the jurisdiction of the United States, and also any period during which by reason of some manifest impediment the accused shall not have been amenable to military justice, shall be excluded in computing the aforesaid periods of limitation: *And provided further*, That this article shall not have the effect to authorize the trial or punishment for any crime or offense barred by the provisions of existing law.

"ART. 40. As to number: No person shall be tried a second time for the same offense.

" F. PUNISHMENTS.

"ART. 41. Certain kinds prohibited: Punishment by flogging, or by branding, marking, or tattooing on the body is prohibited.

"ART. 42. Places of confinement—When lawful: Except for desertion in time of war, repeated desertion in time of peace, and mutiny, no person shall under the sentence of a court-martial be punished by confinement in a penitentiary unless an act or omission of which he is convicted constitutes an offense of a civil nature under some statute of the United States or at the common law as the same exists in 'the' District 'of Columbia,' or by way of commutation of a death sentence, 'and' unless, 'also,' the period of confinement authorized and adjudged by such court-martial is one year or more: *Provided*, That when a sentence of confinement is adjudged by a court-martial upon conviction of two or more acts or omissions any one of which is punishable under these articles by confinement in a penitentiary, the entire sentence of confinement may be executed in a penitentiary: *Provided further*, That penitentiary confinement hereby authorized may be served in any penitentiary directly or indirectly under the jurisdiction of the United States: *Provided further*, That persons sentenced to dishonorable discharge and to confinement not in a penitentiary, shall be confined in the United States Disciplinary Barracks or elsewhere as the Secretary of War or the reviewing authority may direct, but not in a penitentiary.

"ART. 43. Death sentence—When lawful: No person shall, by general court-martial, be convicted of an offense for which the death penalty is made mandatory by law, nor sentenced to suffer death, except by the concurrence of two-thirds of the members 'of said court-martial' and for an offense in these articles expressly made punishable by death. All other convictions and sentences, whether by general or special court-martial, may be determined by a majority of the members present.

"ART. 44. Cowardice—Fraud—Accessory penalty: When an officer is dismissed from the service for cowardice or fraud, the crime, punishment, name, and place of abode of the delinquent shall be published in the newspapers in and about the camp and in the State from which the offender came or where he usually resides; and after such publication it shall be scandalous for an officer to associate with him.

"ART. 45. Maximum limits: Whenever the punishment for a crime or offense made punishable by these articles is left to the

discretion of the court-martial, the punishment shall not, in time of peace, exceed such limit or limits as the President may from time to time prescribe.

"G. ACTION BY APPOINTING OR SUPERIOR AUTHORITY.

"ART. 46. Approval and execution of sentence: No sentence of a court-martial shall be carried into execution until the same shall have been approved by the officer appointing the court or by the officer commanding for the time being.

"ART. 47. Powers incident to power to approve: The power to approve the sentence of a court-martial shall be held to include, *inter alia*:

"(a) The power to approve or disapprove a finding and to approve only so much of a finding of guilty of a particular offense as involves a finding of guilty of a lesser included offense when, in the opinion of the authority having power to approve, the evidence of record requires a finding of only the lesser degree of guilt; and

"(b) The power to approve or disapprove the whole or any part of the sentence.

"ART. 48. Confirmation—When required: In addition to the approval required by article 46, confirmation by the President is required in the following cases before the sentence of a court-martial is carried into execution, namely:

"(a) Any sentence respecting a general officer;

"(b) Any sentence extending to the dismissal of an officer, except that in time of war a sentence extending to the dismissal of an officer below the grade of brigadier general may be carried into execution upon confirmation by the commanding general of the Army in the field or by the commanding general of the Territorial department or division;

"(c) Any sentence extending to the suspension or dismissal of a cadet; and

"(d) Any sentence of death, except in the cases of persons convicted in time of war of murder, rape, mutiny, desertion, or as spies; and in such excepted cases a sentence of death may be carried into execution upon confirmation by the commanding general of the Army in the field or by the commanding general of the Territorial department or division.

When the authority competent to confirm the sentence has already acted as the approving authority no additional confirmation by him is necessary.

"ART. 49. Powers incident to power to confirm: The power to confirm the sentence of a court-martial shall be held to include:

"(a) The power to confirm or disapprove a finding, and to confirm so much only of a finding of guilty of a particular offense as involves a finding of guilty of a lesser included offense when, in the opinion of the authority having power to confirm, the evidence of record requires a finding of only the lesser degree of guilt; and

"(b) The power to confirm or disapprove the whole or any part of the sentence.

"ART. 50. Mitigation or remission of sentences: The power to order the execution of the sentence adjudged by a court-martial shall be held to include, *inter alia*, the power to mitigate or remit the whole or any part of the sentence, but no sentence of dismissal of an officer and no sentence of death shall be mitigated or remitted by any authority inferior to the President.

"Any unexecuted portion of a sentence adjudged by a court-martial may be mitigated or remitted by the military authority competent to appoint, for the command, exclusive of penitentiaries and the United States Disciplinary Barracks, in which the person under sentence is held a court of the kind that imposed the sentence, and the same power may be exercised by superior military authority; but no sentence extending to the dismissal of an officer or loss of files, no sentence of death, and no sentence approved or confirmed by the President shall be remitted or mitigated by any other authority.

The power of remission and mitigation shall extend to all uncollected forfeitures adjudged by sentence of a court-martial.

"ART. 51. Suspension of sentences of dismissal or death: The authority competent to order the execution of a sentence of dismissal of an officer or a sentence of death may suspend such sentence until the pleasure of the President be known, and in case of such suspension a copy of the order of suspension, together with a copy of the record of trial, shall immediately be transmitted to the President.

"ART. 52. Suspension of sentence of dishonorable discharge: The authority competent to order the execution of a sentence, including dishonorable discharge, may suspend the execution of the dishonorable discharge until the soldier's release from confinement; but the order of suspension may be vacated at any time and the execution of the dishonorable discharge directed by the officer having general court-martial jurisdiction over the

command, exclusive of penitentiaries and the United States Disciplinary Barracks, in which the soldier is held or by the Secretary of War.

"ART. 53. Suspension of sentences of forfeiture or confinement: The authority competent to order the execution of a sentence adjudged by a court-martial may, if the sentence involve neither dismissal nor dishonorable discharge, suspend the execution of the sentence in so far as it relates to the forfeiture of pay or to confinement, or to both; and the person under sentence may be restored to duty during the suspension of confinement. At any time within one year after the date of the order of suspension such order may, for sufficient cause, be vacated and the execution of the sentence directed by the 'military' authority competent to order the execution of like sentences in the command, 'exclusive of penitentiaries and the United States Disciplinary Barracks,' to which the person under sentence belongs or in which he may be found; but if the order of suspension be not vacated within one year after the date thereof the suspended sentence shall be held to have been remitted.

"III. PUNITIVE ARTICLES.

"A. ENLISTMENT; MUSTER; RETURNS.

"ART. 54. Fraudulent enlistment: Any person who shall procure himself to be enlisted in the military service of the United States by means of willful misrepresentation or concealment as to his qualifications for enlistment, and shall receive pay or allowances under such enlistment, shall be punished as a court-martial may direct.

"ART. 55. Officer making unlawful enlistment: Any officer who knowingly enlists or musters into the military service any person whose enlistment or muster in is prohibited by law, regulations, or orders shall be dismissed from the service or suffer such other punishment as a court-martial may direct.

"ART. 56. 'Muster rolls'—False muster: 'At every muster of a regiment, troop, battery, or company the commanding officer thereof shall give to the mustering officer certificates, signed by himself, stating how long absent officers have been absent and the reasons of their absence. And the commanding officer of every troop, battery, or company shall give like certificates, stating how long absent noncommissioned officers and private soldiers have been absent and the reasons of their absence. Such reasons and time of absence shall be inserted in the muster rolls opposite the names of the respective absent officers and soldiers, and the certificates, together with the muster rolls, shall be transmitted by the mustering officer to the Department of War as speedily as the distance of the place and muster will admit.' Any officer who knowingly makes a false muster of man or animal, or who signs or directs or allows the signing of any muster roll knowing the same to contain a false muster or false statement as to the absence or pay of an officer or soldier, or who wrongfully takes money or other consideration on mustering in a regiment, company, or other organization, or on signing muster rolls, or who knowingly musters as an officer or soldier a person who is not such officer or soldier, shall be dismissed from the service and suffer such other punishment as a court-martial may direct.

"ART. 57. False returns—Omission to render returns: Every officer commanding a regiment, an independent troop, battery, or company, or a garrison, shall, in the beginning of every month, transmit through the proper channels, to the Department of War, an exact return of the same, specifying the names of the officers then absent from their posts, with the reasons for and the time of their absence. Every officer whose duty it is to render to the War Department or other superior authority a return of the state of the troops under his command, or of the arms, ammunition, clothing, funds, or other property thereunto belonging, who knowingly makes a false return thereof shall be dismissed from the service and suffer such other punishment as a court-martial may direct. And any officer who, through neglect or design, omits to render such return shall be punished as a court-martial may direct.

"B. DESERTION—ABSENCE WITHOUT LEAVE.

"ART. 58. Desertion: Any persons subject to military law who deserts or attempts to desert the service of the United States shall, if the offense be committed in time of war, suffer death or such other punishment as a court-martial may direct, and, if the offense be committed at any other time, any punishment, excepting death, that a court-martial may direct.

"ART. 59. Advising or aiding another to desert: Any person subject to military law who advises or persuades or knowingly assists another to desert the service of the United States shall, if the offense be committed in time of war, suffer death, or such other punishment as a court-martial may direct, and, if

the offense be committed at any other time, any punishment, excepting death, that a court-martial may direct.

"ART. 60. Entertaining a deserter: Any officer who, after having discovered that a soldier in his command is a deserter from the military or naval service or from the Marine Corps, retains such deserter in his command without informing superior authority or the commander of the organization to which the deserter belongs, shall be punished as a court-martial may direct.

"ART. 61. Absence without leave: Any person subject to military law who fails to repair at the fixed time to the properly appointed place of duty, or goes from the same without proper leave, or absents himself from his command, guard, quarters, station, or camp without proper leave, shall be punished as a court-martial may direct.

" C. DISRESPECT—INSUBORDINATION—MUTINY.

"ART. 62. Disrespect toward the President, Vice President, Congress, Secretary of War, governors, legislatures: Any officer who uses contemptuous or disrespectful words against the President, Vice President, the Congress of the United States, the Secretary of War, or the governor or legislature of any State, Territory, or other possession of the United States in which he is quartered shall be dismissed from the service or suffer such other punishment as a court-martial may direct. Any other person subject to military law who so offends shall be punished as a court-martial may direct.

"ART. 63. Disrespect toward superior officer: Any person subject to military law who behaves himself with disrespect toward his superior officer shall be punished as a court-martial may direct.

"ART. 64. Assaulting or willfully disobeying superior officer: Any person subject to military law who, on any pretense whatsoever, strikes his superior officer or draws or lifts up any weapon or offers any violence against him, being in the execution of his office, or willfully disobeys any lawful command of his superior officer, shall suffer death or such other punishment as a court-martial may direct.

"ART. 65. Insubordinate conduct toward noncommissioned officer: Any soldier who strikes or assaults, or who attempts or threatens to strike or assault, or willfully disobeys the lawful order of a noncommissioned officer while in the execution of his office, or uses threatening or insulting language, or behaves in an insubordinate or disrespectful manner toward a noncommissioned officer while in the execution of his office, shall be punished as a court-martial may direct.

"ART. 66. Mutiny or sedition: Any person subject to military law who attempts to create or who begins, excites, causes, or joins in any mutiny or sedition in any company, party, post, camp, detachment, guard, or other command shall suffer death or such other punishment as a court-martial may direct.

"ART. 67. Failure to suppress mutiny or sedition: Any officer or soldier who, being present at any mutiny or sedition, does not use his utmost endeavor to suppress the same, or knowing or having reason to believe that a mutiny or sedition is to take place, does not without delay give information thereof to his commanding officer shall suffer death or such other punishment as a court-martial may direct.

"ART. 68. Quarrels; frays; disorders: All officers and noncommissioned officers have power to part and quell all quarrels, frays, and disorders among persons subject to military law and to order officers who take part in the same into arrest, and other persons subject to military law who take part in the same into arrest or confinement, as circumstances may require, until their proper superior officer is acquainted therewith. And whosoever, being so ordered, refuses to obey such officer or noncommissioned officer or draws a weapon upon or otherwise threatens or does violence to him shall be punished as a court-martial may direct.

" D. ARREST; CONFINEMENT.

"ART. 69. Arrest or confinement of accused persons: An officer charged with crime or with a serious offense under these articles shall be placed in arrest by the commanding officer, and in exceptional cases an officer so charged may be placed in confinement by the same authority. A soldier charged with crime or with a serious offense under these articles shall be placed in confinement, and when charged with a minor offense he may be placed in arrest. Any other person subject to military law charged with crime or with a serious offense under these articles shall be placed in confinement or in arrest, as circumstances may require; and when charged with a minor offense such person may be placed in arrest. Any person placed in arrest under the provisions of this article shall thereby be restricted to his barracks, quarters, or tent, unless such limits shall be enlarged by proper authority. Any officer who breaks his arrest or who escapes from confinement before he is set at liberty by proper

authority shall be dismissed from the service or suffer such other punishment as a court-martial may direct; and any other person subject to military law who escapes from confinement or who breaks his arrest before he is set at liberty by proper authority shall be punished as a court-martial may direct.

"ART. 70. Investigation of and action upon charges: No person put in arrest shall be continued in confinement more than eight days, or until such time as a court-martial can be assembled. When any person is put in arrest for the purpose of trial, except at remote military posts or stations, the officer by whose order he is arrested shall see that a copy of the charges on which he is to be tried is served upon him within eight days after his arrest, and that he is brought to trial within 10 days thereafter, unless the necessities of the service prevent such trial; and then he shall be brought to trial within 30 days after the expiration of said 10 days. If a copy of the charges be not served, or the arrested person be not brought to trial, as herein required, the arrest shall cease. But persons released from arrest, under the provisions of this article, may be tried, whenever the exigencies of the service shall permit, within 12 months after such release from arrest: *Provided*, That in time of peace no person shall, against his objection, be brought to trial before a general court-martial within a period of five days subsequent to the service of charges upon him.

"ART. 71. Refusal to receive and keep prisoners: No provost marshal or commander of a guard shall refuse to receive or keep any prisoner committed to his charge by an officer belonging to the forces of the United States, provided the officer committing shall, at the time, deliver an account in writing, signed by himself, of the crime or offense charged against the prisoner. Any officer or soldier so refusing shall be punished as a court-martial may direct.

"ART. 72. Report of prisoners received: Every commander of a guard to whose charge a prisoner is committed shall, within 24 hours after such confinement, or as soon as he is relieved from his guard, report in writing to the commanding officer the name of such prisoner, the offense charged against him, and the name of the officer committing him; and if he fails to make such report he shall be punished as a court-martial may direct.

"ART. 73. Releasing prisoner without proper authority: Any person subject to military law who, without proper authority, releases any prisoner duly committed to his charge, or who through neglect or design suffers any prisoner so committed to escape, shall be punished as a court-martial may direct.

"ART. 74. Delivery of offenders to civil authorities: When any person subject to military law, except one who is held by the military authorities to answer, or who is awaiting trial or result of trial, or who is undergoing sentence for a crime or offense punishable under these articles, is accused of a crime or offense committed within the geographical limits of the States of the Union and the District of Columbia, and punishable by the laws of the land, the commanding officer is required, except in time of war, upon application duly made, to use his utmost endeavor to deliver over such accused person to the civil authorities, or to aid the officers of justice in apprehending and securing him, in order that he may be brought to trial. Any commanding officer who upon such application refuses or willfully neglects, except in time of war, to deliver over such accused person to the civil authorities or to aid the officers of justice in apprehending and securing him shall be dismissed from the service or suffer such other punishment as a court-martial may direct.

"When, under the provisions of this article, delivery is made to the civil authorities of an offender undergoing sentence of a court-martial, such delivery, if followed by conviction, shall be held to interrupt the execution of the sentence of the court-martial, and the offender shall be returned to military custody, after having answered to the civil authorities for his offense, for the completion of the said court-martial sentence.

" E. WAR OFFENSES.

"ART. 75. Misbehavior before the enemy: Any officer or soldier who misbehaves himself before the enemy, runs away, or shamefully abandons or delivers up any fort, post, camp, guard, or other command which it is his duty to defend, or speaks words inducing others to do the like, or casts away his arms or ammunition, or quits his post or colors to plunder or pillage, or by any means whatsoever occasions false alarms in camp, garrison, or quarters, shall suffer death or such other punishment as a court-martial may direct.

"ART. 76. Subordinates compelling commander to surrender: If any commander of any garrison, fort, post, camp, guard, or other command is compelled, by the officers or soldiers under his command, to give it up to the enemy or to abandon it, the officers or soldiers so offending shall suffer death or such other punishment as a court-martial may direct.

"ART. 77. Improper use of countersign: Any person subject to military law who makes known the parole or countersign to any person not entitled to receive it according to the rules and discipline of war, or gives a parole or countersign different from that which he received, shall, if the offense be committed in time of war, suffer death or such punishment as a court-martial may direct.

"ART. 78. Forcing a safeguard: Any person subject to military law who, in time of war, forces a safeguard shall suffer death or such other punishment as a court-martial may direct.

"ART. 79. Captured property to be secured for public service: All public property taken from the enemy is the property of the United States and shall be secured for the service of the United States, and any person subject to military law who neglects to secure such property or is guilty of wrongful appropriation thereof shall be punished as a court-martial may direct.

"ART. 80. Dealing in captured or abandoned property: Any person subject to military law who buys, sells, trades, or in any way deals in or disposes of captured or abandoned property, whereby he shall receive or expect any profit, benefit, or advantage to himself or to any other person directly or indirectly connected with himself, or who fails whenever such property comes into his possession or custody or within his control to give notice thereof to the proper authority and to turn over such property to the proper authority without delay, shall, on conviction thereof, be punished by fine or imprisonment, or by such other punishment as a court-martial, military commission, or other military tribunal may adjudge, or by any or all of said penalties.

"ART. 81. Relieving, corresponding with, or aiding the enemy: Whosoever relieves the enemy with arms, ammunition, supplies, money, or other thing, or knowingly harbors or protects or holds correspondence with or gives intelligence to the enemy, either directly or indirectly, shall suffer death, or such other punishment as a court-martial or military commission may direct.

"ART. 82. Spies: Any person who in time of war shall be found lurking or acting as a spy in or about any of the fortifications, posts, quarters, or encampments of any of the armies of the United States, or elsewhere, shall be tried by a general court-martial or by a military commission, and shall, on conviction thereof, suffer death.

" F. MISCELLANEOUS CRIMES AND OFFENSES.

"ART. 83. Military property—Willful or negligent loss, damage, or wrongful disposition of: Any person subject to military law who willfully, or through neglect, suffers to be lost, spoiled, damaged, or wrongfully disposed of, any military property belonging to the United States shall make good the loss or damage and suffer such punishment as a court-martial may direct.

"ART. 84. Waste or unlawful disposition of military property issued to soldiers: Any soldier who sells or wrongfully disposes of or willfully or through neglect injures or loses any horse, arms, ammunition, accouterments, equipment, clothing, or other property issued for use in the military service, shall be punished as a court-martial may direct.

"ART. 85. Drunk on duty: Any officer who is found drunk on duty shall, if the offense be committed in time of war, be dismissed from the service and suffer such other punishment as a court-martial may direct; and if the offense be committed in time of peace, he shall be punished as a court-martial may direct. Any person subject to military law, except an officer, who is found drunk on duty shall be punished as a court-martial may direct.

"ART. 86. Misbehavior of sentinel: Any sentinel who is found drunk or sleeping upon his post, or who leaves it before he is regularly relieved, shall, if the offense be committed in time of war, suffer death or such other punishment as a court-martial may direct; and if the offense be committed in time of peace, he shall suffer any punishment, except death, that a court-martial may direct.

"ART. 87. Personal interest in sale of provisions: Any officer commanding in any garrison, fort, barracks, camp, or other place where troops of the United States may be serving who, for his private advantage, lays any duty or imposition upon or is interested in the sale of any victuals or other necessities of life brought into such garrison, fort, barracks, camp, or other place for the use of the troops, shall be dismissed from the service and suffer such other punishment as a court-martial may direct.

"ART. 88. Intimidation of persons bringing provisions: Any person subject to military law who abuses, intimidates, does violence to, or wrongfully interferes with any person bringing provisions, supplies, or other necessities to the camp, garrison, or quarters of the forces of the United States shall suffer such punishment as a court-martial may direct.

"ART. 89. Good order to be maintained and wrongs redressed: All persons subject to military law are to behave themselves orderly in quarters, garrison, camp, and on the march; and any person subject to military law who commits any waste or spoil, or willfully destroys any property whatsoever (unless by order of his commanding officer), or commits any kind of deprivation or riot shall be punished as a court-martial may direct. Any commanding officer who, upon complaint made to him, refuses or omits to see reparation made to the party injured, in so far as the offender's pay shall go toward such reparation, as provided for in article 105, shall be dismissed from the service, or otherwise punished, as a court-martial may direct.

"ART. 90. Provoking speeches or gestures: No person subject to military law shall use any reproachful or provoking speeches or gestures to another; and any person subject to military law who offends against the provisions of this article shall be punished as a court-martial may direct.

"ART. 91. Duelling—Attempts to commit suicide: Any person subject to military law who fights or promotes or is concerned in or connives at fighting a duel, or who having knowledge of a challenge sent or about to be sent fails to report the fact promptly to the proper authority, if an officer, be dismissed from the service or suffer such other punishment as a court-martial may direct; and if any other person subject to military law, shall suffer such punishment as a court-martial may direct.

"ART. 92. Murder—Rape: Any person subject to military law who commits murder or rape shall suffer death or imprisonment for life, as a court-martial may direct; but no person shall be tried by court-martial for murder or rape committed within the geographical limits of the States of the Union and the District of Columbia in time of peace.

"ART. 93. Various crimes: Any person subject to military law who commits manslaughter, mayhem, arson, burglary, robbery, larceny, embezzlement, perjury, assault with intent to commit any felony, or assault with intent to do bodily harm, shall be punished as a court-martial may direct.

"ART. 94. Frauds against the Government: Any person subject to military law who makes or causes to be made any claim against the United States, or any officer thereof, knowing such claim to be false or fraudulent; or

Who presents or causes to be presented to any person in the civil or military service thereof, for approval or payment, any claim against the United States, or any officer thereof, knowing such claim to be false or fraudulent; or

Who enters into any agreement or conspiracy to defraud the United States by obtaining, or aiding others to obtain, the allowance or payment of any false or fraudulent claim; or

Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against the United States or against any officer thereof, makes or uses, or procures, or advises the making or use of, any writing or other paper, knowing the same to contain any false or fraudulent statements; or

Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against the United States or any officer thereof, makes, or procures, or advises the making of, any oath to any fact or to any writing or other paper knowing such oath to be false; or

Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against the United States or any officer thereof, forges or counterfeits, or procures, or advises the forging or counterfeiting of any signature upon any writing or other paper, or uses, or procures, or advises the use of any such signature, knowing the same to be forged or counterfeited; or

Who, having charge, possession, custody, or control of any money or other property of the United States, furnished or intended for the military service thereof, knowingly delivers, or causes to be delivered, to any person having authority to receive the same, any amount thereof less than that for which he receives a certificate or receipt; or

Who, being authorized to make or deliver any paper certifying the receipt of any property of the United States furnished or intended for the military service thereof, makes or delivers to any person such writing, without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States; or

Who steals, embezzles, knowingly and willfully misappropriates, applies to his own use or benefit, or wrongfully or knowingly sells or disposes of any ordnance, arms, equipments, ammunition, clothing, subsistence stores, money, or other property of the United States furnished or intended for the military service thereof; or

Who knowingly purchases or receives in pledge for any obligation or indebtedness from any soldier, officer, or other person

who is a part of or employed in said forces or service, any ordnance, arms, equipment, ammunition, clothing, subsistence stores, or other property of the United States, such soldier, officer, or other person not having lawful right to sell or pledge the same;

"Shall, on conviction thereof, be punished by fine or imprisonment, or by such other punishment as a court-martial may adjudge, or by any or all of said penalties. And if any person, being guilty of any of the offenses aforesaid while in the military service of the United States, receives his discharge or is dismissed from the service, he shall continue to be liable to be arrested and held for trial and sentence by a court-martial in the same manner and to the same extent as if he had not received such discharge nor been dismissed.

"ART. 95. Conduct unbecoming an officer and gentleman: Any officer or cadet who is convicted of conduct unbecoming an officer and a gentleman shall be dismissed from the service.

"ART. 96. General article: Though not mentioned in these articles, all disorders and neglects to the prejudice of good order and military discipline, all conduct of a nature to bring discredit upon the military service, and all crimes or offenses not capital, of which persons subject to military law may be guilty, shall be taken cognizance of by a general or special or summary court-martial, according to the nature and degree of the offense, and punished at the discretion of such court.

"IV. COURTS OF INQUIRY.

"ART. 97. When and by whom ordered: A court of inquiry to examine into the nature of any transaction of or accusation or imputation against any officer or soldier may be ordered by the President or by any commanding officer; but a court of inquiry shall not be ordered by any commanding officer except upon the request of the officer or soldier whose conduct is to be inquired into.

"ART. 98. Composition: A court of inquiry shall consist of three or more officers. For each court of inquiry the authority appointing the court shall appoint a recorder.

"ART. 99. Challenges: Members of a court of inquiry may be challenged by the party whose conduct is to be inquired into, but only for cause stated to the court. The court shall determine the relevancy and validity of any challenge, and shall not receive a challenge to more than one member at a time. The party whose conduct is being inquired into shall have the right to be represented before the court by counsel of his own selection, if such counsel be reasonably available.

"ART. 100. Oath of members and recorder: The recorder of a court of inquiry shall administer to the members the following oath: 'You, A. B., do swear (or affirm) that you will well and truly examine and inquire, according to the evidence, into the matter now before you, without partiality, favor, affection, prejudice, or hope of reward. So help you God.' After which the president of the court shall administer to the recorder the following oath: 'You, A. B., do swear (or affirm) that you will, according to your best abilities, accurately and impartially record the proceedings of the court and the evidence to be given in the case in hearing. So help you God.'

"In case of affirmation the closing sentence of adjuration will be omitted.

"ART. 101. Powers—Procedure: A court of inquiry and the recorder thereof shall have the same power to summon and examine witnesses as is given to courts-martial and the judge advocate thereof. Such witnesses shall take the same oath or affirmation that is taken by witnesses before courts-martial. A reporter or an interpreter for a court of inquiry shall, before entering upon his duties, take the oath or affirmation required of a reporter or an interpreter for a court-martial. The party whose conduct is being inquired into or his counsel, if any, shall be permitted to examine and cross-examine witnesses so as fully to investigate the circumstances in question.

"ART. 102. Opinion on merits of case: A court of inquiry shall not give an opinion on the merits of the case inquired into unless specially ordered to do so.

"ART. 103. Record of proceedings—How authenticated: Each court of inquiry shall keep a record of its proceedings, which shall be authenticated by the signature of the president and the recorder thereof and be forwarded to the convening authority. In case the record can not be authenticated by the recorder by reason of his death, disability, or absence it shall be signed by the president and by one other member of the court.

"V. MISCELLANEOUS PROVISIONS.

"ART. 104. Disciplinary powers of commanding officers: Under such regulations as the President may prescribe, and which he may from time to time revoke, alter, or add to, the commanding officer of any detachment, company, or higher command may,

for minor offenses not denied by the accused, impose disciplinary punishments upon persons of his command without the intervention of a court-martial unless the accused demands trial by court-martial.

"The disciplinary punishments authorized by this article may include admonition, reprimand, withholding of privileges, extra fatigue, and restriction to certain specified limits, but shall not include forfeiture of pay or confinement under guard. A person punished under authority of this article who deems his punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority, but may in the meantime be required to undergo the punishment adjudged. The commanding officer who imposes the punishment, his successor in command, and superior authority shall have power to mitigate or remit any unexecuted portion of the punishment. The imposition and enforcement of disciplinary punishment under authority of this article for any act or omission shall not be a bar to trial by court-martial for a crime or offense growing out of the same act or omission; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

"ART. 105. Injuries to person or property—Redress of: Whenever complaint is made to any commanding officer that damage has been done to the property of any person, or that his property has been wrongfully taken by persons subject to military law, such complaint shall be investigated by a board consisting of any number of officers from one to three, which board shall be convened by the commanding officer and shall have, for the purpose of such investigation, power to summon witnesses and examine them upon oath or affirmation, to receive depositions or other documentary evidence, and to assess the damages sustained against the responsible parties. The assessment of damages made by such board shall be subject to the approval of the commanding officer, and in the amount approved by him shall be stopped against the pay of the offender. And the order of such commanding officer directing stoppages herein authorized shall be conclusive on any disbursing officer for the payment by him to the injured parties of the stoppages so ordered.

"Where the offenders can not be ascertained, but the organization or detachment to which they belong is known, stoppages to the amount of damages inflicted may be made and assessed in such proportion as may be deemed just upon the individual members thereof who are shown to have been present with such organization or detachment at the time the damages complained of were inflicted as determined by the approved findings of the board.

"ART. 106. Arrest of deserters by civil officials: It shall be lawful for any civil officer having authority under the laws of the United States, or of any State, Territory, District, or possession of the United States, to arrest offenders, summarily to arrest a deserter from the military service of the United States and deliver him into the custody of the military authorities of the United States.

"ART. 107. Soldiers to make good time lost: Every soldier who in an existing or subsequent enlistment deserts the service of the United States or without proper authority absents himself from his organization, station, or duty for more than one day, or who is confined for more than one day under sentence, or while awaiting trial and disposition of his case, if the trial results in conviction, or through the intemperate use of drugs or alcoholic liquor, or through disease or injury the result of his own misconduct, renders himself unable for more than one day to perform duty, shall be liable to serve, after his return to a full-duty status, for such period as shall, with the time he may have served prior to such desertion, unauthorized absence, confinement, or inability to perform duty, amount to the full term of that part of his enlistment period which he is required to serve with his organization before being furloughed to the Army reserve.

"ART. 108. Soldiers—Separation from the service: No enlisted man, lawfully inducted into the military service of the United States, shall be discharged from said service without a certificate of discharge, signed by a field officer of the regiment or other organization to which the enlisted man belongs or by the commanding officer when no such field officer is present; and no enlisted man shall be discharged from said service before his term of service has expired, except by order of the President, the Secretary of War, the commanding officer of a department, or by sentence of a general court-martial.

"ART. 109. Oath of enlistment: At the time of his enlistment every soldier shall take the following oath or affirmation: 'I, _____, do solemnly swear (or affirm) that I will bear true

faith and allegiance to the United States of America; that I will serve them honestly and faithfully against all their enemies whomsoever; and that I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to the Rules and Articles of War.' This oath or affirmation may be taken before any officer.

"ART. 110. Certain articles to be read and explained: Articles 1, 2, and 29, 54 to 96, inclusive, and 104 to 109, inclusive, shall be read and explained to every soldier at the time of his enlistment or muster in, or within six days thereafter, and shall be read and explained once every six months to the soldiers of every garrison, regiment, or company in the service of the United States.

"ART. 111. Copy of record of trial: Every person tried by a general court-martial shall, on demand therefor, made by himself or by any person in his behalf, be entitled to a copy of the record of the trial.

"ART. 112. Effects of deceased persons—Disposition of: In case of the death of any person subject to military law, the commanding officer of the place or command will permit the legal representative or widow of the deceased, if present, to take possession of all his effects then in camp or quarters, and if no legal representative or widow be present, the commanding officer shall direct a summary court to secure all such effects; and said summary court shall have authority to convert such effects into cash, by public or private sale, not earlier than 30 days after the death of the deceased, and to collect and receive any debts due decedent's estate by local debtors; and as soon as practicable after converting such effects into cash said summary court shall deposit with the proper officer, to be designated in regulations, any cash belonging to decedent's estate, and shall transmit a receipt for such deposit, accompanied by any will or other papers of value belonging to the deceased, an inventory of the effects secured by said summary court, and a full account of his transactions to the War Department for transmission to the Auditor for the War Department for action as authorized by law in the settlement of the accounts of deceased officers or enlisted men of the Army; but if in the meantime the legal representative, or widow, shall present himself 'or herself' to take possession of decedent's estate the said summary court shall turn over to him 'or her' all effects not sold and cash belonging to said estate, together with an inventory and account, and make to the War Department a full report of his transactions.

"The provisions of this article shall be applicable to inmates of the United States Soldiers' Home who die in any United States military hospital outside of the District of Columbia where sent from the home for treatment.

"ART. 113. Inquest: When at any post, fort, camp, or other place garrisoned by the military forces of the United States and under the exclusive jurisdiction of the United States, any person shall have been found dead under circumstances which appear to require investigation, the commanding officer will designate and direct a summary court-martial to investigate the circumstances attending the death; and, for this purpose, such summary court-martial shall have power to summon witnesses and examine them upon oath or affirmation. He shall promptly transmit to the post or other commander a report of his investigation and of his findings as to the cause of the death.

"ART. 114. Authority to administer oaths: Any judge advocate or acting judge advocate, the president of a general or special court-martial, any summary court-martial, the judge advocate or any assistant judge advocate of a general or special court-martial, the president or the recorder of a court of inquiry or of a military board, any officer designated to take a deposition, any officer detailed to conduct an investigation, and the adjutant of any command shall have power to administer oaths for the purposes of the administration of military justice and for other purposes of military administration; and in foreign places where the Army may be serving shall have the general powers of a notary public or of a consul of the United States in the administration of oaths, the execution and acknowledgment of legal instruments the attestation of documents, and all other forms of notarial acts to be executed by persons subject to military law.

"ART. 115. Appointment of reporters and interpreters: Under such regulations as the Secretary of War may from time to time prescribe, the president of a court-martial or military commission, or a court of inquiry shall have power to appoint a reporter, who shall record the proceedings of and testimony taken before such court or commission and may set down the same, in the first instance, in shorthand. Under like regulations the president of a court-martial or military commission, or summary court, or court of inquiry may appoint an interpreter, who shall interpret for the court or commission.

"ART. 116. Powers of assistant judge advocates: An assistant judge advocate of a general court-martial shall be competent to perform any duty devolved by law, regulation, or the custom of the service upon the judge advocate of the court.

"ART. 117. Removal of civil suits: When any civil suit or criminal prosecution is commenced in any court of a State against any officer, soldier, or other person in the military service of the United States on account of any act done under color of his office or status, or in respect to which he claims any right, title, or authority under any law of the United States respecting the military forces thereof, or under the law of war, such suit or prosecution may at any time before the trial or final hearing thereof be removed for trial into the district court of the United States in the district where the same is pending in the manner prescribed in section 33 of the act entitled 'An act to codify, revise, and amend the laws relating to the judiciary,' approved March 3, 1911, and the cause shall thereupon be entered on the docket of said district court and shall proceed therein as if the cause had been originally commenced in said district court and the same proceedings had been taken in such suit or prosecution in said district court as shall have been had therein in said State court prior to its removal, and said district court shall have full power to hear and determine said cause.

"ART. 118. Officers—Separation from service: No officer shall be discharged or dismissed from the service except by order of the President or by sentence of a general court-martial; and in time of peace no officer shall be dismissed except in pursuance of the sentence of a court-martial or in mitigation thereof, nor discharged except in pursuance of statutes now in force or which may hereafter be enacted; but the President may at any time drop from the rolls of the Army any officer who has been absent from duty three months without leave or who has been absent in confinement in a prison or penitentiary for three months after final conviction by a court of competent jurisdiction.

"ART. 119. Rank and precedence among regulars, militia, and volunteers: That in time of war or public danger, when two or more officers of the same grade are on duty in the same field, department, or command, or of organizations thereof, the President may assign the command of the forces of such field, department, or command, or of any organization thereof, without regard to seniority of rank in the same grade. In the absence of such assignment by the President, officers of the same grade shall rank and have precedence in the following order, without regard to date of rank or commission as between officers of different classes, namely: First, officers of the Regular Army and officers of the Marine Corps detached for service with the Army by order of the President; second, officers of forces drafted or called into the service of the United States; and, third, officers of the volunteer forces: *Provided*, That officers of the Regular Army holding commissions in forces drafted or called into the service of the United States or in the volunteer forces shall rank and have precedence under said commissions as if they were commissions in the Regular Army; but the rank of officers of the Regular Army under commissions in the National Guard as such shall not, for the purposes of this article, be held to antedate the acceptance of such officers into the service of the United States under said commissions.

"ART. 120. Command when different corps or commands happen to join: When different corps or commands of the military forces of the United States happen to join or do duty together the officer highest in rank of the line of the Regular Army, Marine Corps, forces drafted or called into the service of the United States or Volunteers, there on duty, shall, subject to the provisions of the last preceding article, command the whole and give orders for what is needful in the service, unless otherwise directed by the President.

"ART. 121. Complaints of wrongs: Any officer or soldier who believes himself wronged by his commanding officer, and, upon due application to such commander, is refused redress, may complain to the general commanding in the locality where the officer against whom the complaint is made is stationed. The general shall examine into said complaint and take proper measures for redressing the wrong complained of; and he shall, as soon as possible, transmit to the Department of War a true statement of such complaint, with the proceedings had thereon."

SEC. 4. The provisions of section 3 of this act shall take effect and be in force on and after the 1st day of January, 1917: *Provided*, That articles 4, 13, 14, 15, 29, 42, 47, 49, and 92 shall take effect immediately upon the approval of this act.

SEC. 5. That all offenses committed and all penalties, forfeitures, fines, or liabilities incurred prior to the taking effect of this act, under any law embraced in or modified, changed, or repealed by this act, may be prosecuted, punished, and enforced in the same manner and with the same effect as if this act had not been passed.

SEC. 6. All laws and parts of laws in so far as they are inconsistent with this act are hereby repealed.

And the Senate agree to the same.

GEO. E. CHAMBERLAIN,
DUNCAN U. FLETCHER,
F. E. WARREN,

Managers on the part of the Senate.

JAMES HAY,
S. H. DENT, Jr.,
JULIUS KAHN,

Managers on the part of the House.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, one of his secretaries, announced that the President had on August 7, 1916, approved and signed the following acts:

S. 5645. An act for the establishment of Noyes, in the State of Minnesota, as a port of entry and delivery for immediate transportation without appraisement of dutiable merchandise;

S. 6242. An act authorizing the counties of Nassau, Fla., and Charlton, Ga., to construct a bridge across the St. Marys River between Florida and Georgia; and

S. 6375. An act to authorize the changing of the name of the steamship *Aroline*.

GOVERNMENT OF THE PHILIPPINES—CONFERENCE REPORT (S. DOC. NO. 527).

Mr. HITCHCOCK. I desire to present the report of the committee of conference on the bill S. 381, commonly known as the Philippine bill. I ask that it lie over and be printed.

The VICE PRESIDENT. The report will lie on the table and be printed.

The report is as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 381) to declare the purpose of the people of the United States as to the future political status of the people of the Philippine Islands, and to provide a more autonomous government for those islands, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House striking out section 34 of the bill, and agree to the same.

That the Senate recede from its disagreement to the amendments of the House numbered 1, 2, and 4, and agree to the same with an amendment as follows:

"An act to declare the purpose of the people of the United States as to the future political status of the people of the Philippine Islands, and to provide a more autonomous government for those islands.

"Whereas it was never the intention of the people of the United States in the incipency of the War with Spain to make it a war of conquest or for territorial aggrandizement; and

"Whereas it is, as it has always been, the purpose of the people of the United States to withdraw their sovereignty over the Philippine Islands and to recognize their independence as soon as a stable government can be established therein; and

"Whereas for the speedy accomplishment of such purpose it is desirable to place in the hands of the people of the Philippines as large a control of their domestic affairs as can be given them without, in the meantime, impairing the exercise of the rights of sovereignty by the people of the United States, in order that, by the use and exercise of popular franchise and governmental powers, they may be the better prepared to fully assume the responsibilities and enjoy all the privileges of complete independence: Therefore

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of this act and the name 'The Philippines' as used in this act shall apply to and include the Philippine Islands ceded to the United States Government by the treaty of peace concluded between the United States and Spain on the 11th day of April, 1899, the boundaries of which are set forth in Article III of said treaty, together with those islands embraced in the treaty between Spain and the United States concluded at Washington on the 7th day of November, 1900.

"SEC. 2. That all inhabitants of the Philippine Islands who were Spanish subjects on the 11th day of April, 1899, and then resided in said islands, and their children born subsequent thereto, shall be deemed and held to be citizens of the Philippine Islands, except such as shall have elected to preserve their allegiance to the Crown of Spain in accordance with the provisions of the treaty of peace between the United States and

Spain, signed at Paris December 10, 1898, and except such others as have since become citizens of some other country: *Provided*, That the Philippine Legislature, herein provided for, is hereby authorized to provide by law for the acquisition of Philippine citizenship by those natives of the Philippine Islands who do not come within the foregoing provisions, the natives of the insular possessions of the United States, and such other persons residing in the Philippine Islands who are citizens of the United States, or who could become citizens of the United States under the laws of the United States if residing therein.

"SEC. 3. That no law shall be enacted in said islands which shall deprive any person of life, liberty, or property without due process of law, or deny to any person therein the equal protection of the laws. Private property shall not be taken for public use without just compensation.

"That in all criminal prosecutions the accused shall enjoy the right to be heard by himself and counsel, to demand the nature and cause of the accusation against him, to have a speedy and public trial, to meet the witnesses face to face, and to have compulsory process to compel the attendance of witnesses in his behalf.

"That no person shall be held to answer for a criminal offense without due process of law; and no person for the same offense shall be twice put in jeopardy of punishment, nor shall be compelled in any criminal case to be a witness against himself.

"That all persons shall before conviction be bailable by sufficient sureties, except for capital offenses.

"That no law impairing the obligation of contracts shall be enacted.

"That no person shall be imprisoned for debt.

"That the privilege of the writ of habeas corpus shall not be suspended unless when in cases of rebellion, insurrection, or invasion the public safety may require it, in either of which events the same may be suspended by the President or by the Governor General wherever during such period the necessity for such suspension shall exist.

"That no ex post facto law or bill of attainder shall be enacted, nor shall the law of primogeniture ever be in force in the Philippines.

"That no law granting a title of nobility shall be enacted; and no person holding any office of profit or trust in said islands shall, without the consent of the Congress of the United States, accept any present, emolument, office, or title of any kind whatever from any king, queen, prince, or foreign State.

"That excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

"That the right to be secure against unreasonable searches and seizures shall not be violated.

"That slavery shall not exist in said islands; nor shall involuntary servitude exist therein except as a punishment for crime whereof the party shall have been duly convicted.

"That no law shall be passed abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and petition the Government for redress of grievances.

"That no law shall be made respecting an establishment of religion or prohibiting the free exercise thereof, and that the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed; and no religious test shall be required for the exercise of civil or political rights. No public money or property shall ever be appropriated, applied, donated, or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or system of religion, or for the use, benefit, or support of any priest, preacher, minister, or other religious teacher or dignitary as such. Contracting of polygamous or plural marriages hereafter is prohibited. That no law shall be construed to permit polygamous or plural marriages.

"That no money shall be paid out of the treasury except in pursuance of an appropriation by law.

"That the rule of taxation in said islands shall be uniform.

"That no bill which may be enacted into law shall embrace more than one subject, and that subject shall be expressed in the title of the bill.

"That no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized.

"That all money collected on any tax levied or assessed for a special purpose shall be treated as a special fund in the treasury and paid out for such purpose only.

"SEC. 4. That all expenses that may be incurred on account of the government of the Philippines for salaries of officials and the conduct of their offices and departments, and all expenses and obligations contracted for the internal improvement or development of the islands, not, however, including defenses,

barracks, and other works undertaken by the United States, shall, except as otherwise specifically provided by the Congress, be paid by the government of the Philippines.

"Sec. 5. That the statutory laws of the United States hereafter enacted shall not apply to the Philippine Islands, except when they specifically so provide, or it is so provided in this act.

"Sec. 6. That the laws now in force in the Philippines shall continue in force and effect, except as altered, amended, or modified herein, until altered, amended, or repealed by the legislative authority herein provided or by act of Congress of the United States.

"Sec. 7. That the legislative authority herein provided shall have power, when not inconsistent with this act, by due enactment to amend, alter, modify, or repeal any law, civil or criminal, continued in force by this act as it may from time to time see fit.

"This power shall specifically extend with the limitation herein provided as to the tariff to all laws relating to revenue and taxation in effect in the Philippines.

"Sec. 8. That general legislative power, except as otherwise herein provided, is hereby granted to the Philippine Legislature, authorized by this act.

"Sec. 9. That all the property and rights which may have been acquired in the Philippine Islands by the United States under the treaty of peace with Spain, signed December 10, 1898, except such land or other property as has been or shall be designated by the President of the United States for military and other reservations of the Government of the United States, and all lands which may have been subsequently acquired by the government of the Philippine Islands by purchase under the provisions of sections 63 and 64 of the act of Congress approved July 1, 1902, except such as may have heretofore been sold and disposed of in accordance with the provisions of said act of Congress, are hereby placed under the control of the government of said islands to be administered or disposed of for the benefit of the inhabitants thereof, and the Philippine Legislature shall have power to legislate with respect to all such matters as it may deem advisable; but acts of the Philippine Legislature with reference to land of the public domain, timber, and mining, hereafter enacted, shall not have the force of law until approved by the President of the United States: *Provided*, That upon the approval of such an act by the Governor General, it shall be by him forthwith transmitted to the President of the United States, and he shall approve or disapprove the same within six months from and after its enactment and submission for his approval, and if not disapproved within such time it shall become a law the same as if it had been specifically approved: *Provided further*, That where lands in the Philippine Islands have been or may be reserved for any public purpose of the United States, and, being no longer required for the purpose for which reserved, have been or may be, by order of the President, placed under the control of the government of said islands to be administered for the benefit of the inhabitants thereof, the order of the President shall be regarded as effectual to give the government of said islands full control and power to administer and dispose of such lands for the benefit of the inhabitants of said islands.

"Sec. 10. That while this Act provides that the Philippine government shall have the authority to enact a tariff law the trade relations between the islands and the United States shall continue to be governed exclusively by laws of the Congress of the United States: *Provided*, That tariff acts or acts amendatory to the tariff of the Philippine Islands shall not become law until they shall receive the approval of the President of the United States, nor shall any act of the Philippine Legislature affecting immigration or the currency or coinage laws of the Philippines become a law until it has been approved by the President of the United States: *Provided further*, That the President shall approve or disapprove any act mentioned in the foregoing proviso within six months from and after its enactment and submission for his approval, and if not disapproved within such time it shall become a law the same as if it had been specifically approved.

"Sec. 11. That no export duties shall be levied or collected on exports from the Philippine Islands, but taxes and assessments on property and license fees for franchises, and privileges, and internal taxes, direct or indirect, may be imposed for the purposes of the Philippine government and the provincial and municipal governments thereof, respectively, as may be provided and defined by acts of the Philippine Legislature, and, where necessary to anticipate taxes and revenues, bonds and other obligations may be issued by the Philippine government or any provincial or municipal government therein, as may be provided by law and to protect the public credit: *Provided*,

however, That the entire indebtedness of the Philippine government created by the authority conferred herein shall not exceed at any one time the sum of \$15,000,000, exclusive of those obligations known as friar-land bonds, nor that of any province or municipality a sum in excess of seven per centum of the aggregate tax valuation of its property at any one time.

"Sec. 12. That general legislative powers in the Philippines, except as herein otherwise provided, shall be vested in a legislature which shall consist of two houses, one the senate and the other the house of representatives, and the two houses shall be designated 'The Philippine Legislature': *Provided*, That, until the Philippine Legislature as herein provided shall have been organized, the existing Philippine Legislature shall have all legislative authority herein granted to the Government of the Philippine Islands, except such as may now be within the exclusive jurisdiction of the Philippine commission, which is so continued until the organization of the legislature herein provided for the Philippines. When the Philippine Legislature shall have been organized, the exclusive legislative jurisdiction and authority exercised by the Philippine Commission shall thereafter be exercised by the Philippine Legislature.

"Sec. 13. That the members of the Senate of the Philippines, except as herein provided, shall be elected for terms of six and three years, as hereinafter provided, by the qualified electors of the Philippines. Each of the senatorial districts defined as hereinafter provided shall have the right to elect two senators. No person shall be an elective member of the Senate of the Philippines who is not a qualified elector and over 30 years of age, and who is not able to read and write either the Spanish or English language, and who has not been a resident of the Philippines for at least two consecutive years and an actual resident of the senatorial district from which chosen for a period of at least one year immediately prior to his election.

"Sec. 14. That the members of the house of representatives shall, except as herein provided, be elected triennially by the qualified electors of the Philippines. Each of the representative districts hereinafter provided for shall have the right to elect one representative. No person shall be an elective member of the house of representatives who is not a qualified elector and over 25 years of age, and who is not able to read and write either the Spanish or English language, and who has not been an actual resident of the district from which elected for at least one year immediately prior to his election.

"Sec. 15. That at the first election held pursuant to this act the qualified electors shall be those having the qualifications of voters under the present law; thereafter and until otherwise provided by the Philippine Legislature herein provided for the qualifications of voters for senators and representatives in the Philippines and all officers elected by the people shall be as follows:

"Every male citizen of the Philippines 21 years of age or over (except insane and feeble-minded persons and those convicted in a court of competent jurisdiction of an infamous offense since the 13th day of August, 1898), who shall have been a resident of the Philippines for one year and of the municipality in which he shall offer to vote for six months next preceding the day of voting, and who is comprised within one of the following classes:

"(a) Those who under existing law are legal voters and have exercised the right of suffrage.

"(b) Those who own real property to the value of 500 pesos, or who annually pay 30 pesos or more of the established taxes.

"(c) Those who are able to read and write either Spanish, English, or a native language.

"Sec. 16. That the first Philippine Legislature provided for under this act shall be composed of a house of representatives consisting of the members of the present assembly elected on the first Tuesday in June, 1916, which after the passage of this act shall be known as the house of representatives, who shall hold office until representatives herein provided for shall have been elected, and of a senate whose members shall be elected on the first Tuesday in October, 1916, unless the Governor General in his discretion shall fix another date not earlier than 30 nor later than 60 days after the passage of this act, of which due proclamation shall be made. At said first election there shall be chosen one senator from each senate district for a term of three years and one for a term of six years, thereafter one senator from each district shall be elected from each senate district for a term of six years. That on the first Tuesday in October, 1919, each representative district shall elect one representative for a term of three years and triennially thereafter: *Provided*, That the Governor General of the Philippine Islands shall appoint without the consent of the senate and without restriction as to residence senators and representatives who will in his opinion best represent the senate district and those representative dis-

tricts which shall be included in the territory not now represented in the Philippine Assembly: *Provided*, That thereafter elections shall be held only on such days and under such regulations as to ballots, voting and qualifications of electors as may be prescribed by the Philippine Legislature which is hereby given authority to redistrict the Philippine Islands and modify, amend, or repeal any provision of this section.

"SEC. 17. That the terms of office of elective senators and representatives shall be six and three years, respectively, and shall begin on the date of their election. In case of vacancy among the elective members of the senate or in the house of representatives, special elections may be held in the districts wherein such vacancy occurred under such regulations as may be prescribed by law, but senators or representatives elected in such cases shall hold office only for the unexpired portion of the term wherein the vacancy occurred. Senators and representatives appointed by the Governor General shall hold office until removed by the Governor General.

"SEC. 18. That the senate and house of representatives, respectively, shall be the sole judges of the elections, returns, and qualifications of their elective members, and each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel an elective member. Both houses shall convene at the capital on the 16th day of October next following the election and organize by the election of a speaker or a presiding officer, a clerk, and a sergeant at arms for each house, and such other officers and assistants as may be required. A majority of each house shall constitute a quorum to do business, but a smaller number may meet, adjourn from day to day, and compel the attendance of absent members. The legislature shall hold annual sessions, commencing on the 16th day of October, or, if the 16th day of October be a legal holiday, then on the first day following which is not a legal holiday, in each year. The legislature may be called in special session at any time by the Governor General for general legislation, or for action on such specific subjects as he may designate. No special session shall continue longer than 30 days, and no regular session shall continue longer than 100 days, exclusive of Sundays. The legislature is hereby given the power and authority to change the date of the commencement of its annual sessions.

"The senators and representatives shall receive an annual compensation for their services, to be ascertained by law, and paid out of the treasury of the Philippine Islands. The senators and representatives shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

"No senator or representative shall, during the time for which he may have been elected, be eligible to any office the election to which is vested in the legislature, nor shall be appointed to any office of trust or profit which shall have been created or the emoluments of which shall have been increased during such term.

"SEC. 19. That each house of the legislature shall keep a journal of its proceedings and, from time to time, publish the same; and the yeas and nays of the members of either house, on any question, shall, upon demand of one-fifth of those present, be entered on the journal, and every bill and joint resolution which shall have passed both houses shall, before it becomes a law, be presented to the Governor General. If he approve the same, he shall sign it; but if not, he shall return it with his objections to that house in which it shall have originated, which shall enter the objections at large on its journal and proceed to reconsider it. If, after such reconsideration, two-thirds of the members elected to that house shall agree to pass the same, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members elected to that house it shall be sent to the Governor General, who, in case he shall then not approve, shall transmit the same to the President of the United States. The vote of each house shall be by the yeas and nays, and the names of the members voting for and against shall be entered on the journal. If the President of the United States approve the same, he shall sign it and it shall become a law. If he shall not approve same, he shall return it to the Governor General, so stating, and it shall not become a law: *Provided*, That if any bill or joint resolution shall not be returned by the Governor General as herein provided within 20 days (Sundays excepted) after it shall have been presented to him the same shall become a law in like manner as if he had signed it, unless the legislature by adjournment prevent its return, in which case it shall become a law unless vetoed by the Governor General within 30 days after adjournment: *Provided*

further, That the President of the United States shall approve or disapprove an act submitted to him under the provisions of this section within six months from and after its enactment and submission for his approval; and if not approved within such time, it shall become a law the same as if it had been specifically approved. The Governor General shall have the power to veto any particular item or items of an appropriation bill, but the veto shall not affect the item or items to which he does not object. The item or items objected to shall not take effect except in the manner heretofore provided in this section as to bills and joint resolutions returned to the legislature without his approval.

"All laws enacted by the Philippine Legislature shall be reported to the Congress of the United States, which hereby reserves the power and authority to annul the same. If at the termination of any fiscal year the appropriations necessary for the support of government for the ensuing fiscal year shall not have been made, the several sums appropriated in the last appropriation bills for the objects and purposes therein specified, so far as the same may be done, shall be deemed to be reappropriated for the several objects and purposes specified in said last appropriation bill; and until the legislature shall act in such behalf the treasurer shall, when so directed by the Governor General, make the payments necessary for the purposes aforesaid.

"SEC. 20. That at the first meeting of the Philippine Legislature created by this act and triennially thereafter there shall be chosen by the legislature two Resident Commissioners to the United States, who shall hold their office for a term of three years beginning with the 4th day of March following their election, and who shall be entitled to an official recognition as such by all departments upon presentation to the President of a certificate of election by the Governor General of said islands. Each of said Resident Commissioners shall, in addition to the salary and the sum in lieu of mileage now allowed by law, be allowed the same sum for stationery and for the pay of necessary clerk hire as is now allowed to the Members of the House of Representatives of the United States, and the franking privilege allowed by law to Members of Congress. No person shall be eligible to election as Resident Commissioner who is not a bona fide elector of said islands and who does not owe allegiance to the United States and who is not more than 30 years of age and who does not read and write the English language. The present two Resident Commissioners shall hold office until the 4th of March, 1917. In case of vacancy in the position of Resident Commissioner caused by resignation or otherwise, the Governor General may make temporary appointments until the next meeting of the Philippine Legislature, which shall then fill such vacancy; but the Resident Commissioner thus elected shall hold office only for the unexpired portion of the term wherein the vacancy occurred.

"SEC. 21. That the supreme executive power shall be vested in an executive officer, whose official title shall be 'The Governor General of the Philippine Islands.' He shall be appointed by the President, by and with the advice and consent of the Senate of the United States, and hold his office at the pleasure of the President and until his successor is chosen and qualified. The Governor General shall reside in the Philippine Islands during his official incumbency, and maintain his office at the seat of government. He shall, unless otherwise herein provided, appoint, by and with the consent of the Philippine Senate, such officers as may now be appointed by the Governor General, or such as he is authorized by this act to appoint, or whom he may hereafter be authorized by law to appoint; but appointments made while the senate is not in session shall be effective either until disapproval or until the next adjournment of the senate. He shall have general supervision and control of all of the departments and bureaus of the government in the Philippine Islands as far as is not inconsistent with the provisions of this act, and shall be commander in chief of all locally created armed forces and militia. He is hereby vested with the exclusive power to grant pardons and reprieves and remit fines and forfeitures, and may veto any legislation enacted as herein provided. He shall submit within ten days of the opening of each regular session of the Philippine Legislature a budget of receipts and expenditures which shall be the basis of the annual appropriation bill. He shall commission all officers that he may be authorized to appoint. He shall be responsible for the faithful execution of the laws of the Philippine Islands and of the United States operative within the Philippine Islands, and whenever it becomes necessary he may call upon the commanders of the military and naval forces of the United States in the islands, or summon the posse comitatus, or call out the militia or other locally created armed forces, to prevent or suppress lawless

violence, invasion, insurrection, or rebellion; and he may, in case of rebellion or invasion, or imminent danger thereof, when the public safety requires it, suspend the privileges of the writ of habeas corpus, or place the islands, or any part thereof, under martial law: *Provided*, That whenever the Governor General shall exercise the authority granted in this section, he shall at once notify the President of the United States thereof, together with the attending facts and circumstances, and the President shall have power to modify or vacate the action of the Governor General. He shall annually and at such other times as he may be required make such official report of the transactions of the government of the Philippine Islands to an executive department of the United States to be designated by the President, and his said annual report shall be transmitted to the Congress of the United States; and he shall perform such additional duties and functions as may in pursuance of law be delegated or assigned to him by the President.

"Sec. 22. That, except as provided otherwise in this act, the executive departments of the Philippine government shall continue as now authorized by law until otherwise provided by the Philippine Legislature. When the Philippine Legislature herein provided shall convene and organize the Philippine Commission as such shall cease and determine and the members thereof shall vacate their offices as members of said commission: *Provided*, That the heads of executive departments shall continue to exercise their executive functions until the heads of departments provided by the Philippine Legislature pursuant to the provisions of this act are appointed and qualified. The Philippine Legislature may thereafter by appropriate legislation increase the number or abolish any of the executive departments or make such changes in the names and duties thereof as it may see fit and shall provide for the appointment and removal of the heads of the executive departments by the Governor General: *Provided*, That all executive functions of the government must be directly under the Governor General or within one of the executive departments under the supervision and control of the Governor General. There shall be established by the Philippine Legislature a bureau, to be known as the Bureau of Non-Christian Tribes, which said bureau shall be embraced in one of the executive departments to be designated by the Governor General and shall have general supervision over the public affairs of the inhabitants of the territory represented in the legislature by appointive senators and representatives.

"Sec. 23. That there shall be appointed by the President, by and with the advice and consent of the Senate of the United States, a vice governor of the Philippine Islands, who shall have all of the powers of the Governor General in the case of a vacancy or temporary removal, resignation, or disability of the Governor General, or in case of his temporary absence; and the said vice governor shall be the head of the executive department, known as the department of public instruction, which shall include the bureau of education and the bureau of health, and he may be assigned such other executive duties as the Governor General may designate.

Other bureaus now included in the department of public instruction shall, until otherwise provided by the Philippine Legislature, be included in the department of the interior.

"The President may designate the head of an executive department of the Philippine government to act as Governor General in the case of a vacancy, the temporary removal, resignation, or disability of the Governor General and of the vice governor, or their temporary absence, and the head of the department thus designated shall exercise all the powers and perform all the duties of the Governor General during such vacancy, disability, or absence.

"Sec. 24. That there shall be appointed by the President an auditor, who shall examine, audit, and settle all accounts pertaining to the revenues and receipts from whatever source of the Philippine government and of the provincial and municipal governments of the Philippines, including trust funds and funds derived from bond issues; and audit, in accordance with law and administrative regulations, all expenditures of funds or property pertaining to or held in trust by the government or the Provinces or municipalities thereof. He shall perform a like duty with respect to all government branches.

"He shall keep the general accounts of the government and preserve the vouchers pertaining thereto.

"It shall be the duty of the auditor to bring to the attention of the proper administrative officer expenditures of funds or property which, in his opinion, are irregular, unnecessary, excessive, or extravagant.

"There shall be a deputy auditor appointed in the same manner as the auditor. The deputy auditor shall sign such official papers as the auditor may designate and perform such other

duties as the auditor may prescribe, and in case of the death, resignation, sickness, or other absence of the auditor from his office, from any cause, the deputy auditor shall have charge of such office. In case of the absence from duty, from any cause, of both the auditor and the deputy auditor, the Governor General may designate an assistant, who shall have charge of the office.

"The administrative jurisdiction of the auditor over accounts, whether of funds or property, and all vouchers and records pertaining thereto, shall be exclusive. With the approval of the Governor General he shall from time to time make and promulgate general or special rules and regulations not inconsistent with law covering the method of accounting for public funds and property, and funds and property held in trust by the government or any of its branches: *Provided*, That any officer accountable for public funds or property may require such additional reports or returns from his subordinates or others as he may deem necessary for his own information and protection.

"The decisions of the auditor shall be final and conclusive upon the executive branches of the government, except that appeal therefrom may be taken by the party aggrieved or the head of the department concerned within one year, in the manner hereinafter prescribed. The auditor shall, except as hereinafter provided, have like authority as that conferred by law upon the several auditors of the United States and the Comptroller of the United States Treasury and is authorized to communicate directly with any person having claims before him for settlement, or with any department, officer, or person having official relations with his office.

"As soon after the close of each fiscal year as the accounts of said year may be examined and adjusted the auditor shall submit to the Governor General and the Secretary of War an annual report of the fiscal concerns of the government, showing the receipts and disbursements of the various departments and bureaus of the government and of the various Provinces and municipalities, and make such other reports as may be required of him by the Governor General or the Secretary of War.

"In the execution of their duties the auditor and the deputy auditor are authorized to summon witnesses, administer oaths, and to take evidence, and, in the pursuance of these provisions, may issue subpoenas and enforce the attendance of witnesses, as now provided by law.

"The office of the auditor shall be under the general supervision of the Governor General and shall consist of the auditor and deputy auditor and such necessary assistants as may be prescribed by law.

"Sec. 25. That any person aggrieved by the action or decision of the auditor in the settlement of his account or claim may, within one year, take an appeal in writing to the Governor General, which appeal shall specifically set forth the particular action of the auditor to which exception is taken, with the reason and authorities relied on for reversing such decision.

"If the Governor General shall confirm the action of the auditor, he shall so indorse the appeal and transmit it to the auditor, and the action shall thereupon be final and conclusive. Should the Governor General fail to sustain the action of the auditor, he shall forthwith transmit his grounds of disapproval to the Secretary of War, together with the appeal and the papers necessary to a proper understanding of the matter. The decision of the Secretary of War in such case shall be final and conclusive.

"Sec. 26. That the supreme court and the courts of first instance of the Philippine Islands shall possess and exercise jurisdiction as heretofore provided and such additional jurisdiction as shall hereafter be prescribed by law. The municipal courts of said islands shall possess and exercise jurisdiction as now provided by law, subject in all matters to such alteration and amendment as may be hereafter enacted by law; and the chief justice and associate justices of the supreme court shall hereafter be appointed by the President, by and with the advice and consent of the Senate of the United States. The judges of the court of first instance shall be appointed by the Governor General, by and with the advice and consent of the Philippine Senate: *Provided*, That the admiralty jurisdiction of the supreme court and courts of first instance shall not be changed except by act of Congress. That in all cases pending under the operation of existing laws, both criminal and civil, the jurisdiction shall continue until final judgment and determination.

"Sec. 27. That the Supreme Court of the United States shall have jurisdiction to review, revise, reverse, modify, or affirm the final judgments and decrees of the Supreme Court of the Philippine Islands in all actions, cases, causes, and proceedings now pending therein or hereafter determined thereby in which the Constitution or any statute, treaty, title, right, or privilege of the United States is involved, or in causes in which the value

in controversy exceeds \$25,000, or in which the title or possession of real estate exceeding in value the sum of \$25,000, to be ascertained by the oath of either party or of other competent witnesses, is involved or brought in question; and such final judgments or decrees may and can be reviewed, revised, reversed, modified, or affirmed by said Supreme Court of the United States on appeal or writ of error by the party aggrieved within the same time, in the same manner, under the same regulations, and by the same procedure, as far as applicable, as the final judgments and decrees of the district courts of the United States.

"SEC. 28. That the government of the Philippine Islands may grant franchises and rights, including the authority to exercise the right of eminent domain, for the construction and operation of works of public utility and service, and may authorize said works to be constructed and maintained over and across the public property of the United States, including streets, highways, squares, and reservations, and over similar property of the government of said islands, and may adopt rules and regulations under which the provincial and municipal government of the islands may grant the right to use and occupy such public property belonging to said Provinces or municipalities: *Provided*, That no private property shall be damaged or taken for any purpose under this section without just compensation, and that such authority to take and occupy land shall not authorize the taking, use, or occupation of any land except such as is required for the actual necessary purposes for which the franchise is granted, and that no franchise or right shall be granted to any individual, firm, or corporation except under the conditions that it shall be subject to amendment, alteration, or repeal by the Congress of the United States, and that lands or right of use and occupation of lands thus granted shall revert to the governments by which they were respectively granted upon the termination of the franchises and rights under which they were granted or upon their revocation or repeal. That all franchises or rights granted under this act shall forbid the issue of stock or bonds except in exchange for actual cash or for property at a fair valuation equal to the par value of the stock or bonds so issued; shall forbid the declaring of stock or bond dividends, and, in the case of public-service corporations shall provide for the effective regulation of the charges thereof, for the official inspection and regulation of the books and accounts of such corporations, and for the payment of a reasonable percentage of gross earnings into the treasury of the Philippine Islands or of the Province or municipality within which such franchises are granted and exercised: *Provided further*, That it shall be unlawful for any corporation organized under this act, or for any person, company, or corporation receiving any grant, franchise, or concession from the government of said islands, to use, employ, or contract for the labor of persons held in involuntary servitude; and any person, company, or corporation so violating the provisions of this act shall forfeit all charters, grants, or franchises for doing business in said islands, in an action or proceeding brought for that purpose in any court of competent jurisdiction by any officer of the Philippine government, or on the complaint of any citizen of the Philippines, under such regulations and rules as the Philippine Legislature shall prescribe, and in addition shall be deemed guilty of an offense, and shall be punished by a fine of not more than \$10,000.

"SEC. 29. That, except as in this act otherwise provided, the salaries of all the officials of the Philippines not appointed by the President, including deputies, assistants, and other employees, shall be such and be so paid out of the revenues of the Philippines as shall from time to time be determined by the Philippine Legislature. The salaries of all officers and all expenses of the offices of the various officials of the Philippines appointed as herein provided by the President shall also be paid out of the revenues of the Philippines. The annual salaries of the following-named officials appointed by the President and so to be paid shall be: The Governor General, \$18,000; in addition thereto he shall be entitled to the occupancy of the buildings heretofore used by the chief executive of the Philippines, with the furniture and effects therein, free of rental; chief justice of the supreme court, \$8,000; associate justices of the supreme court, \$7,500 each; auditor, \$6,000; deputy auditor, \$3,000.

"SEC. 30. That the provisions of the foregoing section shall not apply to provincial and municipal officials; their salaries and the compensation of their deputies, assistants, and other help, as well as all other expenses incurred by the Provinces and municipalities, shall be paid out of the provincial and municipal revenues in such manner as the Philippine Legislature shall provide.

"SEC. 31. That all laws or parts of laws applicable to the Philippines not in conflict with any of the provisions of this act are hereby continued in force and effect."

GILBERT M. HITCHCOCK,
JOHN F. SHAFROTH,
Managers on the part of the Senate.

W. A. JONES,
JOE J. RUSSELL,
Managers on the part of the House.

RECESS.

Mr. ROBINSON. I move the Senate take a recess until tomorrow morning at 10 o'clock.

The motion was agreed to; and (at 6 o'clock and 3 minutes p. m., Monday, August 7, 1916) the Senate took a recess until to-morrow, Tuesday, August 8, 1916, at 10 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate August 7 (legislative day of August 5), 1916.

REGISTER OF THE LAND OFFICE.

William Edward Byerly, of Velva, N. Dak., to be register of the land office at Williston, N. Dak., vice Thomas B. Murphy, whose term will expire August 7, 1916.

ASSISTANT SURGEONS, PUBLIC HEALTH SERVICE.

Dr. Clifford R. Eskey to be assistant surgeon in the Public Health Service, to take effect from date of oath.

Dr. Joseph D. Stout to be assistant surgeon in the Public Health Service, to take effect from date of oath.

Dr. Edwin O. Woods to be assistant surgeon in the Public Health Service, to take effect from date of oath.

PROMOTIONS IN THE ARMY.

QUARTERMASTER CORPS.

Lieut. Col. Frank F. Eastman, Quartermaster Corps, to be colonel from August 1, 1916, subject to examination required by law, vice Col. George B. Davis, retired from active service July 31, 1916.

Maj. Hugh J. Gallagher, Quartermaster Corps, to be lieutenant colonel from August 1, 1916, subject to examination required by law, vice Lieut. Col. Frank T. Eastman, promoted.

SIGNAL CORPS.

Capt. George S. Gibbs, Signal Corps, to be major from July 27, 1916, vice Maj. William Mitchell, detailed in the Aviation Section of the Signal Corps.

APPOINTMENTS IN THE ARMY.

MEDICAL RESERVE CORPS.

To be first lieutenants in the Medical Reserve Corps with rank from July 29, 1916.

Nicolo Vincenzo Alessi, of Louisiana.

James Stevenson Allen, of New York.

Joseph David Aronson, of Pennsylvania.

Eugene Jacob Asnis, of Pennsylvania.

Carl Lewis Barnes, of Illinois.

William Bates, of New Jersey.

John Jacob Beard, of New York.

Leo Pecci Bell, of Missouri.

Burnett Boisseau Benson, of Kentucky.

Leo Hellee Bernd, of Pennsylvania.

Joel Ives Butler, of Arizona.

Burns Stoddard Chaffee, of California.

George Houghton Clapp, of Pennsylvania.

William Arthur Clark, of Illinois.

Clayton Reynolds Clarke, of New York.

Alfred Burwell Claytor, of Pennsylvania.

Inman Williams Cooper, jr., of Mississippi.

W. Claude Copeland, of Colorado.

Edward Foulke Corson, of Pennsylvania.

James Hugh Finch, of Illinois.

Charles Edward Belin Flagg, of Washington.

Elisha Flagg, of Massachusetts.

James Lennon Foley, of Illinois.

Channing Frothingham, jr., of Massachusetts.

John Patrick Gallagher, of Pennsylvania.

Charles Robert Gill, of New York.

Carl Goehring, of Nebraska.

Frederic Grosvenor Goodridge, of Connecticut.

Samuel Ashby Grantham, of Missouri.

Robert Bruce Grimes, jr., of Pennsylvania.

Arthur Joseph Hall, of the District of Columbia.

Thomas Farris Hale, of Pennsylvania.
 Edward Wilbur Hanson, of Illinois.
 Byron Harry Hermann, of New York.
 Ralph Abram Hurd, of New York.
 William James, of New Jersey.
 John Prentiss Lord, of Nebraska.
 Floyd Willcox McRae, jr., of Georgia.
 James Robert McVay, of Missouri.
 Hertel Philip Makel, of Maryland.
 Laurence Hampson Mayers, of Illinois.
 Hugo Mella, of North Dakota.
 Edwin Morton Miller, of Illinois.
 Thomas Grier Miller, of Pennsylvania.
 George Richards Minot, of Massachusetts.
 Daniel Virgil Moore, of South Dakota.
 Cecil Goddard Morehouse, of Iowa.
 John Walter Morris, of Tennessee.
 Roscoe Edward Mosiman, of Ohio.
 Frank Reid Mount, of Oregon.
 Hugh Stevens Mount, of Oregon.
 Percy Musgrave, of Pennsylvania.
 William Herman Myers, of Georgia.
 Arthur Newlin, of Pennsylvania.
 Frank Roberts Ober, of Massachusetts.
 John Elbert O'Keefe, of Iowa.
 George Kingsley Olmsted, of Colorado.
 Robert Bayley Osgood, of Massachusetts.
 Alfred Harrison Parsons, of New York.
 Francis Weld Peabody, of Massachusetts.
 Albert Pfeiffer, of New York.
 Damon Beckett Pfeiffer, of Pennsylvania.
 Edgar Warden Phillips, of New York.
 William Oscar Hampton Prosser, of Pennsylvania.
 George Kremer Rhodes, of Maryland.
 David Riesman, of Pennsylvania.
 James Stevens Simmons, of Pennsylvania.
 Frank Conger Smith, of South Dakota.
 Mitchell Porter Stiles, of Pennsylvania.
 August Adrian Strasser, of New Jersey.
 George Reed Tabor, of Texas.
 William Barclay Terhune, of Louisiana.
 Donald Vaughn Trueblood, of Washington.
 Ira Clinton Tyndall, of Maryland.
 Norris Wistar Vaux, of Pennsylvania.
 Charles Edward Waits, of Georgia.
 James Ralston Wells, of Pennsylvania.
 Walter John Whitehouse, of Pennsylvania.
 Harry Leigh Willson, of Pennsylvania.
 George Wilson, of Pennsylvania.
 Henry Otto Wyneken, of Texas.
 Walter Meredith Boothby, of Massachusetts.
 Louis Herbert Burlingham, of Massachusetts.
 George Parkman Denny, of Massachusetts.
 William Lincoln Noble, of Illinois.
 Harry Reeves Oliver, of California.
 Frederic Kammerer, of New York, late first lieutenant in the Medical Reserve Corps.

Arthur Garner Coumbe, of Virginia.
 Linus Reed Cranmer, of Ohio.
 Frederick John Cullen, of Washington.
 John Blair Deaver, of Pennsylvania.
 Frank Martin Dedaker, of Pennsylvania.
 John Sebastian Derr, of Georgia.
 Henry Kuhl Dillard, jr., of Pennsylvania.
 Clarence Eugene Drake, of Texas.
 William Drayton, jr., of Pennsylvania.
 Henry Culp Earnshaw, of Pennsylvania.
 James Bennett Edwards, of New Jersey.
 Edward Coleman Ellett, of Tennessee.

PROMOTIONS AND APPOINTMENTS IN THE NAVY.

The following-named ensigns to be lieutenants (junior grade) in the Navy from the 7th day of June, 1916:

Bruce G. Leighton,
 Harold C. Van Valzah,
 Paul A. Stevens,
 Reginald S. H. Venable,
 John M. Kates,
 Eric F. Zemke,
 Edward J. O'Keefe,
 Arthur S. Walton,
 Valentine Wood,
 Henry A. Sellar,
 Julian B. Timberlake, jr.,
 Laurence W. Clarke,

Arnold Marcus, and
 Ligon B. Ard.
 Ensign Ray H. Wakeman to be a lieutenant (junior grade) in the Navy from the 8th day of December, 1915.
 John W. Draper, a citizen of New York, to be an assistant surgeon in the Medical Reserve Corps of the Navy from the 2d day of August, 1916.
 Boatswain Edward Sweeney to be a chief boatswain in the Navy from the 21st day of December, 1915.

CONFIRMATIONS.

Executive nominations confirmed by the Senate August 7 (legislative day of August 5), 1916.

UNITED STATES ATTORNEY.

James O. Carr to be United States attorney for the eastern district of North Carolina.

SECRETARY OF EMBASSY.

CLASS 4.

Benjamin Thaw, jr., to be a secretary of embassy or legation of class 4.

EXCISE BOARD.

Andrew J. Cummings to be a member of the Excise Board for the District of Columbia for a term of three years.

POSTMASTERS.

IOWA.

H. L. Cartwright, Union.

KANSAS.

Charles M. Dillman, Cimarron.

NEBRASKA.

J. B. Davis, Humboldt.

NORTH DAKOTA.

Minnie M. Luce, Hope.

OHIO.

Glenn Baker, Centerburg.

OREGON.

Ira Wimberly, Drain.

TEXAS.

W. P. Copeland, Roscoe.
 Burney Reagan, Big Spring.
 J. L. Wilson, Celina.
 J. O. Wood, Wellington.

VERMONT.

John Layden, West Pawlet.

WASHINGTON.

Arthur B. Foley, Wilbur.
 Lester S. Overholt, Omak.

WISCONSIN.

William Dailey, Birnamwood.

HOUSE OF REPRESENTATIVES.

MONDAY, August 7, 1916.

The House met at 12 o'clock noon.

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

Eternal God, dispenser of all good, amid the confusion of tongues, the clash of convictions, the criminations and recriminations, the roar of battle, the groans of the wounded and dying, the far cry of the bereaved, the widows and orphans, help us to put our souls into that prayer of prayers which fell from the lips of the world's greatest Teacher, Prophet and Seer and try to live it.

Our Father who art in heaven, hallowed be Thy name. Thy kingdom come. Thy will be done in earth as it is in heaven. Give us this day our daily bread, and forgive us our debts, as we forgive our debtors, and lead us, not into temptation, but deliver us from evil: for Thine is the kingdom, and the power, and the glory, forever. Amen.

The Journal of the proceedings of Saturday, August 5, 1916, was read and approved.

ELECTION CONTEST—GEORGE HOLDEN TINKHAM.

Mr. HAMILL. Mr. Speaker, I offer the following privileged resolution from the Committee on Elections No. 2, which I send to the desk and ask to have read.

The Clerk read as follows:

House resolution 340.

Resolved, That GEORGE HOLDEN TINKHAM was duly elected a Member of the Sixty-fourth Congress as a Representative from the eleventh congressional district of Massachusetts and is entitled to the seat therein.

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

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Waldorf, one of its clerks, announced that the Senate had passed without amendment bills of the following titles:

H. R. 20. An act authorizing the county of Gunnison, Colo., to purchase certain public lands for public-park purposes;

H. R. 11162. An act to amend an act entitled "An act to authorize entry of the public lands in incorporated cities and towns for cemetery and park purposes";

H. R. 14868. An act to accept the cession by the State of Oregon of exclusive jurisdiction over the lands embraced within the Crater Lake National Park, and for other purposes;

H. R. 7419. An act granting a patent to a certain strip of land to Elisha A. Crandall;

H. R. 12248. An act for the relief of the estate of Mary H. S. Robertson, deceased;

H. R. 6758. An act for the relief of the legal heirs of Hector M. McDonald, deceased;

H. R. 8630. An act for the relief of the Farmers' State Bank, of Eureka, Woodford County, Ill.;

H. R. 8141. An act for the relief of the dependent widow of Patrick Curran, civilian employee of the Government, who was killed while in the discharge of his duties at the United States naval magazine at Iona Island, N. Y.;

H. R. 14528. An act for the relief of W. W. Finn;

H. R. 10641. An act for the relief of Fred Henderson;

H. R. 5453. An act for the relief of the State board of harbor commissioners of the State of California;

H. R. 2052. An act for the relief of the estate of William D. Allen;

H. R. 10643. An act for the relief of Theodore Bagge;

H. R. 1777. An act for the relief of Frank J. Deutsch;

H. R. 11984. An act for the relief of William E. Heffner;

H. R. 8200. An act for the relief of M. E. Sitlers;

H. R. 12123. An act to appropriate money to build and maintain roads on the Spokane Indian Reservation;

H. R. 14952. An act to reimburse J. T. Nance;

H. R. 9375. An act for the relief of J. M. Potter;

H. R. 13982. An act to extend temporarily the time for filing applications and fees and taking action in the United States Patent Office in favor of nations granting reciprocal rights to United States citizens;

H. R. 7396. An act for the relief of Hiram P. Geaslin;

H. R. 2555. An act for the relief of the Minnesota & Ontario Power Co.;

H. R. 10052. An act to reimburse J. T. Nance;

H. R. 14299. An act to amend section 33 of an act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911;

H. R. 10546. An act for the relief of the Illinois Central Railroad Co., and for other purposes;

H. R. 11416. An act to repeal an act approved March 2, 1895, entitled "An act to amend section 3 of the act entitled 'An act to regulate the liens of judgments and decrees of the courts of the United States,' approved August 1, 1888";

H. R. 15777. An act to ratify, approve, and confirm an act duly enacted by the Legislature of the Territory of Hawaii as amended by Congress relating to the granting of a franchise for the purpose of manufacturing and supplying gas in the district of South Hilo, county of Hawaii, Territory of Hawaii; and

H. R. 7062. An act for the relief of Erskine R. Hayes.

The message also announced that the Senate had passed with amendments bills of the following titles, in which the concurrence of the House of Representatives was requested:

H. R. 15522. An act to establish a national park service, and for other purposes;

H. R. 1528. An act for the relief of Martin Huhn; and

H. R. 11129. An act for the relief of the owners of the barkentine *Mabel I. Meyers* and her master and crew and for the relief of the owners of cargo of molasses late on board said barkentine.

The message also announced that the Senate had insisted upon its amendments to the bill (H. R. 15048) granting pensions and increase of pensions to certain soldiers and sailors of the Civil war and certain widows and dependent children of soldiers and sailors of said war, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the

disagreeing votes of the two Houses thereon, and had appointed Mr. JOHNSON of Maine, Mr. HUGHES, and Mr. SMOOR as the conferees on the part of the Senate.

The message also 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. 4654. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War and to certain widows and dependent relatives of such soldiers and sailors; and

S. 5914. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War and to certain widows and dependent relatives of such soldiers and sailors.

The message also announced that the Senate had insisted upon its amendments to the bill (H. R. 15774) making appropriations to provide for the expenses of the District of Columbia for the fiscal year ending June 30, 1917, and for other purposes, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. SMITH of Maryland, Mr. ROBINSON, and Mr. GALLINGER as the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 6331. An act authorizing the Secretary of the Interior to issue patent to William H. Ingle for homestead entry in Colorado;

S. 3681. An act for the relief of the owners of the steamship *Esparta*;

S. 6227. An act to increase the area of the United States Botanic Garden in the city of Washington, D. C.;

S. 6013. An act to confirm the entry of John Dowd;

S. 1548. An act for the relief of Emmett W. Entrikey;

S. 6626. An act to fix the rate of pay for compositors and bookbinders in the Government Printing Office;

S. 10. An act to correct the military record of Clayton H. Adams;

S. 736. An act to correct the military record of John P. Webber, alias John J. Webber;

S. 6154. An act for the relief of Dr. Charles Lee Baker;

S. 6287. An act for the relief of Joseph Eubor;

S. 6308. An act to authorize the Secretary of the Interior to lease for production of oil and gas ceded lands of the Shoshone or Wind River Indian Reservation in the State of Wyoming;

S. 1265. An act for the relief of J. G. Senpelt;

S. 3774. An act to authorize the sale of lands allotted to Indians under the Moses agreement of July 7, 1883;

S. 3647. An act for the relief of Moses C. Tingley;

S. 3972. An act to provide for selection by the Omaha Indians and the setting apart of reservation lands for tribal cemetery purposes;

S. 5635. An act authorizing the conveyance of certain land in the State of South Dakota to the town of Flandreau in said State;

S. 5632. An act for the relief of Aquila Nebeker;

S. 2388. An act for the relief of Orion Matheus;

S. 5203. An act for the relief of Gardiner L. Eastman;

S. 6601. An act for the enlargement of the post-office building in Pittsburgh, Pa.;

S. J. Res. 151. Joint resolution authorizing the appointment of a special joint commission of the Senate and House of Representatives to investigate the employment of Federal prisoners in industrial occupations for the benefit of the Government of the United States;

S. 135. An act for the restoration of annuities to the Medawakanton and Wahpakoota (Santee) Sioux Indians declared forfeited by the act of February 16, 1863;

S. 6667. An act to incorporate the American Nurses' Association;

S. 4288. An act relating to the maintenance of actions for death on the high seas and other navigable waters;

S. 6526. An act authorizing the Shoshone Tribe of Indians residing on the Wind River Reservation in Wyoming to submit claims to the Court of Claims.

S. J. Res. 143. Joint resolution granting permission for the erection of a monument in the Arlington National Cemetery, Va., to the memory and in honor of the members of the various orders of sisters who gave their services as nurses on battle fields, in hospitals, and on floating hospitals during the Civil War;

S. 3700. An act to amend an act entitled "An act to repeal section 3480 of the Revised Statutes of the United States";

S. 6720. An act to increase the limit of cost of public building at Park City, Utah;

S. 5202. An act to authorize the maintenance and operation of dams across the St. Croix River at Baileyville and Grand Falls, Me.;

S. 6740. An act to correct the military record of Matthew C. Butler, jr.; and

S. 6748. An act providing that Indian schools may be maintained without restriction as to annual rate of expenditure per pupil.

The message also announced that the President had approved and signed joint resolution of the following title:

S. J. Res. 160. Joint resolution appropriating \$540,000 for the relief of flood sufferers in the States of North Carolina, South Carolina, Georgia, Alabama, Florida, Tennessee, and Mississippi, and for other purposes.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 6561. An act providing for the sale at public auction of all unsold suburban lots not reserved for public purposes in the Government town site of Port Angeles, Wash., and for the issuance of patents for those previously sold under the act of May 2, 1906, on the payment of the price at which the said lots were reappraised under said act without further condition or delay; to the Committee on the Public Lands.

S. 3681. An act for the relief of the owners of the steamship *Esparta*; to the Committee on Claims.

S. 1548. An act for the relief of Emmett W. Enriken; to the Committee on Claims.

S. 10. An act to correct the military record of Clayton H. Adams; to the Committee on Military Affairs.

S. 736. An act to correct the military record of John P. Webber, alias John J. Webber; to the Committee on Military Affairs.

S. 6154. An act for the relief of Dr. Charles Lee Baker; to the Committee on Military Affairs.

S. 6287. An act for the relief of Joseph Eubor; to the Committee on Military Affairs.

S. 1265. An act for the relief of J. G. Seupelt; to the Committee on the Public Lands.

S. 3774. An act to authorize the sale of lands allotted to Indians under the Moses agreement of July 7, 1883; to the Committee on Indian Affairs.

S. 3647. An act for the relief of Moses C. Tingley; to the Committee on the Public Lands.

S. 3972. An act to provide for selection by the Omaha Indians and the setting apart of reservation lands for tribal cemetery purposes; to the Committee on Indian Affairs.

S. 5635. An act authorizing the conveyance of certain land in the State of South Dakota to the town of Flandreau in said State; to the Committee on the Public Lands.

S. 5632. An act for the relief of Aquila Nebeker; to the Committee on the Public Lands.

S. 5203. An act for the relief of Gardiner L. Eastman; to the Committee on Military Affairs.

S. 6601. An act for the enlargement of the post-office building in Pittsburgh, Pa.; to the Committee on Public Buildings and Grounds.

S. 2388. An act for the relief of Orion Mathews; to the Committee on Military Affairs.

S. 4288. An act relating to the maintenance of actions for death on the high seas and other navigable waters; to the Committee on the Judiciary.

S. 6720. An act to increase the limit of cost of public building at Park City, Utah; to the Committee on Public Buildings and Grounds.

S. 6748. An act providing that Indian schools may be maintained without restriction as to annual rate of expenditure per pupil; to the Committee on Indian Affairs.

S. 6740. An act to correct the military record of Matthew C. Butler, jr.; to the Committee on Military Affairs.

S. 4. An act to provide for the purchase of a site and the erection of a public building thereon at Bingham Canyon, in the State of Utah; to the Committee on Public Buildings and Grounds.

S. 697. An act authorizing a credit in certain accounts in the office of the Auditor for the War Department; to the Committee on Claims.

S. 2544. An act to authorize the President of the United States to appoint John Q. A. Brett a first lieutenant in the United States Army; to the Committee on Military Affairs.

S. 55. An act to authorize the Secretary of the Treasury to use, at his discretion, surplus moneys in the Treasury in the pur-

chase or redemption of the outstanding interest-bearing obligations of the United States; to the Committee on Ways and Means.

ENROLLED BILLS SIGNED.

Mr. LAZARO, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 16604. An act to authorize the commissioners of Lycoming County, Pa., and their successors in office, to construct a bridge across the West Branch of the Susquehanna River, from the borough of Montgomery, Lycoming County, Pa., to Muncy Creek Township, Lycoming County, Pa.;

H. R. 16534. An act to authorize the commissioners of Lycoming County, Pa., and their successors in office, to construct a bridge across the West Branch of the Susquehanna River, from the foot of Arch Street, in the city of Williamsport, Lycoming County, Pa., to the borough of Duboistown, Lycoming County, Pa.;

H. R. 16380. An act granting the consent of Congress to the board of supervisors of Highland Township, Pennington County, Minn., to construct a bridge across Red Lake River;

H. R. 16891. An act granting the consent of Congress to Traill County, N. Dak., and to Polk County, Minn., to construct a bridge across the Red River of the North;

H. R. 16875. An act granting the consent of Congress to Crisp County, Ga., to construct a bridge across Flint River, Ga., between Crisp and Sumter Counties;

H. R. 16764. An act to authorize the commissioners of Northumberland and Union Counties, in Pennsylvania, their successors in office, to construct a bridge across the West Branch of the Susquehanna River from the borough of Watsonstown, Northumberland County, Pa., to White Deer Township, Union County, Pa.;

H. R. 7883. An act for the relief of Charlotte M. Johnston;

H. R. 6181. An act for the relief of Letitia W. Garrison;

H. R. 13620. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors;

H. R. 14576. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors;

H. R. 12194. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors; and

H. R. 11240. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 5914. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors; and

S. 4654. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

ENROLLED BILL PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. LAZARO, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bill:

H. R. 12197. An act authorizing Ashley County, Ark., to construct a bridge across Bayou Bartholomew.

RESIGNATION.

The SPEAKER laid before the House the following resignation:

JULY 22, 1916.

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

SIR: I beg to inform you that I have this day transmitted to the governor of California my resignation as a Representative in the Congress of the United States from the tenth district of California.

Yours, very truly,

WM. D. STEPHENS.

CALENDAR FOR UNANIMOUS CONSENT.

The SPEAKER. The Clerk will call the first bill on the Calendar for Unanimous Consent.

OVERISSUES OF SECURITIES.

The first business on the Calendar for Unanimous Consent was the bill (H. R. 563) to amend section 20 of an act to regulate

commerce, to prevent overissues of securities by carriers, and for other purposes.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I ask unanimous consent that that bill may be passed over without prejudice.

The SPEAKER. The gentleman from Illinois asks unanimous consent to have the bill passed over without prejudice. Is there objection?

There was no objection.

PROTECTION OF STREAMS, ETC., IN ARID PUBLIC LANDS.

The next business on the Calendar for Unanimous Consent was the bill (S. 1351) providing for the discovery, development, and protection of streams, springs, and water holes in the desert and arid public lands of the United States in the State of California, for rendering the same more readily accessible, and for the establishment of and maintenance of signboards and monuments locating the same.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I am perfectly willing, so far as I am concerned, to have the bill passed with the House amendments, if the House amendments restricting the authorization are likely to remain in the bill after it becomes a law.

Mr. RAKER. Mr. Speaker, I will state to the gentleman from Illinois that we will do everything we can to retain those House amendments. That is the unanimous judgment of the Committee on Public Lands, and it is our determination to retain them in the bill.

Mr. MANN. Very well.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. This bill is on the Union Calendar.

Mr. RAKER. Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the bill.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Interior Department be, and is hereby, authorized, empowered, and directed immediately to proceed by all necessary and proper means to discover, develop, protect, and render more accessible for the benefit of the general public, springs, streams, and water holes on what are known as the western deserts and arid public lands of the United States in the State of California; and in connection therewith to erect and maintain suitable and durable monuments and signboards at proper places and intervals along and near the accustomed lines of travel and over the general area of said desert lands, containing information and directions as to the location and nature of said springs, streams, and water holes, to the end that the same may be more readily traced and found by persons in search or need thereof; also to provide convenient and ready means, apparatus, and appliances by which water may be brought to the earth's surface at said water holes for the use of such persons; also to prepare and distribute suitable maps, reports, and general information relating to said springs, streams, and water holes, and their specific location with reference to lines of travel.

Sec. 2. That to carry out the purposes of this act the expenditure of \$10,000, or so much thereof as may be necessary, is hereby authorized. All disbursements made under this act shall be made by the Secretary of the Interior on vouchers approved by the Director of the Geological Survey.

Sec. 3. That whoever shall willfully or maliciously injure, destroy, deface, or remove any of said monuments or signposts, or shall willfully or maliciously fill up, render foul, or in anywise destroy or impair the utility of said springs, streams, or water holes, or shall willfully or maliciously interfere with said monuments, signposts, streams, springs, or water holes, or the purposes for which they are maintained and used, shall be fined not more than \$1,000 or imprisoned not more than three years, or both.

Sec. 4. That the Secretary of the Interior is hereby authorized, empowered, and directed to make, issue, promulgate, and enforce such rules and regulations as may be necessary, or by him deemed expedient, to carry into force and effect the provisions of this act and accomplish its objects and purposes.

With the following committee amendments:

Page 1, line 3, after the word "authorized," insert the word "and."

Page 1, lines 4 and 5, strike out the words "and directed immediately to proceed by all necessary and proper means" and insert in lieu thereof the words "in his discretion in so far as the authorization made herein will permit."

Page 2, line 1, strike out the words "what are known as the western deserts and."

Page 2, line 2, strike out the words "in the State of California."

Page 2, lines 19, 20, and 21, strike out the words "All disbursements made under this act shall be made by the Secretary of the Interior on vouchers approved by the Director of the Geological Survey."

Page 3, strike out all of section 4 and insert in lieu thereof the following:

"That the Secretary of the Interior is hereby authorized to perform any and all acts and make such rules and regulations as may be necessary for the purpose of carrying the provisions of this act into full force and effect."

The SPEAKER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. MANN. Mr. Speaker, I move to amend, on page 1, line 3, by striking out the words "Interior Department" and inserting in lieu thereof the words "Secretary of the Interior."

The SPEAKER. The question is on agreeing to the amendment offered by the gentleman from Illinois.

The amendment was agreed to.

Mr. MANN. Also the following amendment:

Page 1, line 3, after the word "and," insert the word "he."

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

The amendment was agreed to.

The SPEAKER. The question is on the third reading of the Senate bill as amended.

The bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "An act providing for the discovery, development, and protection of streams, springs, and water holes in the desert and arid public lands of the United States, for rendering the same more readily accessible, and for the establishment of and maintenance of signboards and monuments locating the same."

On motion of Mr. RAKER, a motion to reconsider the vote by which the bill was passed was laid on the table.

MINING FOR METALLIFEROUS MINERALS, INDIAN RESERVATIONS, ARIZONA.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 12426) to authorize mining for metalliferous minerals on Indian reservations in the State of Arizona.

The Clerk read the title of the bill.

The SPEAKER. Is there objection?

Mr. STAFFORD. Mr. Speaker, I object.

Mr. HAYDEN. Mr. Speaker, will the gentleman object to having the bill passed over without prejudice?

Mr. STAFFORD. I have no objection to the bill being passed without prejudice.

Mr. HAYDEN. Mr. Speaker, I ask unanimous consent that the bill be passed without prejudice.

The SPEAKER. The gentleman from Arizona asks unanimous consent that the bill be passed without prejudice. Is there objection? [After a pause.] The Chair hears none.

BRIDGE ACROSS MISSISSIPPI RIVER, MEMPHIS, TENN.

The next business on the Calendar for Unanimous Consent was the bill (S. 5886) extending the time for the completion of the bridge across the Mississippi River at Memphis, Tenn., authorized by an act entitled "An act to amend an act approved July 20, 1912, entitled 'An act to authorize the Arkansas & Memphis Railway Bridge & Terminal Co. to construct, maintain, and operate a bridge across the Mississippi River,' approved August 23, 1912."

The Clerk read the title of the bill.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. CARAWAY. Mr. Speaker—

Mr. ADAMSON. Mr. Speaker, I suppose that the reading at a previous session would not suffice. It was read when we had it up a few days ago.

The SPEAKER. Is this the same bill which the gentleman had up on last Wednesday?

Mr. ADAMSON. It was.

Mr. MANN. It is a short bill; let it be read.

The SPEAKER. The Chair thinks the better practice would be to read it.

Mr. ADAMSON. I thought it was the unfinished business.

The Clerk read as follows:

Be it enacted, etc., That the time for the completion of a bridge now in the course of construction across the Mississippi River at Memphis, Tenn., which the Arkansas & Memphis Railway Bridge & Terminal Co., its successors or assigns, was authorized to construct, maintain, and operate by an act entitled "An act to amend an act approved July 20, 1912, entitled 'An act to authorize the Arkansas & Memphis Railway Bridge & Terminal Co. to construct, maintain, and operate a bridge across the Mississippi River,' approved August 23, 1912," be, and the same is hereby, extended to the 1st day of April, 1917.

Mr. CARAWAY. Mr. Speaker, I move to resubmit the amendment offered when the bill was before the House last Wednesday and marked on the Journal.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

On page 2, after line 6, insert the following: "Provided, That the wagon way portion of said bridge and the approaches thereto shall be completed within said time."

Mr. CARAWAY. Mr. Speaker, this amendment I offered to meet this condition—

Mr. ADAMSON. That is at the end of line 7 instead of line 6.

Mr. CARAWAY. I ask unanimous consent that the amendment be modified so as to read at the end of line 7.

Mr. ADAMSON. I have no objection to the amendment.

The Clerk read as follows:

Amend page 2, after line 7, etc.

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

Mr. CARAWAY. Mr. Speaker, I offer the amendment which I send to the Clerk's desk.

Mr. MANN. Mr. Speaker—well, I can offer an amendment to section 1 later.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

On page 2, after section 1, add the following as a new section: "Amend an act approved July 20, 1912, and amendment thereto approved August 23, 1912, entitled 'An act to authorize Arkansas & Memphis Railway Bridge & Terminal Co. to construct, maintain, and operate a bridge across the Mississippi River.'"

So amend the proviso in section 1 of said act that amended it will read as follows:

"Provided, That said bridge shall be so constructed, maintained, and operated that, in addition to its use for railroad purposes, it shall provide for a separate roadway and approaches and continuous use by the public as a highway bridge, to be used by vehicles, pedestrians, horsemen, animals, and all kinds of traffic and travel, for the transit of which reasonable rates of toll may be charged and received, but no rate for passage of a single passenger on a railroad train shall exceed 25 cents."

Mr. ADAMSON. Now, Mr. Speaker, I understand that is agreeable to the people of the community, and I have no objection.

Mr. MANN. How does the first part of the amendment read?

The SPEAKER. The Clerk will report the first part of the amendment.

The Clerk read as follows:

Add the following as a new section. "Amend an act approved July 20, 1912,"—

Mr. MANN. Mr. Speaker, that is not in proper form.

Mr. ADAMSON. That is an awkward statement. The gentleman wants to amend the original act.

Mr. CARAWAY. I am inclined to think there is a pencil emendation to the amendment.

The Clerk read as follows:

Insert the following proviso: "Provided, That said bridge shall be so constructed, maintained, and operated that, in addition to its use for railroad purposes, it shall provide for an adequate and separate roadway and approaches and continuous use by the public, etc."

Mr. MANN. Mr. Speaker, the language of the amendment is not correct. I move to amend by striking out before the proviso—

Mr. ADAMSON. That is, in the Caraway amendment?

Mr. MANN. Yes—and insert the language written there.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amend by striking out all preceding the proviso in the Caraway amendment and insert "That the proviso in section 1 of said act, approved August 23, 1912, be and the same is hereby amended to read as follows."

Mr. ADAMSON. Mr. Speaker, I think that is better.

The SPEAKER. The question is on the Caraway amendment as amended.

The amendment as amended was agreed to.

Mr. MANN. Mr. Speaker, I move to amend, in line 5, page 2, by striking out the quotation marks after the word "twelve."

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 2, line 5, by striking out the quotation marks after the word "twelve."

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

Mr. MANN. And then, in line 4, by inserting, after the word "river" and the inside quotation marks which follow the word "river," outside quotation marks.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Insert outside quotation marks after inside quotation marks after the word "river," line 4, page 2.

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

The bill as amended was ordered to be read a third time, was read the third time, and passed.

Mr. MANN. Mr. Speaker, I move to amend the title by striking out, in the last line of the title, after the word "twelve," the quotation marks and by inserting in the line next to the last, after the inside quotation marks which follow the word "river," outside quotation marks.

Mr. ADAMSON. This is the same change made in the text so as to correctly describe the title.

The SPEAKER. Without objection, the title will be amended so as to conform to the text. [After a pause.] The Chair hears no objection.

On motion of Mr. ADAMSON, a motion to reconsider the vote by which the bill was passed was laid on the table.

LANDS FOR EDUCATIONAL PURPOSES.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 15096) to amend the act entitled "An act to amend sections 2275 and 2276 of the Revised Statutes of the United States, providing for the selection of lands for educational purposes in lieu of those appropriated," and to authorize an exchange of lands between the United States and the several States.

The SPEAKER. Is there objection to the consideration of the bill? [After a pause.] The Chair hears none. This bill is on the Union Calendar.

Mr. RAKER. Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The SPEAKER. The gentleman from California asks unanimous consent that the bill be considered in the House as in the Committee of the Whole. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the provisions of the act of Congress approved February 28, 1891 (26 Stats. L., p. 796), entitled "An act to amend sections 2275 and 2276 of the Revised Statutes of the United States providing for the selection of lands for educational purposes in lieu of those appropriated for other purposes," are hereby declared applicable to all grants of school lands heretofore made by Congress, and all selections heretofore made and approved under said grants and in accordance with said act of February 28, 1891, if otherwise lawful, are hereby ratified and confirmed; that all pending and unapproved selections heretofore made under said grants and in accordance with said act, if found otherwise valid, and for lands which are nonmineral in character and which have not, prior to date of approval, been withdrawn under the provisions of the act of June 25, 1910 (36 Stats. L., p. 847), may be approved under the provisions of said act of February 28, 1891: Provided, That nothing herein shall be construed as preventing the approval of selections included within withdrawals under the provisions of said act of June 25, 1910, subject to conditions, limitations, or reservations authorized or permitted by present or future acts of Congress relating to such withdrawn lands if the surface of such land is found by the Secretary of the Interior to be of substantial value for agriculture, grazing, or timber.

The following committee amendment was read:

On page 2, in lines 12 and 13, after the word "character," insert:

And which were subject to selection at the time the applications were filed.

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

The committee amendment was agreed to.

The Clerk read as follows:

Sec. 2. That the act of Congress approved February 28, 1891, entitled "An act to amend sections 2275 and 2276 of the Revised Statutes of the United States, providing for the selection of lands for educational purposes in lieu of those appropriated for other purposes," is hereby amended by adding thereto the following:

"That as to all surveyed or unsurveyed sections in place granted or reserved to the use of schools and included within national forests it shall be lawful for the State in pursuance of an agreement, either prior or subsequent hereto, between the State and the Secretary of Agriculture to relinquish its claim, right, and title thereto and select in lieu thereof other unappropriated nonmineral lands of approximately equal value designated by the Secretary of Agriculture and lying within the boundaries of any national forest or forests within the State wherein the exchange is to be made; that upon the consummation of the exchange herein authorized and its approval by the Secretary of the Interior the President of the United States is authorized to eliminate from such national forest the lands so selected for and on behalf of the State: Provided, That the lands granted in place to such State or Territory and surrendered under the provisions hereof shall, upon the approval of the indemnity or exchange, revert to and become a portion of the national forest wherein located subject to all the laws, rules, and regulations thereto applicable.

Mr. WINGO. Mr. Speaker, I move to strike out the last word. I wish to get some information with reference to this matter. Can the gentleman from California [Mr. RAKER] tell me what the object is? I believe the gentleman wrote the report on the bill.

Mr. RAKER. I wrote a part of it.

Mr. WINGO. Tell us what the object is.

Mr. RAKER. In answer to the gentleman's question, there are two objects. The first is to adjust the lands where the State has lost them—that is, where there has been a railroad grant, or an Indian reserve, to exchange the land and permit the State to obtain the land it otherwise should have obtained under the original acts of Congress, namely, sections 16 and 36. The other provision of the act, in section 3, applies to exchange of land in place where the national forest or Indian reservations have been created, particularly national forests, where the lands have been surveyed, the sixteenth and thirty-sixth sections, to permit the exchange of that land by the State for other land outside the reserve, so that the land might be returned to the Government and fill out the national forest and the land selected by the States may be approved.

Mr. WINGO. The language of the section is contradictory, it appears to me. I do not understand what it means. In the first part, in lines 11, 12, and 13, it says:

That as to all surveyed or unsurveyed sections in place granted or reserved to the use of schools and included within national forests it shall be lawful for the State in pursuance of an agreement, either prior or subsequent hereto, between the State and the Secretary of Agriculture, to relinquish his claim, right, and title thereto—

And so forth.

Then down in the succeeding clause of the same section, and commencing at line 21, it provides:

That upon the consummation of the exchange herein authorized and its approval by the Secretary of the Interior the President of the United States is authorized to eliminate from such national forests the lands so selected for and on behalf of the State.

It looks to me that the first part of the amendment provides the States may make other selections where the original selections were in national forests, and yet the last part provides for the elimination from the forest when the State makes the selection. It appears to me to be contradictory.

Mr. RAKER. The first provision, as to all surveyed or unsurveyed sections granted or reserved to the use of schools and included within national forests, is the land in sections 16 and 36. There are two distinctions there, the sixteenth and thirty-sixth sections, where the land has been surveyed, and there has been some question whether or not the State could exchange that land in the national forest to the Government, because, having been surveyed, the title, they claim, immediately passed in the State. And this, then, creates that seeming trouble. The department has been holding they had a right to make the exchange. There have been two decisions of the United States district court that they could not make the exchange, and the department made its own ruling, and Judge Van Devanter, now on the Supreme Court bench, when he was in the department, ruled it could be made.

Mr. WINGO. Now, the report is very voluminous. I have not had time to read it. What States does this affect? Does this affect the State of Arkansas in any way at all?

Mr. RAKER. California, Oregon, Nevada, Colorado, Washington, Montana, North Dakota, South Dakota, Idaho, Wyoming, Utah, New Mexico, and Arizona. And all of those States were represented before the committee by their Representatives as well as a good part of them by the attorneys general of the States and some of the governors, and the others by the surveyors general.

Mr. WINGO. It just meets the conditions that have arisen in those States, and does not affect Arkansas?

Mr. RAKER. No; it does not affect Arkansas. The chairman of the Committee on the Public Lands sent a notice to the governors and the secretaries of state and the surveyors general in the States affected and had advice from them as well as from the Secretary of the Interior, and they have practically agreed on this legislation.

Mr. Speaker—

The SPEAKER. For what purpose does the gentleman rise?

Mr. RAKER. I want to make a suggestion to the gentleman from Illinois [Mr. MANN] if he will listen just a moment. The gentleman from Oregon [Mr. SINNOTT] called my attention to an oversight in that we possibly left out two small words in the bill on page 3, line 11. It reads, "that as to all." Now, the gentleman from Oregon suggested "any surveyed or unsurveyed land." He said the committee agreed to the amendment "or any."

The gentleman from Oregon [Mr. SINNOTT] suggested "as to all or any surveyed or unsurveyed" land. He says the committee agreed to that amendment—"or any."

Mr. MANN. I have no objection to it. It means the same thing.

Mr. RAKER. Mr. Speaker, I offer the amendment, on page 3, line 11, between the word "all" and the word "surveyed," to insert the words "or any."

Mr. MANN. I had supposed that "all" would include "any."

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amend, on page 3, line 11, by inserting, after the word "all," the words "or any."

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

The amendment was agreed to.

The SPEAKER. The Clerk will read.

The Clerk read as follows:

SEC. 3. That exchanges of title between the United States and States heretofore made and approved under authority of said act of February 28, 1891, whereby the State relinquished its title to surveyed school lands in forest or other permanent reservations in lieu of lands elsewhere are hereby ratified and confirmed, and all pending and unapproved exchanges of like character, if found otherwise valid, and for lands

which are nonmineral in character, and which have not prior to date of approval been withdrawn under the provisions of the act of June 25, 1910 (36 Stat. L., p. 847), may be approved by the provisions of said act of February 28, 1891: *Provided*, That nothing herein shall be construed as preventing the approval of selections included within withdrawals under the provisions of said act of June 25, 1910, subject to conditions, limitations, or reservations authorized or permitted by present or future acts of Congress relating to such withdrawn lands, if the surface of such land is found by the Secretary of the Interior to be of substantial value for agriculture, grazing, or timber: *Provided further*, That in the future exchanges may be made and approved as provided in section 2 of this act or at the election of the State, vacant unappropriated nonmineral public lands of equal acreage outside the limits of national forests may be selected in lieu of lands surrendered or relinquished under the provisions of this act: *And provided further*, That the Secretary of the Interior and the Secretary of Agriculture are hereby authorized, in their discretion, to exchange lands within the limits of national forests for lands outside of such limits of approximately equal value lost to the State by reason of settlements, entries, reservations, or the mineral character of the lands.

With a committee amendment, as follows:

Page 4, after the word "character," in line 13, insert "and which were subject to selection at the time the applications were filed."

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

The amendment was agreed to.

The SPEAKER. The Clerk will report the next committee amendment.

The Clerk read as follows:

Amend, page 4, line 19, by inserting after the word "may" the words "within the discretion of the Secretary of the Interior."

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

The amendment was agreed to.

The Clerk read as follows:

In line 20, strike out the word "by" and insert the word "under."

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

The amendment was agreed to.

The Clerk read as follows:

On page 5, after the word "timber," in line 5, insert: *Provided further*, That all lands within the boundaries of national forests title to which may be vested in the States under the provisions of this act shall be subject to all rights of way which the Secretary of Agriculture may at any time deem necessary for the administration of the national forests."

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

The amendment was agreed to.

The Clerk read as follows:

Page 5, line 13, after the word "State," insert the words "and with the approval of the Secretary of Agriculture."

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

The amendment was agreed to.

The Clerk read as follows:

In line 14, after the word "nonmineral," insert the word "surveyed."

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

The amendment was agreed to.

The Clerk read as follows:

In line 15, page 5, strike out the word "acreage" and insert the word "value."

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

The amendment was agreed to.

The Clerk read as follows:

Line 16, page 5, after the word "forests," insert the words "designated by the Secretary of the Interior."

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

The amendment was agreed to.

The Clerk read as follows:

Line 18, after the word "act," insert "but nothing herein shall prevent the consummation of the agreement dated June 16, 1911, between the Secretary of the Interior and the State of California providing for the adjustment of the claim of the United States against the State, because of excess approvals and overcertifications under the grant for common schools, through surrender or conveyance by the State of surveyed school sections within the boundaries of national forests."

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

The amendment was agreed to.

The Clerk read as follows:

On page 6, after the word "discretion," in line 3, insert "if they shall find that the public interests will be subserved thereby."

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

The amendment was agreed to.

Mr. MONDELL. Mr. Speaker, I move to strike out the last word.

The SPEAKER. The gentleman from Wyoming moves to strike out the last word.

Mr. MONDELL. Mr. Speaker, I should have offered an amendment or made a motion to disagree with the House amendment on page 5, line 15, striking out the word "acreage" and inserting the word "value," if we had been considering the bill in any other way than by unanimous consent. I think it scarcely fair to the House, when Members consent to the consideration of legislation in this way, to contest amendments proposed by the committee, the adoption of which is undoubtedly expected as a part of the agreement to allow the bill to be considered by unanimous consent.

But I want to call attention to the fact, and I think I would not be doing my duty if I did not call attention to the fact, that if the bill becomes a law with the change that has been adopted, it will be utterly impossible to adjust in any reasonable length of time, or at any expense that the exchanges will justify, the exchanges that are affected by this amendment. It does not matter greatly, so far as the State which I have the honor to represent is concerned, for we have made most of our exchanges using lands within forest reserves as bases. But one of the most beneficial provisions of the act of February 28, 1891, was a provision whereby we allowed the States to get out of the forest reserves with their holdings and take lands elsewhere. In the main, if the States do that, they must, under the conditions that exist, necessarily accept generally lands of lesser value than those they surrender. It is true they might surrender mountain tops of little value, but they would also surrender timberlands of value, and as a matter of administration it would be utterly impossible to make exchanges, taking the lands within reserves for lands outside on the basis of equal value. There are no lands of equal value to exchange. If the provision remained in the bill, the only way it could be done would be by assuming an average value of all the lands which a State has in a forest reserve which it desires to surrender and an average value of all the lands it would select outside.

By adopting that amendment we have nullified a very beneficent and wise provision of the act which we amend by this legislation. I hope that in another body, or in conference, or somewhere, the gentleman in charge of the bill will carefully consider that feature of the situation, so very important to many of the western States, although no longer very important to my State, in view of the fact that we have made most of our exchanges of that character.

Mr. TAYLOR of Colorado. Will the gentleman yield for a suggestion?

Mr. MONDELL. Yes. I am not offering an amendment. I am simply making an observation, and giving my opinion in regard to it.

Mr. TAYLOR of Colorado. I will state to the gentleman from Wyoming that very many of us partially or wholly agree with the gentleman from Wyoming.

Mr. MONDELL. I realize that.

Mr. TAYLOR of Colorado. But we have been over this matter very exhaustively, and this is a composite adjustment, the best we can make of it, and we feel that for the benefit of all these States that will be benefited by it we ought to accept this measure.

Mr. MONDELL. I realize that, Mr. Speaker, but I did not feel that it would be right to allow this bill to go through the House without any suggestion whatever, but that all interested were entirely favorable to that provision. It is utterly unworkable, and if I may use the word without offense to anyone, it is absolutely silly and nonsensical, and calculated to make that provision of the bill of no effect whatever.

Now, Mr. Speaker, while we are on this bill I want to say one word more. This is a very important piece of legislation. It adjusts the land grants of 12 western States, involving hundreds of thousands of acres of lands, many of them selected years ago, transferred by the States, but conditions have arisen under which the States could not make their title good. It is highly important that the bill should pass, and pass, as the gentleman from Colorado says, in the best form in which we can get it, in view of all the conflicting views on the subject. But I want to register this suggestion here and now: If it were not for the fact that this bill was drawn in the Interior Department, and that in the long hearings the gentlemen from the Interior Department seemed to understand what the bill means—or at least what they understand it to mean—if it were not for that fact that the men who are to administer the bill seem to think they understand what it means, I should certainly not be in favor of having it pass the House. For I believe, and I measure my words when I say it, that I have never seen a piece of legislation dealing with a matter comparatively simple

which was so utterly obscured and confused by legislation as this matter of exchanges in this bill.

The SPEAKER. The time of the gentleman has expired.

Mr. MONDELL. I ask for five minutes more.

The SPEAKER. The gentleman from Wyoming asks unanimous consent to proceed for five minutes. Is there objection? There was no objection.

Mr. MONDELL. What might have been written on one page so plainly that a man who knew little of the subject might understand has been dragged through some six pages, so involved, so difficult of understanding, that those who are best acquainted with the subject find it necessary to read the bill again and again, and to study its provisions carefully, comparing one with another, in order to arrive at an intelligent opinion as to what is intended.

I am not blaming the committee, except for taking a bill drawn by the department, when the committee is composed of men any one of whom could himself have drawn a very much better bill. The committee took this bill as the department drafted it, backing and filling and double-crossing as it does, and as everybody knows it does who knows anything about it, and they amended it, until I think the bill does about what everyone wants to have done. I think it does conserve the public interest. I think it does probably deal fairly with the States, although a new set of officials in the department could easily interpret it so as to deprive the States of most of their benefits under it. But hoping that the department will continue to interpret its own bill in its own way, I am glad to have it passed; because, as my friend on the other side says, it is the best we could do under the circumstances.

Mr. TAYLOR of Colorado. We do not expect to have a new set of officials to administer it.

Mr. MONDELL. We certainly will have, but the gentlemen who are there are in the main very excellent gentlemen, trying to do their duty; most of them will remain, and as to the others we will keep them there long enough so that they can enlighten their successors as to just what this legislation means. I do not want to leave the impression that the public interest is not conserved in the bill. I think it is. I do not think you could interpret the bill in a way to do injury to the public interest; but it could very easily and readily be construed so as largely to nullify what we have started to accomplish, to wit, the fair adjustment of these selections, made years ago. My State is less interested than some of the States, because our adjustments are further along, and they are simpler in character, and we have never had a question with the department in regard to them, except as questions have been raised in other States. But in other States, where the situation is more complicated, there will be some difficulty, unless the department faithfully adheres to its present opinion in regard to this matter.

Having said this much, I am glad to have the bill pass, hoping that as to the one feature to which I have referred, before we get through with the legislation that particular matter will be remedied; not because it greatly affects my State, for it does not, but because it will unfortunately affect many of the other States. Other amendments are needed but I will not take time to refer to them now.

Mr. RAKER. Mr. Speaker, I move to strike out the last two words. The gentleman from Wyoming had an opportunity to appear before the committee on this bill. It was considered by the subcommittee and by the full committee. The attorneys of the Department of the Interior and of the Department of Agriculture, as well as the members of the committee, consisting of Members on that side and this, gave it every consideration and, I believe, understand its provisions.

Mr. MONDELL. I did not hear what the gentleman said.

Mr. RAKER. I say, I believe and, in fact, I know that the members of the committee understood the provisions of the bill and that it does accomplish what the States ought to have. It accomplishes what the Government believes ought to be done to protect the Government, and all concerned are thoroughly and fully protected by this well-drawn, well-provided for, well-adjusted piece of legislation on a subject which has been a source of contention before Congress for so many years.

Mr. MONDELL. If my friend from California will yield, I did not say that the members of the committee did not believe they understood the bill. If it continues to be interpreted as they hope it will be, I think it will work out, in a way; but my friend is getting to be quite a joker when he states that this is a well-drawn bill.

Mr. RAKER. Oh, it is always easy to criticize and complain, particularly when one does not understand a piece of legislation himself.

Mr. MONDELL. Well, I will say to my friend—

Mr. RAKER. Of course, on the question of acreage and value, the gentleman and I agree, but the department and many others thought this amendment ought to go in, and we felt in duty bound to present it to the House, and the House ought to pass upon it. If the other body takes a different view of it, then we will have our opportunity.

Mr. MONDELL. Mr. Speaker, will the gentleman yield?

Mr. RAKER. I always yield to the distinguished gentleman from Wyoming.

Mr. MONDELL. The gentleman is aware of the fact that I did appear before the committee, and after I made an extended statement to the committee in regard to the first bill, a new bill was introduced. This is that new bill; it is a little better than the bill I discussed before the committee, but it still has those unfortunate ambiguities.

Mr. RAKER. Let me suggest to the gentleman that when he made his suggestions to the committee he did not in any way correct or modify what he considers not a proper and well-comprehended piece of legislation by any concrete suggested amendment or amendments.

Mr. MONDELL. Does the gentleman say that I made no such suggestions?

Mr. RAKER. I mean to say that the gentleman made no concrete suggestions as to particular amendments.

Mr. MONDELL. Oh, on the contrary—

Mr. RAKER. Of course one can talk volumes in just going around Robin Hood's barn, but if you want to get results on a piece of legislation you ought to offer concrete amendments and present your arguments to those proposed amendments.

The SPEAKER. The time of the gentleman from California has expired.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent to proceed for one minute.

The SPEAKER. Is there objection?

There was no objection.

Mr. MONDELL. Mr. Speaker, the gentleman from California will remember that I not only discussed the matter before the committee, but that I offered concrete suggestions, and that a number of those concrete suggestions were embodied in the new bill. I am not claiming any credit for them, because the gentleman himself approved those suggestions, and he would probably have made them if I had not.

Mr. RAKER. Then as a matter of fact the gentleman's first statement that this is all from the department does not comport with the facts, but the bill does have in it those valuable suggestions of the gentleman and other gentlemen. The bill is intended to cover the entire subject, and we believe it does. The question of "acreage" and "value" suggested by the gentleman will no doubt be further considered before it becomes a law.

The SPEAKER. The Chair will suggest to both gentlemen that they are violating the rules when they talk about what happened in the committee. The Clerk will read.

The Clerk concluded the reading of the bill.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. RAKER, a motion to reconsider the vote by which the bill was passed was laid on the table.

[By unanimous consent, leave to extend his remarks in the RECORD was granted to Mr. RAKER, to insert a letter from Secretary Lane.]

WITHDRAWAL OF PAPERS—FRED A. CHURCHILL.

By unanimous consent, leave was granted to Mr. DYER to withdraw from the files of the House, without leaving copies, the papers in the case of Fred A. Churchill (H. R. 9104, 63d Cong.), no adverse report having been made thereupon.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. EAGAN for five days, on account of illness in his family.

STANDARD LIME BARREL.

Mr. ABERCROMBIE. Mr. Speaker, I call up the conference report on the bill H. R. 5425, the lime-barrel bill.

Mr. STAFFORD. Mr. Speaker, I will ask the gentleman to defer that for a little while.

Mr. ABERCROMBIE. Very well; I withdraw the request for the present.

STANDARD CLASSIFICATION FOR COTTON.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 15913) to authorize the Secretary of Agricul-

ture to establish uniform standards of classification for cotton; to provide for the application, enforcement, and use of such standards in transactions in interstate and foreign commerce, to prevent deception therein, and for other purposes.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection?

There was no objection.

PUBLIC LANDS IN OKLAHOMA.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 15156) granting public lands to the State of Oklahoma.

Mr. McCLINTIC. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection?

There was no objection.

SERUMS, TOXINS, ETC.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 15914) to authorize the Secretary of Agriculture to license establishments for and to regulate the preparation of viruses, serums, toxins, and analogous products for use in the treatment of domestic animals, and for other purposes.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection?

There was no objection.

UNCOMPAGHEE INDIAN RESERVATION.

The next business on the Calendar for Unanimous Consent was the bill (S. 43) in relation to the location, entry, and patenting of lands within the former Uncompahgre Indian Reservation, in the State of Utah, containing gilsonite or other like substances, and for other purposes.

Mr. MANN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection?

There was no objection.

SIOUX TRIBE OF INDIANS.

Mr. DILLON. Mr. Speaker, I ask unanimous consent that the two next bills upon the calendar, S. 4371 and H. R. 10774, of similar title, authorizing the Sioux Tribe of Indians to submit claims to the Court of Claims, be passed over without prejudice.

The SPEAKER. Is there objection?

There was no objection.

Mr. COOPER of Wisconsin. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. COOPER of Wisconsin. Does the granting of a request that a bill be passed over without prejudice preclude its coming up again to-day?

The SPEAKER. If any Member desires to have such a bill taken up later in the day, he would first have to obtain unanimous consent to return to it.

Mr. COOPER of Wisconsin. Exactly; but half the House might go away, and if unanimous consent was then asked there might not be people here who would object when it was first called. Are we obliged to stay here and wait to see if a bill is called up again?

The SPEAKER. No. The Chair thinks when there is a general leave to pass over without prejudice that it is a bad practice to go back to it that day. Now, once in a long while some gentleman asks that a bill be passed without prejudice temporarily. That means that the House will go back to it during the day if it gets a chance.

Mr. COOPER of Wisconsin. But these requests are made—

The SPEAKER. The Chair understands, and the Chair thinks the best practice is where there is general leave granted to pass a bill without prejudice it ought not to be called up again during the day.

Mr. COOPER of Wisconsin. But we have all three of these requests—

The SPEAKER. The Chair understands, there have been a half a dozen. The Clerk will report the next bill.

IMPORTATION OF VIRUSES, SERUMS, TOXINS, ETC.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 199) to regulate the importation of viruses, serums, toxins, and analogous products, to regulate interstate traffic in said articles, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection?

Mr. ADAMSON. Mr. Speaker, I ask unanimous consent that that bill be passed without prejudice and remain on the calendar.

The SPEAKER. The gentleman from Georgia asks unanimous consent that the bill be passed without prejudice. Is there objection? [After a pause.] The Chair hears none.

EXPENSES, JOINT ENCAMPMENT, AUGUSTA, GA.

The next business on the Calendar for Unanimous Consent was the bill (S. 708) to make immediately available for the use of the State of Georgia in paying expenses incurred by said State in connection with the joint encampment held at Augusta, Ga., July 22 to 31, 1914, certain sums appropriated for arming and equipping the militia of said State.

The Clerk read the title of the bill.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, what became of No. 290? I ask unanimous consent that No. 290 be passed over without prejudice. It is under consideration on Calendar Wednesday.

The SPEAKER. Is there objection to the request of the gentleman from Illinois? [After a pause.] The Chair hears none.

Mr. MANN. Mr. Speaker, I make the same request as to 292.

Mr. ADAMSON. Mr. Speaker, the reason we are not insisting is that the bill is on regular call for Wednesday.

Mr. MANN. It is under consideration.

The SPEAKER. The gentleman makes a similar request as to No. 292. Is there objection? [After a pause.] The Chair hears none.

AGRICULTURAL LANDS IN ABANDONED MILITARY RESERVATIONS, NEVADA.

The next business on the Calendar for Unanimous Consent was the bill (S. 5466) to open abandoned military reservations in the State of Nevada to homestead entry and desert-land entry, and to amend an act entitled "An act to open abandoned military reservations in the State of Nevada to homestead entry," approved October 1, 1890.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the consideration of the bill? [After a pause.] The Chair hears none.

Mr. RAKER. Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in Committee of the Whole House on the state of the Union.

The SPEAKER. Is there objection?

There was no objection.

The Clerk read as follows:

Be it enacted, etc., That all the agricultural lands embraced within the military reservations in the State of Nevada which have been placed under the control of the Secretary of the Interior for disposition be disposed of under the homestead and desert-land laws, and not otherwise.

The committee amendment was read, as follows:

Add at the end of the bill the following proviso:

Provided, That this act is intended to make applicable to the desert-land laws only such lands as were included under the act of March 3, 1877, providing for the disposition of public lands under the desert-land laws.

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

The bill as amended was ordered to be read a third time, was read the third time, and passed.

Mr. MANN. Mr. Speaker, I move to amend the title of the bill by striking out all after the word "entry" where it occurs the second time, in line 2 of the title.

The amendment was agreed to.

On motion of Mr. RAKER, a motion to reconsider the vote by which the bill was passed was laid on the table.

TOWN SITES, IRRIGATION PROJECTS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 15958) to amend an act providing for the withdrawal from public entry of lands needed for town sites in connection with irrigation projects.

The Clerk read the title of the bill.

The SPEAKER. Is there objection?

Mr. COOPER of Wisconsin. Mr. Speaker, reserving the right to object, I wish to inquire of the committee what is the letter of the Secretary of the Interior, which letter, of date June 16, 1916, was written after the Secretary had had submitted to him the bill with the amendment the committee now proposes?

Mr. RAKER. Well, the letter was written, as I recall it, the letter before the department, but the committee considered the bill and amended it itself.

Mr. COOPER of Wisconsin. Yes; but the letter of the Secretary of the Interior in the report and purporting to be an indorsement of the bill, gives an indorsement of something different from the proposition contained in the measure now before the House.

Mr. RAKER. No, sir. I will state that the committee amendment to the bill simply clarifies the language, but leaves the bill just exactly as the law now applies to the project down there at Elephant Butte Dam; and it now applies to all, so that hereafter no right can be granted or lease of power on these reclamation projects without the consent of the majority of water users and making it apply to all.

Mr. COOPER of Wisconsin. The gentleman says that the amendment simply clarifies the situation. It appears to me it is a considerable clarification when you strike out nine lines of an entire proviso and insert, well, a great many—

Mr. RAKER. Let me call the gentleman's attention—

Mr. COOPER of Wisconsin. Why was this letter of the Secretary of the Interior presented to the House in this report as an indorsement of a bill that he never saw?

Mr. SMITH of Idaho. Mr. Speaker, the report of the Secretary of the Interior does not purport to indorse the bill as amended, but as introduced. Bills are not sent to a Cabinet officer, as a general rule, for a supplementary report. The committee first gets information from the Cabinet officer before the bill is considered, but does not call upon him for information as to the effect of every little amendment that is made to a bill.

Mr. COOPER of Wisconsin. Mr. Speaker, the average reader in the House reading this report would get another impression, and that is the impression which I had up to the time the gentleman from California said that the Secretary of the Interior had never seen this bill as amended.

The bill is presented to the Secretary of the Interior for his approval and for his criticism.

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

Mr. COOPER of Wisconsin. One moment. The Secretary of the Interior sees a bill containing certain provisions relating to a very important subject. He unqualifiedly indorses the bill as presented to him. Subsequently that bill is changed in most important particulars, amended by the committee in many places, and yet in a report of the committee presenting that bill the letter of the Secretary of the Interior is incorporated as indorsing the measure. I object to the consideration of this bill at this time.

Mr. RAKER. Will the gentleman withhold it?

Mr. COOPER of Wisconsin. No; I object.

Mr. RAKER. Mr. Speaker, would not the gentleman withhold it just for one statement?

Mr. STAFFORD. I wish the gentleman would withhold it. I would like to get information myself.

Mr. COOPER of Wisconsin. Then I withhold it temporarily.

Mr. RAKER. In reply to the gentleman, if the facts were as the gentleman stated, he would be justified.

Mr. COOPER of Wisconsin. The gentleman admitted they were that way.

Mr. RAKER. Let me explain it to the gentleman.

Mr. COOPER of Wisconsin. Certainly.

Mr. RAKER. It is the same as the law now exists, with the sole exception that it permits the lease to irrigation districts. Now, lines 21 to 25, inclusive, and lines 1 to 4 are identical with the law as it now exists. The committee thought that that was a wise provision, as undoubtedly the gentleman does, and we put that provision in full in lines 10, 11, and 12, which reads as follows:

The Secretary of the Interior, with the approval of the legally organized and acting water-users' association, or associations, under any such project, is authorized to lease for a period—

And so forth. That is the law, but under this project it could not be leased without the consent of the water-users' association. The committee believed that that provision was so wise that hereafter under any project there should be no lease by the Secretary of the Interior without the consent of the water-users' association, and we struck out that whole long sentence and put it in an amendment here in lines 11, 12, and 13, to the effect that under no circumstances could the Secretary of the Interior lease any of the power without the consent of the water-users' association.

Mr. COOPER of Wisconsin. Mr. Speaker, it may be that the bill as amended is all that it should be, but I was entirely deceived—and, of course, I impute no wrongful motive whatever to the gentleman from California or to any other gentleman on the committee—by the report of the committee. The report says:

The report of the Secretary of the Interior on the bill is as follows.

And the Secretary of the Interior never saw the bill as reported. And, therefore, in the absence of just the information I want, I shall object, but with this request, Mr. Speaker, that the bill go over without prejudice. There will be abundant opportunity to consider this.

The SPEAKER. The gentleman from Wisconsin objects to the present consideration of the bill, and asks that the bill be passed over without prejudice. Is there objection? (After a pause.) The Chair hears none.

The Clerk will report the next bill.

OTTAWA INDIAN TRIBE.

The next business on the Calendar for Unanimous Consent was the bill S. 138, an act for the relief of the Ottawa Indian Tribe, of Blanchard Fork and Roche de Boeuf.

The SPEAKER. Is there objection to the consideration of the bill?

Mr. MANN. Mr. Speaker, I ask to have the bill passed over without prejudice.

The SPEAKER. The gentleman from Illinois asks that the bill be passed over without prejudice. Is there objection? [After a pause.] The Chair hears none.

REGISTRY FOR VESSEL "GOLDEN GATE."

The next business on the Calendar for Unanimous Consent was the bill (H. R. 8816) authorizing the Commissioner of Navigation to cause the sailing vessel *Golden Gate* to be registered as a vessel of the United States.

The SPEAKER. Is there objection to the consideration of the bill? [After a pause.] The Chair hears none. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the Commissioner of Navigation is hereby authorized and directed to cause the sailing vessel *Golden Gate*, rebuilt at San Francisco, Cal., from the wreck of the sailing vessel *Golden Gate*, wrecked near the harbor of Montevideo, Uruguay, and abandoned by her owners as a total wreck, to be registered as a vessel of the United States whenever it shall be shown to the Commission of Navigation that the cost of rebuilding said vessel in the United States amounted to three times the actual cost of said wreck and that the vessel is wholly owned by citizens of the United States.

The following committee amendments were read:

Page 1, line 8, strike out the word "is" and insert the word "it."

In line 9 strike out the word "Commission" and insert the word "Commissioner."

The SPEAKER. The question is on agreeing to the committee amendments.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. CURRY, a motion to reconsider the vote by which the bill was passed was laid on the table.

INSURANCE FUND FOR UNEMPLOYMENT.

The next business on the Calendar for Unanimous Consent was the House joint resolution 250, to provide for the appointment of a commissioner to prepare and recommend a plan for the establishment of a national insurance fund for the mitigation of the evil of unemployment.

The SPEAKER. Is there objection to the consideration of the bill?

Mr. MANN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the bill be passed over without prejudice. Is there objection? [After a pause.] The Chair hears none.

AVIATION IN COAST GUARD.

The next business on the Calendar for Unanimous Consent was the bill H. R. 15736, a bill to provide for aviation in the Coast Guard.

Mr. MANN. Mr. Speaker, I make the same request.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the bill be passed without prejudice. Is there objection? [After a pause.] The Chair hears none.

Mr. MONTAGUE. Mr. Speaker, I ask that the bill be passed without prejudice, if it has not been done.

The SPEAKER. The request has already been made, and the bill has been passed over.

ASSESSMENTS FOR OPENING STREETS, ETC., DISTRICT OF COLUMBIA.

The next business on the Calendar for Unanimous Consent was the bill H. R. 15460, a bill to provide for the payment of assessments for the opening of streets, avenues, roads, and alleys in the District of Columbia, and for other purposes.

Mr. MANN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

Mr. JOHNSON of Kentucky. I hope the gentleman will not do it.

Mr. MANN. I am going to do it, and I will fight it when it comes up on the floor.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

CIVIL WAR VOLUNTEER OFFICERS' RETIRED LIST.

The next business on the Calendar for Unanimous Consent was the bill H. R. 386, a bill to create in the War Department and the Navy Department, respectively, a roll designated as the "Civil War Volunteer Officers' Retired List," to authorize placing thereon with retired pay certain surviving officers who served in the Army, Navy, and Marine Corps of the United States in the Civil War, and for other purposes.

The SPEAKER. Is there objection to the consideration of the bill?

Mr. MANN. Mr. Speaker, I make the same request.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the bill be passed over without prejudice. Is there objection? [After a pause.] The Chair hears none.

Mr. RAKER. Mr. Speaker, would it be in order to ask that a day be fixed, not to interfere with the calendar, when the conference report on this bill could be considered?

Mr. MANN. It would not be in order at this time.

The SPEAKER. No; it would not be in order.

Mr. RAKER. Mr. Speaker, can I be recognized to suspend the rules and pass this bill?

The SPEAKER. Not now. The gentleman stands as the thirty-second applicant to suspend the rules.

HOURS OF SERVICE OF EMPLOYEES ON RAILROADS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 9216) to amend sections 2, 3, 4, and 5 of an act entitled "An act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon," approved March 4, 1907.

The title of the bill was read.

Mr. MANN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the bill be passed over without prejudice. Is there objection?

Mr. BROWNING. I object.

The SPEAKER. The gentleman from New Jersey [Mr. BROWNING] objects. Is there objection to the present consideration of the bill?

Mr. BROWNING. I object to the present consideration of the bill.

Mr. MANN. I ask to have it passed over without prejudice.

The SPEAKER. Has the gentleman from New Jersey any objection to its being passed over without prejudice?

Mr. BROWNING. I will not object to that.

The SPEAKER. It is passed over without prejudice.

Mr. CULLOP. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record on this bill, H. R. 9216. I think a number of gentlemen here do not understand what the measure is.

The SPEAKER. The gentleman from Indiana [Mr. CULLOP] asks unanimous consent to extend his remarks on Calendar No. 311. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the next one.

Mr. CULLOP. I understand, Mr. Speaker, that that bill was passed without prejudice?

The SPEAKER. It was passed over without prejudice.

Mr. CULLOP. That is as I understand.

OIL AND GAS, SHOSSHONE OR WIND RIVER INDIAN RESERVATION, WYO.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 16396) to authorize the Secretary of the Interior to lease for production of oil and gas ceded lands of the Shoshone or Wind River Indian Reservation in the State of Wyoming.

The title of the bill was read.

The SPEAKER. Is there objection?

Mr. STAFFORD. I reserve the right to object.

The SPEAKER. The gentleman from Wisconsin reserves the right to object.

Mr. STAFFORD. I wish to inquire why the committee did not increase the minimum amount of royalty that is provided in this bill? Under a similar provision, carried in the general omnibus leasing bill, provision is made for similar cases in litigation in California. As I recall, the minimum was not less than one-eighth. In this bill you provide for not less than one-tenth.

Mr. MONDELL. The provisions of the committee amendment are taken from the general leasing bill, and the provision as to the minimum royalty is the same as the general provision for royalty contained in the general leasing bill. There is perhaps

a different provision, as the gentleman suggests, in cases where there has been a development and where there has been some question of contest.

Mr. STAFFORD. Does not this bill cover instances where there are contests now pending in the department?

Mr. MONDELL. There are some few cases of that kind, I think, that I know of.

Mr. STAFFORD. But those three or four carry very valuable rights to good oil lands in Wyoming, I believe.

Mr. MONDELL. The thought of the committee was that these people, having some rights there, were at least entitled to the same consideration that the ordinary lessee would have under the general provisions of the leasing law. Of course, the Secretary of the Interior can increase that minimum as much as he likes. It is only a minimum of one-tenth. In other words, they made the minimum the ordinary commercial rate of the country.

Mr. STAFFORD. Was not a similar provision, involving oil wells in southern California, incorporated in the omnibus leasing bill that passed the House in the last Congress? A provision was incorporated there making the minimum one-eighth.

Mr. MONDELL. No. The general provision of the leasing bill, I will say to my friend—

Mr. STAFFORD. I am not speaking about the general leasing provision. In the case referred to the minimum provision was one-eighth.

Mr. MONDELL. I am not sure that the gentleman is right or not; but whether that be true or not, this is, as the gentleman will understand, merely a minimum. The Secretary of the Interior has the authority to increase it as much as he likes. He may consider the situation and the conditions existing in the country and make such a rate as he sees fit. That is the ordinary commercial rate. The committee made the minimum the ordinary commercial rate. I think it quite high enough.

Mr. STEPHENS of Texas. Mr. Speaker, will the gentleman yield to me for a question?

Mr. STAFFORD. I yield to the gentleman.

Mr. STEPHENS of Texas. I think the difference is this: In California it is a well-known and well-defined oil field. In this instance it is a wildcat proposition.

Mr. STAFFORD. There are some superior oil wells in Wyoming, just as rich in value as there are in California, and the Standard Oil Co., through its subsidiaries, as I am informed by the department, is interested in this legislation. I simply want to ascertain why your committee departed from the rule laid down by the Committee on the Public Lands by making it one-tenth, whereas the Public Lands Committee made it one-eighth.

Mr. STEPHENS of Texas. We made it the minimum, and the department has the right to raise it to such amount as it sees proper.

Mr. MONDELL. I have no idea what the consideration was that led the committee to adopt one-tenth, the ordinary commercial rate, as the minimum, except that the committee adopted as section 2 the general provisions with regard to the length of the lease and the minimum royalty, which were the general provisions of the leasing bill.

Now, I will say to my friend that I am quite well acquainted with this particular situation. It is true there is, I think, at least one well on this land where oil has been found. There is no well so far as I know in which any great quantity has been found. We are hopeful that it will develop a fairly good oil field. Nobody expects it to be a bonanza. The ordinary commercial minimum is one-tenth. The committee evidently felt that it was fair to fix that as the minimum, authorizing the Secretary, of course, in his discretion, to go as far above that as he saw fit. He may make it more. He can adjust the royalty to fit the condition, whatever it may be, and I think the action of the committee was entirely proper in adopting the usual minimum.

Mr. STEPHENS of Texas. Will the gentleman permit an interruption?

Mr. MONDELL. Yes.

Mr. STEPHENS of Texas. I wish to say to the gentleman that the Osage Indian oil fields, the richest in the world, were originally let for 10 years at a royalty of 10 per cent. It increased to one-eighth, and it was a question with the committee whether it should remain at 8 per cent or be made greater. The matter was referred to President Roosevelt and left in his discretion, and my recollection is that he put it at one-eighth. Now, when the 10 per cent was given to the Prairie Oil Co. it was an undeveloped field—like this one. They might have had one or two paying wells. This is a wildcat proposition. If there had been a developed field, we would have been right in asking a further amount.

Mr. MONDELL. And I will say further to the gentleman that it is not a field where it is possible to market a gallon of oil until we shall have got development there sufficient to pay to build a pipe line to the railroad. There is no oil marketed, and my understanding is that the well that has been secured on this particular land is a comparatively small one; that is, as compared with bonanza wells. But in any event, as gentlemen will understand, this is a minimum. The Secretary of the Interior has full authority to fix the royalty as he sees fit. This is a small field that we are hoping to develop. We think we ought to develop it. The price of gasoline is constantly mounting. These are good gasoline oils, and while this field probably will not reduce the price of gasoline the country over, whatever effect it has, of course, will be in that direction.

Mr. STAFFORD. Mr. Speaker, the Committee on the Public Lands has given this question of the proper rental and royalty to be paid for the use of our oil lands, or the oil on our public lands, more consideration than any other committee in the House. I do not question that the Committee on Indian Affairs has given very good consideration to this bill, but the Committee on the Public Lands, after months and months of hearing and consideration, decided that, so far as the oil wells in southern California were concerned, which were in litigation, the royalty, in case the litigants wanted to accept that provision, should be not less than one-eighth of the output. I think we should adhere to that, and unless the gentleman is willing to accept an amendment making the minimum one-eighth instead of one-tenth I think I shall feel compelled to object.

Mr. MONDELL. If the gentleman wants his kind of legislation or not legislation at all, and wants to prevent the development of an industry, very well.

Mr. STAFFORD. I am not stating that. I am stating that the committee that has given more consideration to this matter than any other committee has fixed one-eighth as the minimum, and I am saying that the committee that has thoroughly considered it should be given the credit of having its determination written into the bills reported from other committees that have not given it as thorough consideration.

Mr. MONDELL. I hope the gentleman understands that this particular field is to all intents and purposes a new field, entirely undeveloped except as to one well at the lower end of the area—a small producer, as I understand it, of possibly 200 barrels a day. The Secretary of the Interior under the proposed legislation can make the royalty higher if he wants to do so. He certainly will make inquiries as to how much these Indians ought to have. The committee says it shall be not less than 10 per cent. Now, under these circumstances why should the gentleman insist on a larger minimum when the matter is left entirely to the discretion of the Secretary of the Interior?

Mr. STAFFORD. May I inquire of the gentleman—because he has first-hand knowledge, and my information was obtained only incidentally some years ago by a casual visit to the department—does this bill cover those claims pending in the Interior Department as to some rich oil fields in the State of Wyoming, which claims are supposed to be controlled by subsidiaries of the Standard Oil Co.?

Mr. MONDELL. I am not quite sure just what claims the gentleman has in mind, but I suppose he has in mind what is known as the Midwest field.

Mr. STAFFORD. There is not only one claim, but there are two or three.

Mr. MONDELL. Yes; the Midwest—the Salt Creek field.

Mr. STAFFORD. I am informed that there are two or three subsidiary companies.

Mr. MONDELL. I do not think they are subsidiary. There are half a dozen independent properties there. I do not know whether the Standard Oil Co. is interested in them. It may or may not be. I know that the principal operator there is entirely independent. That field is 150 miles from this field, I will say to my friend. This is in a distant part of the State. These lands are about 35 miles from the railroad. Parties have been trying to get oil in that locality. One well was secured, possibly more, on a piece of private land adjacent to these lands. I think one well has been drilled on some of these lands that are claimed. That well is not, I understand, a large producer. And I will say to my friend that there is nothing to indicate that the field is going to be a bonanza field, though we hope it will be a good one; nor is it any part of the fields that were affected by the decision of the Supreme Court in the Midwest case.

Mr. STAFFORD. How many claims are pending on the land covered by this bill?

Mr. MONDELL. I really do not know how many filings have been made—possibly half a dozen or more. The parties have not pressed their claims, however, because—

Mr. STAFFORD. How many claims are in litigation in the department?

Mr. MONDELL. So far as I know, there is only one party who has been trying to get the department to settle the question whether these are Indian lands, subject to lease under the Indian law, or whether they are public lands, subject to disposition under the law under which the cession was made. These people have been trying to get the department to settle that question one way or the other. The department has not been disposed to do it. These people asked the department to bring suit against them for the purpose of determining whether the law authorized them to enter these lands or not. The department at one time was disposed to do that, but finally concluded not to do it; and then the department proposed a leasing bill as a way out, and the committee added these provisions in section 2, which are the provisions of the general leasing bill. Now, my own idea is that a royalty of 10 per cent would probably be a very excellent royalty under those conditions, from the standpoint of the Indians and of all concerned. That is, I think it would be quite enough, but the Secretary can make the royalty whatever he desires to make it. This is, in any case, but a minimum. The Indians can not receive less than 10 per cent. Under the legislation under which this land was ceded the Indians would get only \$2.50 an acre for these lands under the placer act. They now get anywhere from 10 per cent up on any development that may be made.

Mr. STAFFORD. Mr. Speaker, I was under the impression that this bill covered some part of Wyoming that was regarded by the department as a bonanza field.

Mr. STEPHENS of Texas. I think the gentleman is entirely mistaken.

Mr. STAFFORD. I thought, if that were the case, the same rule should be applied as that which the House adopted as its policy in the omnibus leasing bill, so far as the California litigated oil claims were concerned. Having the statement of the chairman of the committee [Mr. STEPHENS of Texas] and of the gentleman from Wyoming [Mr. MONDELL], who are acquainted with the conditions, and whose statement is that this is not regarded as a bonanza field, and that there is more or less risk involved in the venture, I will not press the question of the amendment, as I first suggested, in view of the information received, and therefore I withdraw the reservation of the objection.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The SPEAKER pro tempore. The Clerk will read the bill.

The Clerk read the title of the bill (H. R. 16396) to authorize the Secretary of the Interior to lease for production of oil and gas ceded lands of the Shoshone or Wind River Indian Reservation in the State of Wyoming.

Mr. MONDELL. I ask unanimous consent to take from the Speaker's table the identical Senate bill (S. 6308) and to consider that bill in lieu of the House bill.

The SPEAKER pro tempore (Mr. CARLIN). Is there objection to the request of the gentleman from Wyoming? [After a pause.] The Chair hears none, and the Clerk will report the Senate bill.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized and empowered to lease, for the production of oil and gas therefrom, lands within the ceded portion of the Shoshone or Wind River Indian Reservation in the State of Wyoming, under such terms and conditions as shall be by him prescribed; and the proceeds or royalties arising from any such leases shall be first applied to the extinguishment of any indebtedness of the Shoshone Indian Tribe to the United States and thereafter shall be applied to the use and benefit of said tribe in the same manner as though secured from the sale of said lands as provided by the act of Congress approved March 3, 1905, entitled "An act to ratify and amend an agreement with the Indians residing on the Shoshone or Wind River Indian Reservation in the State of Wyoming, and to make appropriations for carrying the same into effect": *Provided, however*, That nothing contained in this act shall be construed to abridge or enlarge any asserted or initiated rights or claims under any law of the United States.

Sec. 2. That the leases granted under this act shall be conditioned upon the payment by the lessee of such royalty as may be fixed in the lease, which shall not be less than one-tenth in amount or value of the production and the payment in advance of a rental of not less than \$1 per acre per annum during the continuance of the lease. The rental paid for any one year to be credited against the royalties as they accrue for that year. Leases shall be for a period of 20 years with the preferential right in the lessee to renew the same for successive periods of 10 years each upon such reasonable terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the time of expiration of any such period; said leases shall be irrevocable except for the breach of the terms and conditions of the same and may be forfeited and canceled by an appropriate proceeding in the United States District Court for the District of Wyoming whenever the lessee fails to comply with their terms and conditions.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. MONDELL, a motion to reconsider the vote by which the bill was passed was laid on the table.

Mr. MANN. Mr. Speaker, I ask unanimous consent that a similar House bill be laid on the table.

The SPEAKER pro tempore. Is there objection?

There was no objection, and it was so ordered.

MUNICIPALLY OWNED INTERSTATE RAILWAYS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 455) to define the rights and privileges of the trustees of municipally owned interstate railways, and construing the act to regulate commerce with reference thereto.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection?

Mr. ALLEN. Mr. Speaker, I suppose the gentleman makes that motion with the idea of objecting to the bill if it does not go over?

Mr. MANN. I do not think I care to answer that question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois that the bill be passed over without prejudice?

There was no objection.

SALE OF MISBRANDED ARTICLES.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 10496) to prohibit the manufacture, sale, or transportation in interstate commerce of misbranded articles, to regulate the traffic therein, and for other purposes.

Mr. MANN. Mr. Speaker, I make the same request with respect to that bill.

The SPEAKER pro tempore. Is there objection?

There was no objection.

EXPORTATION OF GIN IN BOND.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 16417) to provide for the exportation of gin in bond in other than original packages.

The SPEAKER pro tempore. Is there objection?

Mr. STAFFORD. Mr. Speaker, reserving the right to object, I wish to obtain information from the author of the bill as to whether this provision would exempt gin for export from payment of all excise duties?

Mr. ALLEN. It does not affect the existing law as to the export of gin. It only permits gin to be bottled in bond immediately after it goes into bond. It takes away the time limit. As the report sets out, the law relating to spirits being retained in bond, particularly spirits that have gone into whisky and things of that kind, recognizes the fact that it improves with age. Gin is a neutral spirit, and there is no improvement in it by age, and there is no necessity for holding it that length of time.

Mr. STAFFORD. I withdraw the reservation.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That distilled spirits known commercially as gin of not less than 80 per cent proof may at any time within eight years after entry in bond at any distillery be bottled in bond at such distillery for export without the payment of tax, under such rules and regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. ALLEN, a motion to reconsider the vote by which the bill was passed was laid on the table.

RECLAMATION PROJECT AT YUMA, ARIZ.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 14825) to provide for an auxiliary reclamation project in connection with the Yuma project, Arizona.

The SPEAKER pro tempore. Is there objection?

Mr. STAFFORD. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection?

There was no objection.

BALTIMORE & WASHINGTON TRANSIT CO.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 13840) to amend an act approved May 20, 1908,

entitled "An act to amend an act entitled 'An act to authorize the Baltimore & Washington Transit Co., of Maryland, to enter the District of Columbia,' approved June 8, 1896."

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I do not know how familiar my distinguished friend from Kentucky, the chairman of the committee, may be with this measure, but I see the gentleman from Missouri [Mr. LLOYD] also is here. The committee has reported House bill 13840 and also Senate bill 5976 upon the same subject, supposed to be almost identical bills, though differing a little in form, but the committee does not seem to agree with itself as to the merits of all the propositions in the bill.

Mr. JOHNSON of Kentucky. I will say to the gentleman from Illinois that the gentleman from Ohio [Mr. CROSSEY] brought this matter before the committee, and I remember quite well when this particular bill was there, but I do not remember the consideration of the Senate bill to which the gentleman refers.

Mr. MANN. The Senate bill was reported by the gentleman from Missouri [Mr. LOUD], though perhaps he is not aware of it.

Mr. LLOYD. The two bills are identical, except that the House committee offered an amendment to the House bill. What is sought to be done—

Mr. MANN. I know what is sought to be done, but the two bills are not identical as reported from the committee.

Mr. LLOYD. They are supposed to be identical. There is just a difference in the sections.

Mr. MANN. In the first bill, the House bill, the committee struck out lines 23, 24, and 25, on page 3, at the end of the bill and inserted an amendment. I do not know that it is important.

Mr. LLOYD. It is very important.

Mr. MANN. But in the Senate bill they did not do that. I suggest, however, that if either bill is to be considered the gentleman ask to consider the Senate bill. I have no objection to the consideration of the bill.

Mr. JOHNSON of Kentucky. Mr. Speaker, I ask unanimous consent that the Senate bill be considered in lieu of the House bill.

Mr. STAFFORD. Mr. Speaker, I rose also to make a reservation of objection.

The SPEAKER pro tempore. Is there objection?

Mr. STAFFORD. Mr. Speaker, I reserve the right to object. The report is rather brief and gives no information whatsoever.

Mr. MANN. The report on the Senate bill is fairly full.

Mr. LLOYD. It is reasonably full.

Mr. STAFFORD. I read the report upon the House bill and did not have the Senate bill before me. I did not get the idea as to the purpose of the bill. Will the gentleman kindly explain the real purpose of the bill?

Mr. JOHNSON of Kentucky. It is to permit the railroad company to enter the District of Columbia.

Mr. MANN. Oh, no; I can explain the purpose of the bill in a very few words. I do not know just what the Baltimore & Washington Transit Co. is, but I suppose it is that road that runs to Baltimore and Annapolis, and probably it is already built in the city, but I do not know about that. Under existing law when they build they are required to have an underground connection. They can not make a ground circuit from the car track to the power house. This is what the District Public Utilities Commission say in regard to it:

The purpose of this was to guard against the destructive effects of electrolysis caused by stray current in the earth from a grounded circuit. Such destructive effects exist only when there are underground metal structures to be destroyed.

There is no necessity for a nongrounded return on the line of the Washington & Maryland Railway Co. (successor to the Baltimore & Washington Transit Co., of Maryland) at the present time, due to the fact that the line runs through an undeveloped section of the District of Columbia. The necessity will exist, however, when the adjoining territory is built up.

They go on to say that the Public Utilities Commission under this bill and under the law creating the Public Utilities Commission will have authority at any time to require the company to make a direct circuit.

Mr. STAFFORD. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. STAFFORD. Did not the gentleman state the Senate bill was not identical with the House bill?

Mr. MANN. I said as reported to the House. The House reports an amendment.

Mr. LLOYD. The original House bill and the original Senate bill are the same.

Mr. STAFFORD. I wish to inquire what is the reason the committee struck out the provisions which relate to the railroad company paving between the rails and 2 feet on either side?

Mr. JOHNSON of Kentucky. Not only strikes out that part but substitutes other matter for it. Under the bill the transit company is only required to take care of the streets in such manner as the commissioners will determine upon. The amendment strikes that provision out and requires that existing law requiring that the street railway companies keep up the streets be complied with.

Mr. MANN. The amendment to the bill, I will say in the main, in other respects changes the law by inserting the words "Public Utilities Commission" in place of the Commissioners of the District of Columbia. That is because under the law which we passed, since this bill was originally passed, created the Public Utilities Commission and they have power over all of these things, I take it.

Mr. JOHNSON of Kentucky. Do I understand the gentleman from Illinois as suggesting that the Public Utilities Commission is given any authority or option relative to the construction of streets?

Mr. MANN. No. I say under the law creating the Public Utilities Commission they have this power.

Mr. STAFFORD. Am I to understand that this railroad company, by the bill in the form that the gentleman seeks to have adopted, would relieve the railroad company of the obligation of repairing the streets between the rails and on either side to the extent of 2 feet?

Mr. JOHNSON of Kentucky. It is intended not to permit them to escape the construction and repair of the streets used by them.

Mr. LLOYD. The Public Utilities Commission were not created at the time the original act was passed. Now, the Public Utilities Commission would have control of any part of the railroad that might be constructed within the District of Columbia.

Mr. STAFFORD. It will rest entirely with the Public Utilities Commission whether they would exact that condition or not?

Mr. LLOYD. Yes.

Mr. STAFFORD. Whereas under the existing law they are obliged to repair the street?

Mr. LLOYD. Yes.

Mr. STAFFORD. I do not think I am in favor of the exemption of this railroad company from paving between the streets and leaving it to the option and discretion of the commission.

The SPEAKER pro tempore. Is there objection?

Mr. STAFFORD. Mr. Speaker, we are getting information. Mr. JOHNSON of Kentucky. Mr. Speaker, if the gentleman will listen, I will read the amendment, as follows:

Strike out lines 13, 19, and 21 and substitute the following: "The said transit company shall comply with the laws and regulations relating to the paving and repairing of streets in the District of Columbia."

That is the committee amendment.

Mr. MANN. There is no such amendment in the Senate bill, which requires paving between the rails and 2 feet on either side.

Mr. LLOYD. Mr. Speaker, the bill we are asking to be considered—

Mr. JOHNSON of Kentucky. I would be in favor, if the Senate bill be taken up, of amending the Senate bill to that effect.

Mr. STAFFORD. I would not. I would like to have incorporated that very provision—that they should be required to pave the streets.

Mr. JOHNSON of Kentucky. I have just read the amendment to the gentleman.

Mr. MANN. It might come in on streets not paved, and in that case they ought not to be required to pave.

Mr. JOHNSON of Kentucky. Evidently the gentleman did not follow the reading of the amendment.

Mr. STAFFORD. I followed the gentleman very closely, and I say that in all deference to the gentleman—

Mr. JOHNSON of Kentucky. Let me read it again:

The said transit company shall comply with the laws and regulations relating to the paving and repairing of streets in the District of Columbia.

Mr. STAFFORD. I will say in reply that I understood the gentleman to state that the Public Utilities Commission has the discretion to impose that condition on them.

Mr. JOHNSON of Kentucky. I did not say anything of the kind.

Mr. STAFFORD. I got the notion from some gentleman.

Mr. LLOYD. The gentleman got it from me.

Mr. JOHNSON of Kentucky. If this committee amendment were adopted that would meet all the objections set up by the gentleman from Wisconsin.

Mr. LLOYD. Mr. Speaker, I think the gentleman is a little mistaken in reference to this situation. If the Senate bill is agreed to there should be required that the law should be carried out or that the roadway should be kept up.

That provision is cut out of the House bill, but it remains in the Senate bill just as you want it. It provides:

The same to be paved between the rails and 2 feet outside thereof with such material and in such manner as shall be approved by the said commissioners, and kept in repair by the said railway company.

Now, if the Senate bill is agreed to, that provision will be in the law. If the Senate bill is not agreed to, then the House amendment, proposed by the House committee, might be agreed to, which would change this law; but the original House provision, without any amendment—the bill as it is presented to the committee—was exactly the same as the Senate bill.

Mr. STAFFORD. What is the purpose of the House committee in eliminating that provision of the law and substituting the phraseology as reported?

Mr. LLOYD. I was not present just at the moment this was considered in the committee, and I do not know. This is Mr. CROSSER's bill.

Mr. JOHNSON of Kentucky. It was made in deference to Mr. CROSSER's views, and I have the amendment in his handwriting. But I see no substantial difference in the Senate bill and the House bill as amended.

Mr. LLOYD. I understand from Mr. CROSSER that he wants this Senate bill to be passed. It is the CROSSER amendment in the House bill that we adopted. Now, Mr. CROSSER himself, in order to secure this legislation, is perfectly willing to accept the Senate bill.

Mr. STAFFORD. Mr. Speaker, I withdraw the reservation of the point of order.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

The request is that the Senate bill (S. 5976) be taken from the Speaker's table and be considered in lieu of the House bill. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the Senate bill.

The Clerk read as follows:

Be it enacted, etc., That section 2 of an act approved May 29, 1908, entitled "An act to amend an act to authorize the Baltimore & Washington Transit Co., of Maryland, to enter the District of Columbia, approved June 8, 1896," be amended to read as follows:

"Sec. 2. That the said transit company shall be empowered to construct, maintain, equip, and operate a single or double track street railway over said line, with all necessary buildings, switches, machinery, appliances, appurtenances, and other devices necessary to operate the same by electricity, compressed air, storage battery, or other motive power, to be approved by the Public Utilities Commission of said District."

Sec. 2. That section 4 of the act entitled "An act to authorize the Baltimore & Washington Transit Co., of Maryland, to enter the District of Columbia," approved June 8, 1896, be, and the same is hereby, repealed: *Provided, however*, That said railway shall be constructed of good material, with rails of approved pattern, and in a neat and substantial manner, subject to the supervision and approval of the Public Utilities Commission of the District of Columbia; the standard gauge to be used, and the surfaces of the tracks to conform to the grades of the streets established by the Commissioners of the District of Columbia, and where the tracks lie within the streets of the District of Columbia, the same to be paved between the rails and 2 feet outside thereof with such material and in such manner as shall be approved by the said commissioners, and kept in repair by the said railway company.

Mr. MANN. Mr. Speaker, I move to strike out in line 8, page 2, the quotation marks; and strike out in line 9 the language "Sec. 2" and insert on page 3, at the end of line 2, quotation marks.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendments offered by Mr. MANN: Page 2, line 8, after the word "District," strike out the quotation marks; page 2, line 9, strike out the words "Sec. 2"; page 2, line 21, after the word "Columbia," strike out the remainder of the paragraph and insert "the said transit company shall comply with the laws and regulations relating to the paving and repairing of streets in the District of Columbia."

Mr. MANN. I offer this amendment because all of this is a part of section 2 of the act it is proposed to amend. The Senate segregated it. The language they put in is part of section 2.

The SPEAKER pro tempore. The question is on agreeing to the amendments?

The question was taken and the amendments were agreed to.

Mr. JOHNSON of Kentucky. Mr. Speaker, inasmuch as the bill has to go back to the Senate again, I offer the House amendment.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Strike out lines 18, 19, 20, and 21, and substitute the following: "The said transit company shall comply with the laws and regulations relating to the paving and repairing of streets in the District of Columbia."

Mr. MANN. The gentleman does not want to strike out all that he suggested. The House amendment, if carried into the Senate bill, would strike out after the word "Columbia," in line 21, on page 2, down to the end of the section, and insert the language found at the top of page 3 of the House bill.

Mr. JOHNSON of Kentucky. Has the gentleman a copy of the House bill?

Mr. MANN. I have them both.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. JOHNSON of Kentucky: Page 2 of the Senate bill, after the word "Columbia" in line 21, strike out all of the language down to and including the word "company," line 2, page 3, and insert:

"The said transit company shall comply with the laws and regulations relating to the paving and repairing of streets in the District of Columbia."

Mr. MANN. With quotation marks following.

The Clerk read as follows:

After the word "Columbia" insert quotation marks.

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

The amendment was agreed to.

The bill as amended was ordered to be read a third time, was read the third time, and passed.

Mr. MANN. Mr. Speaker, I move to amend the title by striking out the quotation marks after the word "Columbia" in the second line from the bottom of the title.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amend the title by striking out the quotation marks after the word "Columbia" in the second line from the bottom of the title.

The amendment was agreed to.

Mr. JOHNSON of Kentucky. Mr. Speaker, I move that the House bill (H. R. 13840) do lie on the table.

The motion was agreed to.

EXPRESS COMPANIES AND PUBLIC UTILITIES COMMISSION.

The next business on the Calendar for Unanimous Consent was the bill H. R. 12712, to amend an act entitled "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1914, and for other purposes."

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. STAFFORD. Reserving the right to object, I wish to inquire of the chairman of the committee as to its policy in exempting from the Public Utilities Commission, which has the time to give consideration to public utilities in the District, certain of these public-service corporations, as, for instance, the bill under consideration, relieving the express companies from making report to the Public Utilities Commission, and leaving them in the same category as the other express companies which are obliged to make report to the Interstate Commerce Commission.

Mr. JOHNSON of Kentucky. The express companies have no intrastate or intraterritorial business in the District of Columbia. They are strictly under the Interstate Commerce Commission. That is one reason, and then another reason is that the Interstate Commerce Commission, having control of the express companies, requires the companies' statements to be issued at certain times in the year. The Public Utilities Commission for the District of Columbia requires these statements to be made at another time in the year. If the express companies could furnish their reports to both commissions at the same time, then everything that is necessary would have been done. But in this way they have to furnish two reports at different times in the year, and it is unnecessary expense to them; and in addition to that, as I have said, they have no intrastate or intraterritorial business.

Mr. STAFFORD. What character of express companies under the Public Utilities Commission law are now obliged to make report to the Public Utilities Commission?

Mr. JOHNSON of Kentucky. Every express company that has an office in the District of Columbia has to make that report under the present law, and there is no reason in the world why it should be done.

Mr. STAFFORD. The thought was in my mind that these express companies, operating upon some of these suburban railroads, could have their rates more equitably and expeditiously passed upon by the local utilities commission, a local body, than by the Interstate Commerce Commission.

Mr. JOHNSON of Kentucky. The Interstate Commerce Commission and the Utilities Commission for the District of Columbia both recommend the passage of this bill.

Mr. STAFFORD. I am aware of that from the reading of the report, but that does not always necessarily carry conviction.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That section 8, paragraph 1, of an act entitled "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1914, and for other purposes," approved March 4, 1913, relating to the Public Utilities Commission of the District of Columbia (37 Stat. L., p. 975), be amended by adding to the names of the companies excluded from the operation of said section, after the words "steam railroads," in the third subdivision of the last paragraph on page 975, the following: "express companies subject to the jurisdiction of the Interstate Commerce Commission."

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

PUBLIC-UTILITIES LAW OF THE DISTRICT OF COLUMBIA.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 7591) to amend an act entitled "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1914, and for other purposes," approved March 4, 1913.

The title of the bill was read.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That paragraph 14 of section 8 of the act entitled "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1914, and for other purposes," approved March 4, 1913, be, and the same is hereby, amended to read as follows:

"PAR. 14. That the accounts shall be closed annually on the 31st day of December and a balance sheet of that date promptly taken therefrom. On or before the 1st day of April following, such balance sheet, together with such other information as the commission shall prescribe, verified by an owner or officer of the public utility, shall be filed with the commission and a copy thereof transmitted to Congress."

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

PUBLIC AUCTIONS IN THE DISTRICT OF COLUMBIA.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 14824) to prevent fraud at public auctions in the District of Columbia.

The title of the bill was read.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Reserving the right to object, Mr. Speaker, I would like to make one inquiry to begin with. Under this bill no one can sell at public auction any merchandise or stock of merchandise without obtaining a license or permit from the District Commissioners. Suppose the sheriff or the marshal wants to make a sale. Suppose the court orders a sale made. Would the court have to obtain a license from the Commissioners?

Mr. JOHNSON of Kentucky. I should certainly say not.

Mr. MANN. I should certainly say that under this bill they would.

Mr. JOHNSON of Kentucky. The order of court would have way.

Mr. MANN. The order of court is powerful, but it is not as powerful as an act of Congress. We have plenary jurisdiction in the District of Columbia, and if we say they can not make a sale without obtaining a permit I am inclined to think they can not without violating the law.

Mr. JOHNSON of Kentucky. That would be a court sale. This says "No person, firm, or corporation."

Mr. MANN. It is an officer of the court who makes the sale. It is a person.

Mr. JOHNSON of Kentucky. No; he only makes it for the court, not in his individual capacity at all.

Mr. MANN. Then here is a receiver appointed.

Mr. JOHNSON of Kentucky. The receiver, too, acts for the court.

Mr. MANN. I know he acts for the court, but we have discovered through long practice that you have to be careful. We take the trouble always in the interstate-commerce acts to put in the words "or receiver," and all those things.

Mr. JOHNSON of Kentucky. I agree with the gentleman that the sheriff or receiver ought not to pay this license. I do not believe that he does, but I am willing to make it clear that he should not.

Mr. MANN. I am calling attention to it. I have not any amendment to offer, and I do not propose to object, I will say to the gentleman; but I think if this bill passes in this shape here somebody ought to take it up and call attention to a matter of that sort in the Senate. We have absolute power. We can regulate the practice of the courts.

Mr. JOHNSON of Kentucky. The courts can overrule it.

Mr. MANN. They can not overrule it.

Mr. JOHNSON of Kentucky. They do frequently.

Mr. MANN. The courts can declare a law unconstitutional. That is true. This would not be unconstitutional.

Mr. JOHNSON of Kentucky. I do not think we should interfere with a court sale, but if the gentleman will suggest an amendment to relieve his view of it I would be glad indeed if he would submit it.

Mr. MANN. I have not an amendment prepared.

Mr. JOHNSON of Kentucky. Would the words "voluntary sale" meet the gentleman's views, or "court sale excepted," or something like that? Or "excepting sales made under levy by the marshal, under order of the court"?

Mr. MANN. I do not like to undertake myself to put the language of a legal amendment in shape on the spur of the moment on the floor of the House. If some other gentleman picks out the right language it might occur to me whether it was good, bad, or indifferent.

Mr. JOHNSON of Kentucky. Mr. Speaker, I ask for consideration of the bill. I think we will have no trouble in properly amending it.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That hereafter it shall be unlawful in the District of Columbia for any person, firm, or corporation, either for himself or itself, or for another, or for any firm or corporation to sell or offer to sell at public auction any stock or stocks of merchandise, in whole or in part, without first obtaining from the Board of Commissioners of the District of Columbia a written or printed permit so to do; and the said Board of Commissioners shall not issue a permit for any such sale or sales until they are satisfied that neither fraud nor deception of any kind is contemplated or will be practiced, and that neither the sale, the reasons therefor, nor the goods to be sold have not already been or will not thereafter be fraudulently or falsely advertised or in any wise whatsoever misrepresented.

SEC. 2. That every such permit shall be issued for a definite period of time not exceeding 12 months from its date of issue, and the date and hour of its expiration shall be stated in the permit, and before such permit shall be issued the applicant therefor shall pay to the District of Columbia, through its collector of taxes, such fee as the said Board of Commissioners may deem sufficient to reimburse the District of Columbia for the work and expense of issuing the permit and gathering information concerning the applicant and his goods as the said board may deem prudent and best for the protection of the public, but which fee shall not exceed the sum of \$50. The application for the said permit shall be by verified petition, stating the name of the applicant, residence, street, and number of the proposed place of selling, and shall set forth in detail the goods to be sold and what statements or representations are to be made or advertised as to the same, and the length of time for which the permit is desired; and, if previously engaged in a like or similar business, to designate all the places where the same was conducted, and shall furnish to said commissioners such further evidence as shall be deemed necessary to establish the truth of the statements made in the said petition.

SEC. 3. That no permit as herein provided for shall be required for the sale of any wagon, carriage, automobile, mechanics' tools, used farming implements, live stock, including game, poultry (dressed or undressed), vegetables, fruits, melons, berries, flowers, or for the sale of used household furniture and effects when being sold at the residence of the housekeeper selling them.

SEC. 4. That the Board of Commissioners of the District of Columbia are hereby vested with authority to temporarily suspend the operation of the license herein provided for whenever they may believe that this act or any part thereof, or regulations made in pursuance thereof, are about to be or are being violated, and they shall thereupon forthwith institute the appropriate proceeding in the police court in accordance with this act, and in the event that the said violation results in a conviction, then and in that event the license shall be and become null and void, but in the event that the said proceeding shall terminate in favor of the defendant, then and in that event the suspension of said license shall be at an end, and the license shall thereupon be restored and be in full force and effect.

SEC. 5. That no person as herein provided for shall sell at public auction, from the 1st day of April until the 30th day of September, both inclusive, between the hours of 7 o'clock in the evening and 8 o'clock the following morning, nor from the 1st day of October until the 30th day of March, both inclusive, between the hours of 6 o'clock in the evening and 8 o'clock in the morning, any jewelry, diamond, or other precious stone, watch, gold and silver ware, gold and silver plated ware, statuary, porcelain, bric-a-brac, or articles of vertu.

SEC. 6. That any person selling or offering for sale any property under the provisions of this act shall, in describing the same, be truthful with respect to the character, quality, kind, and description of the same and which, for the purpose hereof, shall be considered as warranties, and any breach of the same shall be punishable by prosecution in the police court, as hereinbefore set forth.

SEC. 7. That all prosecutions under this act shall be in the police court of the District of Columbia upon information by the corporation counsel or one of his assistants. Any person violating any of the provisions of this act shall, upon conviction thereof, be punished by a fine of not less than \$10 nor more than \$200 or imprisonment of not more than 60 days or both, in the discretion of the court.

Sec. 8. That nothing herein shall be construed to excuse or release any person, firm, or corporation, or property from the payment of any occupational or property tax, or any other tax imposed or levied by law. Neither shall anything herein be construed to obviate the application of any fraudulent or false advertisement statute of the District of Columbia to any person who may violate the same; nor shall anything herein be construed to prevent any prosecution for fraud, deceit, or larceny by trick; nor to in any way estop or hinder any remedy at law or in equity, or the right to cancel or estop any unconscionable bargain or fraudulent transaction.

Sec. 9. That all acts and parts of acts inconsistent herewith are hereby repealed.

Mr. JOHNSON of Kentucky. Mr. Speaker, in line 3, page 1, after the word "hereafter," I move to amend as follows: Insert a comma and the words "excepting sales made under authority of law."

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. JOHNSON of Kentucky: Page 1, line 3, after the word "hereafter," insert a comma and the following words: "excepting sales made under authority of law," so that the line as amended will read: "That hereafter, excepting sales made under authority of law, it shall be unlawful in the District of Columbia for any person, firm, or corporation," and so forth.

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

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

Mr. GALLAGHER. Mr. Speaker, will this do away with these auction houses?

Mr. JOHNSON of Kentucky. That is the purpose of it.

Mr. GALLAGHER. They are not prohibited in this bill.

Mr. JOHNSON of Kentucky. Yes; they are. They are not prohibited in so many words, but you can not prohibit a sale except by general description.

Mr. GALLAGHER. I did not know but what you could stop them from operating these mock auction houses.

Mr. JOHNSON of Kentucky. If this bill passes, there is no sort of doubt that it will have that effect.

Mr. GALLAGHER. Why not include these fake fortune tellers that are strung along the Avenue?

Mr. JOHNSON of Kentucky. If the gentleman will introduce a bill of that kind, the Committee on the District of Columbia will be very glad to consider it.

Mr. GALLAGHER. Can not this bill be amended?

Mr. JOHNSON of Kentucky. It relates to an entirely different subject. We are dealing now with auctions and not with fortune tellers.

Mr. GALLAGHER. It seems to me it is just as important to stop the fortune tellers. Pennsylvania Avenue is lined with a lot of fake fortune tellers with signs out. I do not think that is a very good thing—

Mr. JOHNSON of Kentucky. I agree with the gentleman.

Mr. GALLAGHER. I did not have time to read the bill. I did not know but we might be able to amend it.

Mr. JOHNSON of Kentucky. No; this bill does not deal with fortune tellers at all, but just with the fake auctions.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

UNCLAIMED BANK DEPOSITS IN THE DISTRICT OF COLUMBIA.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 16070) to dispose of unclaimed bank deposits in the District of Columbia, and for other purposes.

The Clerk read the title of the bill.

Mr. MANN. I ask unanimous consent that the bill may be passed over without prejudice.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the bill may be passed over without prejudice. Is there objection?

Mr. CARLIN. Mr. Speaker, reserving the right to object, a great many bills are being passed over without prejudice. That keeps them ahead of other bills that ought to be considered.

Mr. MANN. The reason we are doing it is to hasten along and get an opportunity to consider those bills.

Mr. CARLIN. Why not pass it over without saying "without prejudice"? Then when it comes back on the calendar next time it will take a different place.

Mr. HAWLEY. Oh, no; that would take it off the calendar entirely.

Mr. MANN. I think this expedites the reaching of bills further down on the calendar. Very few of these bills will be objected to without some one asking that the objection be reserved, and then discussing the bill for a while. In asking to have so many of them passed over to-day, it gives the opportunity to consider the bills further down.

Mr. CARLIN. The gentleman does not seem to understand me. I have no objection to bills being passed over, but why pass them over without prejudice, which retains their present place on the calendar?

Mr. MANN. There is no way of passing a bill over except without prejudice, or objecting to it, which takes it off the calendar.

Mr. CARLIN. I do not desire to object to it, and I do not desire to take it off the calendar.

Mr. MANN. And if it is objected to twice, it never can go on the calendar again.

The SPEAKER. Is there objection to passing the bill without prejudice?

There was no objection.

WHITMAN NATIONAL FOREST.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 16532) authorizing an adjustment of the boundaries of the Whitman National Forest, in the State of Oregon, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. This bill is on the Union Calendar.

Mr. SINNOTT. Mr. Speaker, I ask unanimous consent that it be considered in the House as in Committee of the Whole.

The SPEAKER. The gentleman from Oregon asks unanimous consent that the bill be considered in the House as in Committee of the Whole. Is there objection?

There was no objection.

The bill was read, as follows:

Be it enacted, etc., That any land within the following-described areas found by the Secretary of Agriculture to be chiefly valuable for the production of timber or for the protection of stream flow may be included within and made part of the Whitman National Forest, in the State of Oregon, by proclamation of the President, said lands to be thereafter subject to all laws affecting national forests: Township 11 south, range 34 east; townships 11 and 12 south, range 35 east; township 10 south, range 35½ east; townships 10 and 11 south, range 36 east, Willamette meridian, in the State of Oregon.

Sec. 2. That the Secretary of the Interior be, and hereby is, authorized to accept on behalf of the United States title to any lands in private ownership within established boundaries of the said Whitman National Forest which, in the opinion of the Secretary of Agriculture, are chiefly valuable for the production of timber or the protection of stream flow, and in lieu thereof may give in exchange such Government timber as may be determined by the Secretary of Agriculture to be of approximately equal value; and any reconveyed lands shall, upon acceptance, become subject to all laws affecting national forests.

With the following committee amendment:

Page 2, line 11, after the word "timber," insert the words "in or near the Whitman National Forest."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

On motion of Mr. SINNOTT, a motion to reconsider the vote by which the bill was passed was laid on the table.

LOYAL CREEK INDIANS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 9326) to pay the balance due the loyal Creek Indians on the award made by the Senate on the 16th day of February, 1903.

The Clerk read the title of the bill.

Mr. MANN. I ask unanimous consent to have the bill passed over without prejudice.

The SPEAKER. The gentleman from Illinois asks to pass the bill without prejudice. Is there objection?

There was no objection.

REPUBLIC COAL CO.

The next business on the Calendar for Unanimous Consent was the joint resolution (S. J. Res. 50) authorizing the Secretary of the Interior to sell the coal deposits in and under certain public lands to the Republic Coal Co., a corporation.

The Clerk read the title of the bill.

The SPEAKER. Is there objection?

Mr. MAYS. I object.

Mr. MANN. Would the gentleman be willing to have it passed over without prejudice?

Mr. MAYS. Certainly.

The SPEAKER. Without objection, the bill will be passed over without prejudice.

There was no objection.

FLANDEAU BAND OF SIOUX INDIANS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 13165) authorizing the Flandreau Band of Sioux Indians to submit claims to the Court of Claims.

The Clerk read the title of the bill.

Mr. MANN. I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. The gentleman asks that the bill be passed over without prejudice. Is there objection?

There was no objection.

ARID LANDS IN NEVADA.

The next business on the Calendar for Unanimous Consent was the bill (S. 2519) to encourage the reclamation of certain arid lands in the State of Nevada, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection?

Mr. MONDELL. Mr. Speaker, reserving the right to object, I want to suggest to the gentleman from Nevada [Mr. ROBERTS] that I think this bill should be safeguarded by certain amendments. The object sought is wise and meritorious, but I am sure the gentleman from Nevada does not want to afford opportunity for speculation, or to afford opportunity to withdraw enormous areas of land without making any real attempt at finding water. I think the bill should be amended on page 2, in line 10, after the word "developed," by inserting the words "and rendered available for such use."

That would require parties not only to find water and develop it, but to render it available for use in irrigation. I do not think that anyone should be given 640 acres of land unless they do actually render available for use enough water to irrigate 20 acres.

I want to make a further suggestion. In section 4, lines 19 and 20, the provision is that the remaining area within the limits of the land embraced within any such permit shall thereafter be reserved from other disposition. One section out of four is finally patented, if the conditions are met, and the provision is that thereafter the remaining three sections shall be reserved from other disposition except that the Secretary of the Interior may sell it. We are about to pass an enlarged homestead law. It does not seem to me wise to give people an opportunity to withdraw vast areas in Nevada in this way and withhold them from homestead entry. I would strike out the words "shall thereafter be reserved from other disposition," leaving the language "that the remaining areas within the limits of the lands embraced in any such permit may be disposed of by the Secretary of the Interior by sale," and so forth. It would still leave the Secretary with authority to dispose of the three remaining sections after the patenting of one, but it would not reserve those three sections from all other disposition. I do not think it is wise to do that.

I want to suggest, in addition to that, that at the end of section 3 there should be this proviso—and I should like to have the attention of the gentlemen who are familiar with these things:

Provided, That the lands embraced in any permit herein provided for shall at all times be subject to settlement or appropriate entry under the public-land laws, but such settlement or entry rights shall be held and perfected subject to the rights of the holder of such permit.

Let me for a moment illustrate the necessity for that kind of an amendment. In the Fifty-fifth Congress the House passed a seemingly very innocuous reservoir bill to encourage the development of water in the semiarid regions by the building of reservoirs, and it was very much along the lines of this bill. It was well intended, but, just as this bill does, it made it possible to withdraw from entry every acre of vacant land in a State. Under that law the Interior Department was compelled, when I was assistant commissioner, to make regulations that were in fact contrary to law in order to prevent whole regions from being withdrawn from homestead settlement and entry during the period that those withdrawal rights were held. There was one county in Kansas in which one man withdrew every acre of unentered land in that county, and but for those regulations which were, as I have said, contrary to law there would have been no settlement over vast areas. Under this bill, which I think is well intended, it would be possible to withdraw and withhold from any and every form of entry known to the land laws every acre of unentered land in Nevada for two years, and without cost. No one, I think, wants to have that done; at the end of two years they would slap on some more of these permits, and so on. We entirely remove the danger of permits not in good faith if we provide that the issuance of these permits will not prevent the assertion of a settlement right under the homestead law, or the making of a homestead entry, or other proper entries. The man making that settlement, or asserting that right, would know that he did it subject to any rights which the permittee may secure; therefore, the permittee proceeding in good faith would probably not be interfered with by a homestead settlement, but if it were made it would not defeat his right; but where it was notorious that these permits were sought simply for the purpose of with-

holding large areas from settlement the homestead settler would come in and he would secure his rights.

Mr. ROBERTS of Nevada. Mr. Speaker, will the gentleman yield?

Mr. MONDELL. Yes.

Mr. ROBERTS of Nevada. We have no objection whatever to those suggestions or to any amendments which will properly safeguard the people's interests.

Mr. MONDELL. I realize the gentleman's attitude, and that he does not desire to have the condition arise, which it seems to me might arise under the bill in the form in which it passed the Senate. He desires, in good faith, to encourage this development. He is trying to secure legislation; naturally he is not to be expected to criticize the Senate bill. We should secure legislation along these lines, but at the same time we should prevent the granting of exclusive permits that might result in the withdrawal from settlement of lands in very large areas for a considerable length of time for speculative purposes. The Senate bill is very broad. Under it I do not note any limit to the number of these four-section water prospecting permits one person could secure. They would cost nothing, not even a filing fee. They could cover the entire State without turning a hand or spending a penny. They hold for two years.

Mr. MANN. Mr. Speaker, before the gentleman from Nevada [Mr. ROBERTS] becomes too deeply committed, let us find out what the proposition is. As I understand, this bill proposes to give a man who wishes to make search for water the right to make that search on four sections, and if he finds the water so that it is available for irrigating purposes, he is entitled to have one section of the land, and the other three sections are to be reserved from homestead entry and put up for sale in 40-acre lots.

Mr. ROBERTS of Nevada. Not less than 40 acres.

Mr. MANN. As I understand, the gentleman from Wyoming [Mr. MONDELL] proposes to give away the other three sections, and not to put it up for auction sale at all, which is a very different proposition.

Mr. MONDELL. No; I leave it in the discretion of the Secretary.

Mr. MANN. But the gentleman's amendment as he read it, and as I understood it, provided that the other three sections should be open to homestead entry.

Mr. MONDELL. Of course they would be open to homestead entry, but the Secretary may nevertheless sell them.

Mr. MANN. Of course you may sell them, but you can also give them away, and, of course, that means that you would give them away. That is an entire departure from the theory of the bill. I do not undertake to say which is correct. This bill was in the last Congress, and I objected to its consideration at one time because I thought perhaps it was giving too much. It now comes in with the same provision in this Congress, and on the floor it is proposed to change it practically to give away at any place four sections of land where you can find water. Of course that means that a development company gets a permit to examine four sections of land. They get one section, and they locate some of their men on the other three sections. I shall have to ask that the bill be passed over without prejudice for further consideration.

Mr. MONDELL. Mr. Speaker, I do not want the gentleman from Illinois to construe what I have said as an indication of any desire on my part to give away, although we do give away and will give away, these lands. To make this bill more liberal I think some limit should be placed, for unless some such provision is made every acre of land in the State of Nevada, every acre that is not now filed on, could be covered by a permit and thus be withdrawn for two years, so that not an entry could be made in that entire State under any land law in that time, and at the end of that period it would be entirely possible to again renew the permits. In the meantime the water development might be much or little; nobody knows.

Mr. MANN. Well, if the gentleman is correct the bill ought not to pass, and I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. The gentleman from Illinois asks unanimous consent that this bill be passed without prejudice. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the next bill.

INDEFINITE LEAVES OF ABSENCE, SUPERANNATED EMPLOYEES, POSTAL SERVICE.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 6915) granting indefinite leaves of absence to superannuated employees of the Postal Service.

The Clerk read the title of the bill.

The SPEAKER. Is there objection?

Mr. COX. Mr. Speaker, I object.

The SPEAKER. The gentleman from Indiana objects.

APPROPRIATION FOR EXPENSES INCURRED UNDER TREATY OF WASHINGTON.

The next business on the Calendar for Unanimous Consent was the bill (S. 649) making appropriations for expenses incurred under the treaty of Washington.

The Clerk read the title of the bill.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the bill be passed without prejudice. Is there objection? [After a pause.] The Chair hears none.

CERTAIN CLAIMS OF THE STATE OF NORTH CAROLINA.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 3654) to authorize the Secretary of the Treasury to audit and adjust certain claims of the State of North Carolina.

The Clerk read the title of the bill.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Illinois? [After a pause.] The Chair hears none.

COLVILLE INDIAN RESERVATION, WASH.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 15575) to amend the act of March 22, 1906, entitled "An act to authorize the sale and disposition of surplus or unallotted lands of the diminished Colville Indian Reservation, in the State of Washington, and for other purposes."

The Clerk read the title of the bill.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I do not know I desire to have it done, but I notice in reference to this matter the department says that it is necessary to have five sections of land and that the committee did not make that change in the bill, it having been introduced for four sections. Did the committee consider that matter?

Mr. DILL. The committee did and thought four sections would be sufficient.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. This bill is on the Union Calendar.

Mr. DILL. Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in the Committee of the Whole House on the state of the Union.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The Clerk read as follows:

Be it enacted, etc., That section 7 of the act of March 22, 1906 (34 Stat. L., p. 80), entitled "An act to authorize the sale and disposition of surplus unallotted lands of the diminished Colville Indian Reservation, in the State of Washington, and for other purposes," be, and the same is hereby amended to read as provided herein, and that one section, No. 13, as hereinafter provided, be, and the same hereby is, added to the said act.

"Sec. 7. That the Secretary of the Interior may reserve from allotment or other disposition and set apart such lands of the Colville Reservation as in his judgment may be necessary, said lands not to exceed four sections in all, for school, agency, sawmill, gristmill, and other mill or administrative purposes, said lands to remain reserved so long as needed for such respective purposes. And the Secretary of the Interior may also set apart for temporary use and occupancy such lands as he may deem necessary for mission purposes among said Indians, not to exceed in any instance, except as hereinafter specifically provided, 40 acres of land lying at any one point, said lands to remain so reserved as long as actually required and used exclusively for mission purposes, subject, however, to such regulations as the said Secretary deem proper to make: *Provided,* That the Secretary of the Interior is further authorized to issue a patent in fee simple to the properly designated missionary board or corporation which now maintains the St. Mary's School and Mission for Colville Indians, for the 60 acres of land in township 33 north, range 27 east of the Willamette meridian, which is the site of said St. Mary's School and Mission plant; and in addition thereto the said board or corporation shall have the privilege of using for training purposes and support of said school and mission the lands already formally set apart for such purposes, together with those several tracts selected and used for school or mission purposes which the mission authorities, prior to 1914, described and requested to have set apart, such privilege to continue so long as the lands are required and used exclusively for Indian mission and school purposes. The Secretary of the Interior is further authorized to reserve as an Indian cemetery any lands within said reservation, not to exceed 50 acres in all, and not otherwise formally or officially appropriated, which have heretofore been or are now being used by the Indians for burial purposes."

"Sec. 13. That the lands allotted, those retained or reserved, and the surplus lands sold, set aside for town-site purposes, or granted to the State or otherwise disposed of, shall be subject to the laws of the United States prohibiting the introduction of intoxicants into the Indian country until otherwise provided by Congress."

The committee amendments were read, as follows:

Page 2, line 15, after the word "point," insert the words "not included in any town site heretofore provided for."
Page 2, line 19, after the word "Secretary," insert the word "may."
Page 3, line 11, after the word "cemetery," insert the words "or cemeteries."

The question was taken, and the amendments were agreed to. The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. DILL, a motion to reconsider the vote by which the bill was passed was laid on the table.

EXTENDING TIME OF PAYMENT OF MONEY DUE THE GOVERNMENT BY THE CITY OF AUGUSTA, GA.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 16630) authorizing and directing the Secretary of the Treasury to extend the time of payment of the amount due the Government by the city of Augusta, Ga.

The Clerk read the title of the bill.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, what reason can the gentleman from Georgia offer for reporting this bill?

Mr. VINSON. Mr. Speaker, the present situation with respect to the Government's contract with the city of Augusta, Ga., for the city's purchase of the old post-office property there appears to be as follows:

March 4, 1911, the Government owned a Federal building and a vacant site. The act of Congress approved same date authorized the exchange of the new site for the city's vacant lot, the United States paying the difference in value, provided city purchased old post-office property. Old post office appraised at \$50,000. The city's lot valued at \$16,000 more than the Government's vacant site.

The department contracted with the city to exchange lots and to convey the old post-office property to city upon completion of the new Federal building; city to pay net balance of \$34,000 upon delivery of deed to old post-office property.

The deeds for vacant lots have been exchanged. The new post office has been completed and the city notified to forward draft. The contract requires that upon receipt of draft the department shall deliver last-mentioned deed and if the city defaults it loses all claim to its equity in the old post-office property.

The reason why the city of Augusta asked for this extension is in view of the recent catastrophe in Augusta during, I think, the month of March, wherein a portion of the city was practically destroyed by fire, causing damage of over \$7,000,000.

The Treasury Department has no objection to the extension of time, and I hope the gentleman from Illinois will not interpose objection to the present consideration of this bill. Of course, as the bill is upon the Unanimous Consent Calendar it can not be considered at this time if the gentleman interposes an objection, and I earnestly request that he withhold the same and permit the bill to be considered by the House.

Mr. MANN. Well, Mr. Speaker, we have frequently extended the time for payment where we sold land to settlers, especially Indian lands. We have done so a great many times, though I do not recall any instance where we did not require that the interest on the extension should be paid in advance.

Mr. VINSON. If the gentleman will yield—

Mr. MANN. Does the gentleman from Georgia think that if this had been the reverse, and the United States by making this exchange of land had agreed to pay the city of Augusta \$34,000, that the city of Augusta would either postpone the time for payment, or, if we should take the extension of time, the city of Augusta would let us off without interest?

Mr. VINSON. Replying to the gentleman's question, I am confident that if the city of Augusta had a claim against the United States and a great calamity had fallen on the country, the city of Augusta would promptly, if requested to do so by the National Government, give it ample time to meet its indebtedness.

Mr. MANN. Why should we do more for the city of Augusta than we do for some poor pioneer down in Oklahoma, out in Montana, Wyoming, or Washington? We have quite a number of bills pending now, in one House or the other—we passed some at this session—extending the time for payment, but always requiring the payment of interest.

Mr. VINSON. Well, I do not think the gentleman will find any record whereby the Government exacted interest in cases of a calamity.

Mr. MANN. Oh, the gentleman is mistaken. These are all cases of calamity.

Mr. VINSON. Not at all.

Mr. MANN. Why, every one of these cases where we extend the payment the settlers come in here by their Representatives and say that owing to nature not giving them sufficient moisture, or something else, they have not been able to raise any crops.

We extend the time and they pay the interest.

Mr. VINSON. Does the gentleman from Illinois take the position that the Government should go into the business of charging interest on money that is due to it by the citizens of Augusta, Montana, Wyoming, or any other place?

Mr. MANN. I take the position that we ought not to do it, but we are doing it every day. We are not loaning money. Here, the city of Augusta owes us the money. They say they are not prepared to pay it without hardship. It is like any other debt. It was a fair transaction. They entered into it knowingly and willingly. In fact, they obtained it as a concession. The Government of the United States was not asking for it. Now, they owe the money. I am perfectly willing to extend the time for payment, but I see no reason why we should extend the time without the payment of some interest.

Mr. VINSON. I can not see, Mr. Speaker, why any interest should be exacted in this case, because the original contract between the city of Augusta and the United States never contemplated interest, and for one I think it is an unwise policy for the Government to exact interest in a case of this character from any of its citizens who happen to be indebted to it.

Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

Mr. MANN. I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. The gentleman from Illinois [Mr. MANN] asks unanimous consent that the bill be passed over without prejudice.

Mr. VINSON. I trust the gentleman will not do that, because it is a fact—

Mr. MANN. I have finished my discussion on it this afternoon. I will think it over.

The SPEAKER pro tempore. Is there objection?

Mr. VINSON. Mr. Speaker, I ask that it go over without prejudice.

The motion was agreed to.

PUBLIC UTILITIES COMMISSION.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 16700) to amend an act relating to the Public Utilities Commission of the District of Columbia, approved March 4, 1913.

The SPEAKER. Is there objection to the consideration of the bill? [After a pause.] The Chair hears none. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That section 8, paragraph 1, of an act entitled "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1914, and for other purposes," approved March 4, 1913, relating to the Public Utilities Commission of the District of Columbia (37 Stat. L., p. 975), as amended by an act approved February 25, 1916, be amended by adding to the names of the companies excluded from the operation of said section, after the words "and the Washington & Old Dominion Railway, excepting as to the regulation of its operation inside of the District of Columbia," in the third subdivision of said paragraph, on page 975, the following: "And the Washington-Virginia Railway Co., excepting as to the regulation of its operation inside of the District of Columbia."

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. CARLIN, a motion to reconsider the vote by which the bill was passed was laid on the table.

RETIREMENT PAY FOR UNITED STATES DISTRICT JUDGES.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 11152) to provide retirement pay in certain cases for judges of the United States district courts in the Territories.

The SPEAKER. Is there objection to the consideration of the bill?

Mr. MANN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the bill be passed over without prejudice. Is there objection? [After a pause.] The Chair hears none.

The Clerk will report the next bill.

TABLET IN MEMORY OF COL. DAVID DU B. GAILLARD.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 15076) granting to the widow of Col. David Du B. Gaillard authority to place, in his memory, a tablet in the Memorial Amphitheater at Arlington, Va.

The title was read.

Mr. MANN. Mr. Speaker, I ask that the bill be passed over without prejudice.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

MILITARY PARK, GUILFORD COURTHOUSE.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 8229) to establish a national military park at the battle field of Guilford Courthouse.

The title was read.

Mr. MANN. Mr. Speaker, I ask unanimous consent to have the bill passed over without prejudice.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the bill be passed over without prejudice. Is there objection? [After a pause.] The Chair hears none.

PINEY BRANCH ROAD BETWEEN ALLISON AND BUCHANAN STREETS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 12035) to provide for the abandonment of Piney Branch Road between Allison Street and Buchanan Street NW., in the District of Columbia.

The title was read.

Mr. MANN. Mr. Speaker, I make the same request as to that bill.

The SPEAKER. The gentleman from Illinois asks that the bill be passed over without prejudice. Is there objection? [After a pause.] The Chair hears none.

UNITED STATES JAIL AT GUTHRIE, OKLA.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 6904) authorizing the donation of the United States jail at Guthrie, Okla., to Logan County.

The SPEAKER. Is there objection to the consideration of the bill? [After a pause.] The Chair hears none.

Mr. THOMPSON. Mr. Speaker, I ask that the bill be considered in the House as in the Committee of the Whole.

The SPEAKER. The gentleman from Oklahoma asks unanimous consent that the bill be considered in the House as in the Committee of the Whole. Is there objection? [After a pause.]

The Chair hears none. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the United States jail at Guthrie, Logan County, Okla., shall, from and after the passage of this act, be and become the property of Logan County, Okla.

Also, the following committee amendment was read.

Strike out all after the enacting clause and insert:

That the Attorney General of the United States be, and he is hereby, authorized and directed to convey, by proper quitclaim deed, to the county of Logan, in the State of Oklahoma, the United States jail at Guthrie, Okla., and all the lands set apart therewith.

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

The committee amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill as amended.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

The SPEAKER. Without objection, the title of the bill will be amended to conform to the text.

There was no objection.

On motion of Mr. THOMPSON, a motion to reconsider the vote whereby the bill was passed was laid on the table.

The SPEAKER. The Clerk will report the next one.

MISSISSIPPI CENTENNIAL EXPOSITION AT GULFPORT, MISS.

The next business on the Calendar for Unanimous Consent was the resolution (H. J. Res. 252) authorizing the transfer of the Government exhibit, or such portion thereof as the President may determine is advisable, now at the Panama-California International Exposition at San Diego, Cal., to the Mississippi Centennial Exposition at Gulfport, Miss.

The title of the resolution was read.

Mr. MANN. Mr. Speaker, I ask unanimous consent that the resolution be passed over without prejudice.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the resolution be passed over without prejudice. Is there objection?

There was no objection.

PANAMA-PACIFIC INTERNATIONAL EXPOSITION.

The next business on the Calendar for Unanimous Consent was the resolution (H. J. Res. 235) to authorize the President of the United States to convey to the foreign Governments participating in the Panama-Pacific International Exposition the grateful appreciation of the Government and the people of the United States.

The title of the resolution was read.

Mr. MANN. Mr. Speaker, I ask unanimous consent that the resolution be passed over without prejudice.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the resolution be passed over without prejudice. Is there objection?

There was no objection.

LANDS OF WINNEBAGO AND OMAHA INDIANS, NEBRASKA.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 11161) providing for the taxation of the lands of the Winnebago Indians and the Omaha Indians in the State of Nebraska.

The title of the bill was read.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. This bill is on the Union Calendar.

Mr. VENABLE. Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in Committee of the Whole. I also ask unanimous consent that the Committee on Indian Affairs be discharged from the further consideration of the Senate bill 6116, and that that bill be considered in lieu of the House bill 11161, the two bills being identical.

Mr. MANN. Where is the Senate bill? Over in the committee?

Mr. VENABLE. Yes.

The SPEAKER. Where is the Senate bill now?

Mr. VENABLE. My information is that it has been referred to the House committee.

Mr. MANN. It is probably with the Committee on Indian Affairs. I ask unanimous consent, Mr. Speaker, that it be passed over without prejudice.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the bill be passed over without prejudice. Is there objection?

Mr. VENABLE. The bills are the same.

Mr. MANN. I am willing to pass it over temporarily. The Committee on Indian Affairs is right down below here. You have to have the original engrossed bill of the Senate before you can act upon it.

Mr. VENABLE. I ask unanimous consent, then, Mr. Speaker, to pass over the bill temporarily.

The SPEAKER. Is there objection?

There was no objection.

INDIAN DEPREDAATION CLAIMS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 6876) to amend an act entitled "An act to amend an act entitled 'An act to provide for the adjudication and payment of claims arising from Indian depredations,' approved March 3, 1891," approved January 11, 1915.

The title of the bill was read.

Mr. STAFFORD. Mr. Speaker, I ask unanimous consent that the bill go over without prejudice.

The SPEAKER. The gentleman from Wisconsin asks unanimous consent that this bill go over without prejudice. Is there objection?

There was no objection.

HIGHWAY THROUGH FISH-CULTURAL STATION, UNICOI COUNTY, TENN.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 11474) authorizing the Secretary of Commerce to permit the construction of a public highway through the fish-cultural station in Unicoi County, Tenn.

The title of the bill was read.

The SPEAKER pro tempore (Mr. FERRIS). Is there objection?

There was no objection.

Mr. HULL of Tennessee. Mr. Speaker, I ask unanimous consent that this bill be considered in the House as in Committee of the Whole.

The SPEAKER pro tempore. The gentleman from Tennessee asks unanimous consent that this bill be considered in the House as in Committee of the Whole. Is there objection?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the bill. The Clerk read as follows:

Be it enacted, etc., That the Secretary of Commerce is authorized to grant permission to the road commissioners of Unicoi County, Tenn., a right of way for a public highway, not more than 20 feet wide, through the property of the United States in Unicoi County, Tenn., used as a fish-cultural station and hatchery *Provided*, That such conveyance of right of way shall not be construed as affecting the right or title of the United States in said property or as in violation of any stipulation or condition in the conveyance of the same to the United States, and on the further condition that the land or right of way to be conveyed thereunder shall be constructed and maintained as a highway free of any expense to the United States, and all work thereon shall be such as not to interfere with the operations and efficiency of said fish-cultural station, and in a manner satisfactory to the Secretary of Commerce.

With a committee amendment, as follows:

Amend, page 1, line 3, by striking out, after the word "to," the words "grant permission" and inserting the word "convey." On page 2, line 3, after the word "way," insert the word "authorized." In the same line, after the word "conveyed," strike out the word "thereunder," and insert the word "hereunder."

The SPEAKER pro tempore. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill as amended.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. HULL of Tennessee, a motion to reconsider the vote whereby the bill was passed was laid on the table.

The SPEAKER pro tempore. The Clerk will report the next bill.

FISH-CULTURAL STATION ON THE KLAMATH RIVER, CAL.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 11245) to authorize the establishment of an auxiliary or field fish-cultural station on the Klamath River, in the State of California.

The title of the bill was read.

Mr. MANN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. The gentleman from Illinois asks unanimous consent that the bill be passed over without prejudice. Is there objection?

Mr. RAKER. Mr. Speaker, will the gentleman yield?

Mr. MANN. Yes. I would just as lief object. I will, eventually. We do not pass any bills of this character.

Mr. RAKER. The gentleman made a request to pass the bill over. I would like to have it passed if I could.

Mr. MANN. I do not make any response. The gentleman is at liberty to do as he pleases.

The SPEAKER pro tempore. The gentleman from Illinois asks unanimous consent to pass the bill over without prejudice. Is there objection?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the next bill.

COOS HEAD MILITARY RESERVATION.

The next business on the Calendar for Unanimous Consent was the bill (S. 1159) authorizing the Secretary of War to grant the use of the Coos Head Military Reservation, in the State of Oregon, to the cities of Marshfield and North Bend, Oreg., both being municipal corporations, for park purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. FERRIS). Is there objection?

Mr. MANN. Reserving the right to object, I should like to have the bill reported.

The SPEAKER pro tempore. The Clerk will report the bill. The bill was read, as follows:

Be it enacted, etc., That the Secretary of War is hereby authorized and directed to grant permission to and to authorize the cities of Marshfield and North Bend, each being a municipal corporation of and within the State of Oregon, to use and occupy all of those tracts or parcels of land known as the Coos Head Military Reservation, and also described as lots 1, 2, and 3, and the southwest quarter of the northwest quarter of section 2, township 26 south, range 14 west of the Willamette meridian, and lots 1, 2, and 4, and the southeast quarter of the northeast quarter of section 3, township 26 south, range 14 west of the Willamette meridian, situated on the south shore of the entrance to Coos Bay, at Coos Head, in Coos County, State of Oregon, for park purposes, and to exercise such use and occupation by and through a commission consisting of three persons, two of whom shall be named and appointed by the said city of Marshfield from among its resident citizenship, and one to be named and appointed by the said city of North Bend from among its resident citizenship; and for the purpose of enabling said cities more effectually to promote the purposes herein defined, the said commission is hereby granted the privilege—

(a) To fell and to remove trees and underbrush from said parcels of land, and to otherwise clear and improve the same.

(b) To erect temporary buildings upon said parcels of land for the accommodation and convenience of the public.

(c) To grant to private parties and to others the privilege of erecting temporary buildings upon said parcels of land for the accommodation of private persons and the public.

(d) To survey and plat said parcels of land, or any part thereof, for the purpose of enabling said commission to indicate and define the particular tract or tracts of land granted for such privileges to any person or persons.

(e) To police said parcel or parcels of land while the same or any part thereof is being used or occupied as a park or for parking purposes, or while the same or any part thereof is used or occupied under any privilege granted by said commission in accordance herewith.

(f) To provide and enforce reasonable charges, restrictions, rules, and regulations for the use of property and the conduct of persons while upon said parcels of land or upon any part thereof while being used or occupied, in whole or in part, for park purposes; subject, however, at all times to the rights of the United States in any manner to assume control of, hold, use, and occupy, without leave or consent from anyone or from said cities of Marshfield or North Bend, or from said commission, any or all of said parcels of land for any and all military, naval, life-

saving station, lighthouse, and any and all other Government purposes, freed from any and all grants, conveyances, privileges, charges, incumbrances, improvements, or liens, matured or unmatured, made, created, permitted, or sanctioned thereon, by said cities of Marshfield or North Bend or said commission, or either of them, under and by virtue of this act: *Provided*, That the United States shall not be or become liable to any person or persons for any damages or compensation whatever to the said cities of Marshfield or North Bend or to said commission, or to either of them, for any future use by the said Government of any and all of the above-described parcels of land for any of the above-named Government purposes: *Provided further*, That each and all of the uses, occupations, and privileges hereby granted are and shall be of a temporary character only, and the said Secretary of War is hereby authorized to revoke the same at his discretion.

Mr. MANN. There is not very much information contained in the report on this Senate bill. I should like to ask whether the cities affected desire this legislation?

Mr. HAWLEY. They have passed resolutions through their common councils authorizing the taking over by the cities of this property if the grant is made by the Government. They agree to preserve it in good shape and police it, which is an important thing just now.

Mr. MANN. How large are these cities?

Mr. HAWLEY. The city of Marshfield approaches 7,000 inhabitants, I should think, and the city of North Bend some 4,000 or 5,000. There are other people living on the peninsula, so that the total number of people served will be over 15,000, as I understand.

Mr. MANN. How many acres are there in this reservation?

Mr. HAWLEY. About 120 acres.

Mr. MANN. As I understand, this bill does not provide for the sale of the land to these cities, but simply grants to them the use of this military reservation until the Government wants it, reserving the right of the Government to take it at any time.

Mr. HAWLEY. At any time, without any request whatever.

Mr. STAFFORD. Reserving the right to object, what improvements has the Government on this tract?

Mr. HAWLEY. Practically none. It has been abandoned for many years. Nuisances are committed upon it, the Government does not provide for its care, and if these cities take it over they will police it and care for it, and it will be preserved in better condition than it is now.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The SPEAKER pro tempore. The bill is on the Union Calendar.

Mr. HAWLEY. I ask unanimous consent to consider it in the House as in Committee of the Whole.

The SPEAKER pro tempore. The gentleman asks unanimous consent to consider it in the House as in Committee of the Whole. Is there objection?

There was no objection.

The bill was ordered to a third reading, and was accordingly read the third time and passed.

On motion of Mr. HAWLEY, a motion to reconsider the vote by which the bill was passed was laid on the table.

METROPOLITAN POLICE OF THE DISTRICT OF COLUMBIA.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 10926) to amend an act approved June 8, 1906, entitled "An act to amend section 1 of an act entitled 'An act relating to the Metropolitan police of the District of Columbia,' approved February 28, 1901."

The Clerk read the title of the bill.

Mr. MANN. I ask unanimous consent that this bill may be passed over without prejudice.

The SPEAKER pro tempore. The gentleman asks unanimous consent that the bill may be passed over without prejudice. Is there objection?

There was no objection.

ST. AUGUSTINE, FLA., PARK.

The next business on the Calendar for Unanimous Consent was the bill (S. 3699) to donate to the city of St. Augustine, Fla., for park purposes the tract of land known as the Powder House lot.

The Clerk read the title of the bill.

Mr. MANN. I ask unanimous consent that this bill may be passed over without prejudice.

The SPEAKER pro tempore. The gentleman from Illinois asks unanimous consent that the bill may be passed over without prejudice. Is there objection?

There was no objection.

BLACKFEET INDIAN RESERVATION, MONT.

The next business on the Calendar for Unanimous Consent was the bill (S. 793) modifying and amending the act providing for

the disposal of the surplus unallotted lands within the Blackfeet Indian Reservation, Mont.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection?

Mr. MANN. Reserving the right to object, this bill proposes to advance out of the Treasury a considerable sum of money to the Indians, to be reimbursed to the Government finally?

Mr. EVANS. Yes.

Mr. MANN. Is there any reason why we should advance that money without charging some rate of interest on it?

Mr. EVANS. I know of no particular reason why interest should not be charged. I do not know whether it has ever been done.

Mr. MANN. I do not know of any other case like this where we have acted.

Mr. EVANS. The situation is briefly this, that this reservation was ordered to be opened some seven years ago, but because some coal and oil and other rights were not reserved the reservation had never been opened. It is now ready to open, but there is a disposition to open only a part of it. Because it appeared that the reservation was ready to be opened, the grazing privileges have been cut off, and these Indians have been left without means of support. Formerly they leased the grazing privileges, from which they received an income, but last year the Government spent about \$30 for the purpose of feeding these Indians. It is now proposed that the Secretary of the Interior shall loan to these Indians \$150,000—

Mr. MANN. Seven hundred and fifty thousand dollars would come nearer the amount.

Mr. EVANS. I think it would finally, but \$150,000 by this bill.

Mr. MANN. Seven hundred and fifty thousand dollars by the bill as originally introduced, and \$150,000 by the committee amendment, which I am sure the gentleman from Montana is not in favor of.

Mr. EVANS. I am in favor of it if the amount is increased. The Indians have a valuable property, but they are personally poor. The Commissioner of Indian Affairs testified before the committee that he could open the reservation within 60 days if this bill goes through.

Mr. MANN. I have examined the matter quite carefully, and have talked with some of the gentlemen who are here in behalf of the bill. I can see a good deal of merit in the proposition; but where we propose to sell a lot of Indian lands right away, and pending the sale propose to invest a large sum of money in stock raising or something else, what reason is there why the Government should do this at its own expense in the end, the Indians having plenty of property, and not charge them any interest on the amount advanced to them?

Mr. EVANS. Personally I should not object to an interest charge, because I think the principal will be repaid within two years. I shall not object to that.

Mr. STAFFORD. I ask unanimous consent that the bill go over without prejudice.

Mr. EVANS. I hope the gentleman will not ask that.

Mr. STAFFORD. I feel obliged to do so.

The SPEAKER pro tempore. The gentleman from Wisconsin asks unanimous consent that the bill go over without prejudice. Is there objection?

There was no objection.

VETERINARY INSPECTORS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 16060) providing for the classification of salaries of veterinary inspectors and lay inspectors (grades 1 and 2) employed in the Bureau of Animal Industry, Department of Agriculture.

The SPEAKER. Is there objection?

Mr. COX. I object, Mr. Speaker.

The SPEAKER. The gentleman from Indiana objects.

Mr. RAKER. I ask unanimous consent that the bill retain its place on the calendar.

Mr. COX. I object.

The SPEAKER. The gentleman from California asks unanimous consent that the bill be passed over without prejudice and the gentleman from Indiana objects. The Clerk will report the next bill.

AVIATION CORPS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 17020) making an appropriation for the benefit of the Aviation Corps of the Department of War, and repealing the provisions of certain acts relating to the acquisition of a site and the erection of a public building at Ripon, Wis.

The Clerk read the title of the bill.

Mr. STAFFORD. Mr. Speaker, by request I ask unanimous consent that this bill go over without prejudice.

The SPEAKER. The gentleman from Wisconsin asks unanimous consent that the bill be passed over without prejudice. Is there objection?

There was no objection.

JOHN ERICSSON.

Mr. FITZGERALD. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 5) for erecting a suitable memorial to John Ericsson, with committee amendments.

The SPEAKER. The gentleman from New York moves to suspend the rules and pass the bill H. R. 5, with committee amendments. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the sum of \$35,000, or so much thereof as may be necessary, is hereby authorized for the erection, in the city of Washington, D. C., of a suitable memorial to John Ericsson, the inventor and constructor of the *Monitor*, said sum to be expended for the purposes herein named by a commission consisting of the chairman of the Committee on the Library of the Senate, the chairman of the Committee on the Library of the House of Representatives, and the Secretary of the Navy: *Provided*, That the design and location of said memorial and the plan for the treatment of the grounds connected with its site shall be approved by the Commission of Fine Arts.

The SPEAKER. Is a second demanded?

Mr. MANN. Mr. Speaker, if no one else demands a second, I do.

The SPEAKER. The gentleman from Illinois demands a second.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

The SPEAKER. The gentleman from New York asks unanimous consent that a second be considered as ordered. Is there objection?

There was no objection.

The SPEAKER. The gentleman from New York is entitled to 20 minutes and the gentleman from Illinois to 20 minutes.

Mr. FITZGERALD. Mr. Speaker, this bill is to commemorate by suitable monument the memory of one of the most distinguished members of the engineering profession, and a man who rendered services of an extraordinarily valuable character to the people of the United States in a great crisis in their history. John Ericsson was born in Sweden in 1803 and died in the city of New York in 1889, in which city he was buried. Subsequently, at the request of the Swedish Government, his body was transported upon an American man-of-war to Sweden for interment in his native land. He is most familiarly known to fame as the man who constructed the *Monitor*, at a very critical period in the existence of the Republic. But outside of his connection with the construction of the *Monitor*, he had been identified with a long list of useful inventions and improvements that have been of inestimable value to mankind. He was the first to adopt the screw propeller for steam vessels. He originated the use of compressed air for the transmission of power and of forced draft by centrifugal blowers. He was the inventor of improved boilers for steamships, and of the surface condenser for marine engines. One of his inventions that was particularly valuable to the United States was the location of the propellers below the water line, and it was tried for the first time on a vessel of the United States Navy. He was the inventor of an apparatus for deep-sea soundings, involving the principle now incorporated in Lord Kelvin's deep-sea sounding device, to locate accurately warning signals, and he was the inventor and designer and the improver of innumerable mechanical devices of great advantage to the commercial world.

He received the thanks of Congress and of the Legislature of the State of New York during his lifetime for services which he rendered to this country. He came to the United States in 1838, was naturalized in 1849, and lived the remainder of his life in this country until he died, as already stated, in the city of New York in 1889.

It is peculiarly fitting, Mr. Speaker, that at this time the Congress of the United States by some suitable memorial should commemorate the distinguished services of John Ericsson. He was a native of one of the few countries which is neutral during the present war. The United States is now on the most friendly terms with that progressive nation. Although the time has been considerable since he rendered the services for which the country is particularly grateful, there are now numbered among the citizens of this country a vast number of natives of Ericsson's native land who constitute a valuable and desired addition to our citizenship. They reverence his memory; they have just pride in his achievements; they are hopeful that his services will be commemorated by some fitting and lasting memorial. Nothing does so much to encourage patriotism and to

make men's hearts beat more rapidly with patriotic fervor than the contemplation of the deeds of able and patriotic men which the country in some suitable manner recalls to its people. A fitting memorial in the Nation's Capital will attract men from all parts of the United States as to a shrine, and it will enkindle a noble and more intense love of our country in the hearts of many estimable citizens.

I hope that the House will take advantage of this opportunity to pass this bill. In the last Congress nearly 300 Members of the House publicly pledged themselves to support legislation designed to commemorate the memory of this very distinguished man, and I am glad that they are all present now and will have an opportunity to vote for the bill at this time. [Applause.] I reserve the remainder of my time.

Mr. MANN. Mr. Speaker, I yield five minutes to the gentleman from Minnesota [Mr. STEENERSON].

[Mr. STEENERSON addressed the House. See Appendix.]

Mr. MANN. Mr. Speaker, I demanded a second on the motion to suspend the rules in the absence of anyone else demanding it, not because I am opposed to the bill but because I thought it was proper to have it in a status where gentlemen might address the House concerning the bill. If anyone now wishes to be heard in opposition I would be very glad to yield him the time. Apparently no one is opposed to the bill. I am with the others who have spoken. I think we are paying a proper tribute to this great patriot, to this great Swedish citizen—Swedish-American I shall call him, notwithstanding the prejudice against hyphenated names, because it would not be just merely to call him an American. It would not be just merely to call him a Swede. It is only just to call him, as he was, a great citizen of the United States, born in Sweden, who is sometimes referred to as a Swedish-American. [Applause.]

Mr. FITZGERALD. Mr. Speaker, I yield five minutes to the gentleman from Nebraska [Mr. LOBECK].

Mr. LOBECK. Mr. Speaker, the remark was just made about a man being a "Swedish-American." If there was any man in this country who was intensely American it was Capt. John Ericsson. Throughout the entire country, from East to West, we do not know anything of Swedish-Americans. They are all Americans. [Applause.] Though often called Swedish-Americans, it is nevertheless true the Swedish-born people, adopted citizens of our Nation, love the land which gave them birth. They are an educated people; they read and recite the sagas, the literature, and sing the songs of their forefathers. They read the history of its warrior kings, its poets, and love its splendid music, instrumental and vocal. While this is all dear to them, above all they love their adopted country, and no citizenship of the United States is truer than they to the Stars and Stripes and what the flag stands for. [Applause.] The first settlement of the Swedish-born people in the West was in 1846, in Henry County, Ill., led by Eric Janson, with a company of about 1,000 men, women, and children from the hillsides and the valleys of Sweden. They established the well-known colony of Bishop Hill in as beautiful a portion of Illinois as can be found, and they and their descendants have transformed it into a veritable garden. I was born in the same county, so known of the energy, industry, and perseverance of the pioneer Swedish citizens of that county.

When the Civil War came there were no people in this country of foreign birth who responded better in relation to numbers to the call to preserve the Union and for the defense of the flag. [Applause.] Of the men of Swedish birth in Illinois it is said that every fifth man able to carry arms responded to the call of Lincoln and of the Nation.

When the news came that John Ericsson had constructed the *Monitor* which won the victory over the *Merrimac* and saved the Capital of the Nation, with the same came news of victories won by the valor of Swedish-born soldiers in the battle fields of the West. There was the celebrated Company C of the Forty-third Illinois, all of Swedish birth, who distinguished themselves at Shiloh. On the same battle field and elsewhere Silversparre's battery won glory for themselves. Capts. Forse and Eric Johnson, of the Bishop Hill company, Fifty-seventh Illinois, served for over four years in the defense of the Union; then there was Capt. Stolbrand, the great artilleryman, and Capt. John Dedrick, of the Nineteenth Illinois; Col. Hans Mattson, who led the Scandinavians from Minnesota. The soldier boys came from the shops and farms of Illinois, Iowa, and Minnesota, and together with the Norwegians of Wisconsin, Iowa, and Minnesota, did deeds of valor on many a battle field for the preservation of the Union. I remember as a boy when the news came that the *Monitor*, John Ericsson's invention, had won the battle against the *Merrimac*, and with what gladsome joy it was received.

The Swedish-born people, their sons and daughters, are and always have been true to this Government, whether you find them in the factories in the New England States, or in the shops of the great centers of manufacture, or in the fields of Minnesota, Kansas, Iowa, Nebraska, or Illinois; wherever you may find them from the Atlantic to the Pacific, in shops, factory, farm, mine, forest, or as merchants, bankers, or educators, they are a patriotic people.

They love to speak of John Ericsson and the brave boys who, during the Civil War, were always found loyal to this country. [Applause.]

In the schools and colleges of our land they have gained highest distinction, and the sons and daughters of Scandinavia in our schools compare favorably with those of any lineage or ancestry. The present governor of Minnesota is an example; I can remember when his father, his grandfather, and grandmother came to this country. They did not look "very much," as we say, but they have shown their sterling worth. They came to this country poor, with empty hands, but with an ambition to succeed. Their civilization was of the type that read the Bible. They brought the Bible and hymn book with them. They taught their children to worship God. They gave them the best education they could. They taught them to be true Americans, and to-day their children and grandchildren are filling honored places. The history of this family is the history of many Scandinavian families in this country. [Applause.]

I am glad to be present and vote for this measure; I wish the committee had recommended a larger amount; still I am pleased that Congress will show its appreciation to the memory of Capt. John Ericsson.

The turret idea evolved and put into practice in constructing the *Monitor* was the commencement and foundation of the present type of naval warships. Ericsson's fame as an inventor is national and it is also world-wide. The last century brought forth many wondrous inventions, and among the inventors Capt. John Ericsson's name classes with Morse, Bell, Edison, Howe, McCormick, and Marconi, wondrous in their inventive genius for the comfort and welfare of the peoples of the earth. [Applause.]

Mr. FITZGERALD. I yield to the gentleman from Illinois [Mr. TAVENNER].

Mr. TAVENNER. Mr. Speaker, the pending bill providing for the erection of a suitable monument in the National Capital in honor of Capt. John Ericsson is a meritorious one from every viewpoint, and I want to see the House pass it by a unanimous vote.

Every school child in the land has been thrilled by the story of Capt. Ericsson and his *Monitor*. I know that the first story of the Civil War that impressed itself on my mind was the story of the thrilling fight between John Ericsson's *Monitor* and the *Merrimac*. I heard the story even before I started to school from my father, himself a veteran of the old Grand Army of the Republic.

We have erected monuments in Washington to the memory of many of our great men, and it is in every way fitting that we should erect one to the memory of this great Swedish-American, a man whose memory the people of this Republic will revere as long as the Republic stands.

In connection with this I wish to insert as a part of my remarks extracts from the finest speech on John Ericsson that I have ever read. I refer to the speech of Congressman CHARLES H. SLOAN, of Nebraska. It is a literary gem. It contains more interesting information about John Ericsson than can be found in any schoolbook or history that has ever come to my attention. It should be published as a Government document and sent out to the public schools everywhere. I happen to be one of the members of the Committee on Printing, and if a resolution is introduced to make this speech a House document I will, as one member of the committee, vote to report it favorably. Congressman SLOAN's speech, in part, follows:

"Mr. SLOAN. Years ago in the schoolbooks we learned that Baltimore was the Monumental City. It is now seldom so designated. This is largely due to the fact that within an hour's ride from the 'Metropolis of the Chesapeake' there stands by the lordly Potomac, at a point where the waters from the mountains meet the tides of the sea, our National Capital.

"Its regular streets, broad avenues, palatial homes, and great buildings, public and private, together with its numerous parks, whose areas describe many geometric outlines, all challenge the notice and command the favorable comment of visiting Americans and foreigners.

"Some of the most interesting features of Washington are its monuments, erected as a protest against the oft-repeated statement that republics forget and are ungrateful. Between

the Capitol and the Potomac, reaching toward the heavens, stands the greatest obelisk in the world. It was erected by a generous people's voluntary subscription and a congressional appropriation to the memory of Washington. Near the banks of the Potomac, beyond which rises in solemn grandeur Arlington Cemetery, the resting place of American heroism, is now being constructed a magnificent Greek temple in commemoration of Lincoln. [Applause.] In the various parks are imposing statues erected to brave, wise, and great Americans, 'whose deeds crown history's pages, and time's great volume make.' All these are in chaste marble, enduring granite, or imperishable bronze. These in the main are erected to commemorate America's native sons.

"However, America did not come into national existence by native effort alone, nor has that national existence been maintained independently of those who looked for the first time upon the sun in other climes or under other flags than ours. In an oblong square fronting the Executive Mansion is Lafayette Park. Here are beautiful walks under trees transplanted from many other countries. In the southeast corner upon an elevated pedestal, about which is the compatriot group, stands a bronze statue, with military trappings, of America's early, tried, and noble friend—Lafayette. [Applause.]

"At the northeast corner is a similar statue erected to Kosciuszko, the Pole. May it stand there in grandeur until dismembered Poland, which gave him birth and for which he fought and fell, shall take its place among the other nations of the earth. [Applause.] In the southwest corner is another statue of heroic mold erected to Rochambeau, the great French general, who led his army, side by side with the Americans under Washington, up to triumphant Yorktown. The latest statue placed is in the northwest corner, that of Baron von Steuben, an officer under Frederick the Great. He became, after Valley Forge, the effective drill sergeant of our Continental Army. It was to a large extent his methods and discipline, added to the zeal, daring, and patriotism of the American Army, which humbled the land forces of Britain. [Applause.]

"Nor are those who distinguished themselves on land alone remembered. In Franklin Park there has recently been erected a bronze statue of Irish Jack Barry, who nobly earned the title, 'The Father of the American Navy.' [Applause.] Recently the American Government in just retrospect condemned its own neglect of John Paul Jones, who under different flags had become in that period of revolution on two continents 'the terror of the seas.' As a measure of justice the American Government transported his remains from their Parisian resting place and placed them in a mausoleum at the Annapolis Naval Academy. Afterwards a statue enduring, imposing, and appropriate was erected to his memory at Potomac Park in the National Capital. The achievements of this Scot in gallantry and daring reflected luster all along his career, but never more than when he patrolled the seas in vigorous warfare against all who would assail the encradled Republic of the west. [Applause.]

"John Ericsson was born with a genius for mechanics and a mind for mathematics. With the industry and persistence of his race this child of the north lived and closed his career with a record for achievement which, had he lived a few centuries ago, would have, by the iconoclasts of to-day, been called a romance.

"He first saw the light under the northern sun in Vermeland, Sweden. His nativity was but a few degrees from the Arctic Circle. It was the land of the short day and summer and the long night and winter. Eighteen hundred and three was a year of great import to America. It was the year when Napoleon, intending to deliver his greatest indirect blow at Britain, ceded Louisiana to the United States, giving us the scope of an empire. Far off Sweden was then under the rule of the great Napoleon. There a boy was born who 59 years later was to prove a great factor in preserving intact, under the American flag, that mighty domain. Napoleon intended by so ceding Louisiana to build a western republic capable of battling successfully with Britain. That was an enterprise in which the great Corsican recognized his own inability, for already Britain's supremacy of the seas had confined Napoleon's triumphs to continental Europe.

"The march of events confirmed the foresight of Bonaparte. Britain was successfully combated and our most marked victory was at New Orleans, the populous center of that great annexation. The supreme trial of the Republic was not destined to be with Great Britain or any other power. It arose between two parts of the Republic itself. In that John Ericsson earned the distinction which the bill for his monument now pending in this Congress would confer.

"Between the Swedish cradle and the American tomb (1803-1889) we find many interesting facts. Ericsson exhibited a precocity for drawing at the age of 4. At 8 he became an adept at understanding and handling machinery. He was the builder of a perfect miniature mill at 9. At 10 he astonished Admiral Platten, the great Swedish canal builder, who prophesied for the boy an extraordinary future. At 13 he directed 600 Government military laborers in the construction of public highways. So the good roads builders of to-day may find a pioneer in John Ericsson. At 17 he became a soldier in the army of Bernadotte, under whom he was rapidly advanced. At 18 he was a surveyor in the King's service. His measurements and maps made at that time still remain marvels of accuracy and utility. At 23 he left his homeland of the north, where he deemed his abilities and activities circumscribed, for Britain was then as now the empire of the sea. There he believed would be a demand for the creations of his brain and their perfection by his hand. [Applause.]

"Britain was not an hospitable host for the Scandinavian genius. The man who rivaled Stephenson in producing the steam locomotive, the foreigner who produced at a London fire the first steam fire engine, the alien who bound the cannon barrels against their bursting, and the originator of the screw propeller, came up against British official inertia and English red tape. While Ericsson could take dead metal and shape it to his will, chain the elements, make a gun safe, at least to its handlers, subdue the fire fiend, and seizing upon the theory of bird flight, apply it to shipping, revolutionize in cheapness and speed navigation, yet he could not jar loose the official mind of Britain. The official mind of Britain was much like the official minds of other countries which have so often dismissed the suggestions of genius with these insuperable objections: 'We never saw it before. It was never done before.' It almost leads one to inquire why the ancients wasted rocks with which to build pyramids. Were there not sufficient official skulls for the purpose?

"So in 1839, wearied with Britain's official inaction, though he had acquired 30 British patents, he started for New York, the then ambitious port of the Western Continent, now the one through which passes more commerce than any other port of the world.

"He had been schooled in his native land to look to officials and governments for patronage, but he learned in Britain, and had it confirmed in America, that governments are less inclined toward seeing and adopting enterprise than is private capital. This is probably due, first, to the fact that the government is not intent on accomplishing gain, and second, the machinery of government being hedged in by constitutions and laws, and controlled by many heads instead of one, is necessarily slow in either seeing or accomplishing that which is not warranted by precedent.

"He came to America at the invitation of Robert F. Stockton, an American capitalist. In 1842 he designed, and the Government adopted, its first real steam war vessel, known as the *Princeton*. He invented an instrument for measuring distances and in firing guns. The range finders on our great dreadnaughts are but the perfection of this instrument invented by Ericsson. Its importance may well be realized since size of guns, weight of projectile, resistance of armor plate, and distance between gun and target constitute the four great factors in naval gunnery.

"The New World became attractive to him. He conceived a patriotic devotion to the great Republic whose enterprising men and liberal government gave him scope for his genius and industry. From this country he was granted 100 patents. So, in 1848, he adjured his allegiance to the Crown of Sweden and became a naturalized American citizen. Before our Civil War he conceived the *Monitor* and offered it to Napoleon III, there seeming to be no American demand, but Napoleon rejected it. By a strange coincidence, the character of the great battle in Hampton Roads was to either side suggested by Ericsson. Mallory, the naval secretary of the Confederacy, had been a friend of Ericsson's before the Civil War. In his then talks with the inventor, the ironclad was discussed, and Mallory later upon obtaining his position in the Confederate Cabinet, used Ericsson's thought, years before the war informally communicated, for the construction of the *Merrimac*.

"The Civil War was on. Its first year had shown in the activities of the field the mettle of both sides, albeit lack of discipline and preparation were manifested on either side, but more particularly by the North. It is an ancient story now about the construction of the *Merrimac*. Her entering Hampton Roads, sinking our *Cumberland*, burning the *Congress*—both wooden vessels—and driving the *Minnesota* into a position of helplessness,

"But the building of the *Merrimac* was not unknown to the northern authorities, and the time of her arrival where the battle must take place was of course reasonably forecasted. It seemed providential that preparation for meeting it should have been made by the one man then in the world capable of successful preparation. [Applause.]

"On September 14, 1861, the Government entered into a contract with Ericsson to construct the *Monitor*. One of his claims was that it should be impregnable to shot. Think of it! In that critical period the Government, dealing with the only individual capable of meeting the great national crisis, inserted in its contract of purchase a condition that payment should be withheld unless that condition could be clearly met.

"The *Monitor's* keel was laid October 25, 1861; her engines were steamed December 30. It was launched January 30, completed February 15, went into United States commission February 25, and on March 8 made her famous trip to Hampton Roads. Word painting of the first great sea fight, where gravity seems to have been conquered and where iron not only floated but fought iron, is left to the many writers and historians who with picturesque detail have given to the world an account of the first great naval battle as modern warfare then begun and since continued. Interesting as such an account might be, more interesting would be a statement of the fear and trembling on the decks of every northern wooden man-of-war. The consternation of Philadelphia, Boston, and New York, who saw in the immediate future the menace of their invaded ports, their destroyed shipping, and their wealth placed under tribute to the ironclad monsters already under construction and fashioned after the *Merrimac*. More interesting yet was the suspense and almost terror in Washington, where those in authority in anticipation saw the *Merrimac* steaming up the Chesapeake on into the Potomac, past Mount Vernon, and up to the National Capital, with guns trained on the Treasury and the Capitol, which meant more than a mere battle and the destruction of property. It meant a release of the southern blockade. It meant recognition of the Confederacy by all the powers on earth. It meant their commerce aiding the seceding group. It forecasted an unconquerable South and a permanently divided Nation.

"Men sometimes refer to the battle in Hampton Roads as being undecisive, because neither ship was captured or sunk. But the best evidence of victory was the subsidence of fear throughout our Navy; the restoration of complete confidence in Boston, New York, and Philadelphia; the tightening of the southern blockade; the nonrecognition by foreign powers; the supreme relief and the glorious confidence of Lincoln and his Cabinet; and as time went on the complete victory by the North and the perpetuation of the Union left unquestioned proof of who was victor and who was vanquished in the first great battle of floating iron. [Applause.]

"That in building the *Monitor*, Ericsson's chief consideration was for battle rather than navigation is suggested in the final end of the historic craft. Late in the year of 1862, as the northern naval forces were prosecuting their conquest against the shore defenses of the South, the *Monitor* was sent down the Atlantic coast. There, in a stormy sea, it passed Cape Hatteras; but in the increasing gale which followed it yielded to the battering of Neptune's artillery, and on the 31st day of December, 1862, it sank in that section of the sea which has claimed so many craft of both wood and iron and levied, year by year, heavy tribute of human life.

"My attention has recently been called to the fact that Dr. Greenville Weeks, who was a surgeon on board the *Monitor* in its first battle cruise, and still with it on its final trip, still lives, at the age of fourscore years. He recently visited the great Capital whose preservation was the *Monitor's* prize in 1862. It may be a matter of general indifference, but to me one of the most interesting seafaring accounts I ever read was 'the last cruise of the *Monitor*,' written many years ago by Dr. Weeks, in which he graphically described the last trip and final passing of the *Monitor* upon which he had been an officer and witness in its battle triumph, and which he left on its final cruise only when it sank to rise no more.

"There is a story of the ancient Swedish kings, and, by the way, one of them was named Ericsson, that a prince entitled to the throne must look upon it, then go and perform some great and heroic deed; then drink a libation from a skull before he takes his seat of power. Ericsson had looked upon a throne of metal, proffered by Neptune. He drank a libation from rebellion's skull, and became entitled to his throne. That right was confirmed by Neptune and Mars. [Applause.]

"Some may think Ericsson's *Monitor* was the chance thought of the dreaming inventor. It was not. It was the legitimate product of a highly organized, tempered, tried, and cultured

brain, which always controlled and commanded a hand of cunning.

"A tribute to Ericsson is, in a broad sense, a tribute to the race from which he sprung. No evidence of this would seem better or more appropriate just now than a quotation from Admiral Luce in a paper read before the Naval Institute April 20, 1876:

"The *Monitor* was the crystallization of 40 centuries of thought on attack and defense, and exhibited in a singular manner the old Norse element of the American Navy; Ericsson (Swedish son of Eric) built her; Dahlgren (Swedish branch of valley) armed her; and Worden (Swedish, wordy, worthy) fought her. How the ancient Skalls would have struck their wild harps in hearing such names in heroic verse! How they would have written them in "immortal runes"!

[Applause.]

Mr. STEENERSON. Mr. Speaker, I make the same request, to extend my remarks in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota? [After a pause.] The Chair hears none.

Mr. MANN. Mr. Speaker, I yield three minutes to the gentleman from New York [Mr. BENNET].

Mr. BENNET. Mr. Speaker, I rise not in particular to pay tribute to the Scandinavian people, which has been well done by both my colleague and the other two gentlemen who have spoken, but to recall that the putting of the *Monitor* at the service of the Government required the service not only of the distinguished and able Scandinavian but the use of the great historical figure—Abraham Lincoln. It was a fact that the naval officers of that day turned down the *Monitor* as an absolutely impractical and ridiculous proposition, and it required the direct personal order of Abraham Lincoln. Not only did it require the order of Lincoln but there are some of us among the older Members of the House who recall the then gentleman from Connecticut, Mr. Sperry, who sat here with us for years, and it is just and fitting that we should recall in this connection that when John Ericsson, not himself a man of wealth, needed money to build the *Monitor*, it was Nehemiah D. Sperry, of New Haven, Conn., who from his own private means not only put up the money to build the *Monitor* but under the exactions of the Navy Department gave a bond not only that the *Monitor* would be completed but that the *Monitor* would be a success. Upon those conditions, so confident was he of the merits of the *Monitor*, that he hazarded his entire private fortune, and this day when we are all paying just and proper tribute to that representative of the Scandinavian people that have done so much for our country, let us not forget along with them that representative of the pioneer races, Abraham Lincoln, and that stalwart New Englander, Nehemiah D. Sperry [applause], who did so much to make the *Monitor* a success. [Applause.]

Mr. MANN. Mr. Speaker, we are paying a very deserving tribute to a very great man who has gone on, and I want just for a second to call attention to a very great man who is still here. Twenty-three years is a long time. Not very many Members of the House have been here that long, although I think most of them prove they have been in existence more than 23 years. Length of service in the House counts for something, and I could prove by the testimony of all the newer Members of the House that it counts for a great deal.

I rise just now, feeling very serious about some things and very good-natured about everything, not to pay tribute but just to call attention to a fact. Twenty-three years ago to-day in this Chamber there marched down to the front in the well between the Speaker and the Members of the House, and for the first time took the oath of office as a Member of the House of Representatives, a man who has kept his oath of office in every respect. I refer to the great statesman, beloved by us all, the Speaker of the House of Representatives. [Loud applause.]

The SPEAKER. Gentlemen of the House, I thank Brother MANN for his very kind remarks, not only on this occasion but on diverse occasions. When I was sworn in on the 7th day of August, 1893, I would have been willing to have compromised on two terms in Congress. I suppose the district I have the honor to represent was at that time the worst factionalized district in America. It was called the "Bloody ninth." Now, it is the "Peaceful ninth." [Applause.]

I fully agree with the statement that Speaker Carlisle made once, that the better you know the House of Representatives and the longer you know it, the higher your opinion of it is. When I came here Charles F. Crisp, of Georgia, was Speaker, and he made a magnificent one. Thomas B. Reed, one of the most brilliant men that this country ever produced, was the minority leader. William L. Wilson, a very amiable, brilliant, splendid gentleman, was the majority leader. And I beg leave to assure you that Mr. Reed, as minority leader gave the Democrats plenty to do.

They are all gone. It was a great generation of men. One day I was sitting beside Jehu Baker, toward the end of that Congress. He had been here off and on for 25 years—mostly off. He had been a Republican when he first came here, and in 1892 he had three nominations, Democrat, Labor Union, and Greenback. He was a good deal of a philosopher. Toward the end of the session I was sitting by him one day and he said to me, "They are always talking about the old times and there being giants in those days. I have been around here at intervals for a long time. I sat in the Forty-fourth Congress, one of the most celebrated, but I give it as my opinion that this Congress, the Fifty-third, has as high an average of ability as any of the Congresses that ever preceded it." I think the same thing about this House.

When I came here we entered immediately into one of the hottest fights that ever took place in the House of Representatives, on the repeal of the purchasing clause of the Sherman silver law, and it wrecked more lives than did the Siege of Troy. If it had not been for one of these pesky landslides that come along occasionally my service would have been dated from the day that I first came here. But the next time I was one of the victims of that great landslide.

I thank the gentleman from Illinois; I thank the gentlemen of the House. I do not know that I will be here 23 years more, but I am going to stay as long as I can. [Loud applause.]

Mr. FITZGERALD. Mr. Speaker, this is an appropriate time to take this unanimous vote.

The SPEAKER. The question is on suspending the rules and passing the bill which has been read from the Clerk's desk.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

CALL OF THE HOUSE.

Mr. COX. Mr. Speaker, I make the point of order that there is not a quorum present.

The SPEAKER. The gentleman from Indiana makes the point of order that there is no quorum present. The Chair will count. [After counting.] There are 111 gentlemen present—not a quorum.

Mr. CULLOP. It is evident we can not get a quorum tonight. Therefore, I move that the House do now adjourn.

The SPEAKER. The gentleman from Indiana moves that the House do now adjourn.

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. NOLAN. I demand a division, Mr. Speaker. The House divided; and there were—ayes 37, noes 61.

So the motion was rejected.

Mr. CULLOP. Tellers, Mr. Speaker. Tellers were refused.

Mr. KEATING. Mr. Speaker—

Mr. CULLOP. Mr. Speaker, I move a call of the House.

The SPEAKER. The gentleman from Indiana moves a call of the House.

The question was taken, and the Speaker announced that the noes seemed to have it.

Mr. NOLAN. Division, Mr. Speaker.

The House divided; and there were—ayes 51, noes 29.

So a call of the House was ordered.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant-at-Arms will notify the absentees, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adair	Coleman	Fairchild	Hamilton, N. Y.
Anthony	Cooper, Ohio	Fess, Ohio	Harrison
Ashbrook	Cooper, W. Va.	Fields	Hart
Barnhart	Copley	Finley	Hayes
Beales	Costello	Focht	Heaton
Bell	Crago	Fordney	Helm
Black	Cramton	Foss, Ill.	Henry
Blackmon	Crisp	Foster	Hensley
Bruckner	Crosser	Freeman	Hernandez
Burgess	Dale, N. Y.	Gallivan	Hicks
Burnett	Dallinger	Gard	Hill
Byrnes, S. C.	Darrow	Garner, Tex.	Hinds
Callaway	Davenport	Garrett	Holland
Cannon	Decker	Gillett	Hollingsworth
Cantrill	Dempsey	Glass	Hopwood
Capstick	Dewalt	Godwin, N. C.	Houston
Carew	Driscoll	Good	Howard
Carlin	Drukker	Gordon	Howell
Carter, Mass.	Dunn	Gould	Hughes
Carter, Okla.	Dupré	Graham	Hulbert
Cary	Eagan	Gray, Ala.	Humphrey, Wash.
Casey	Edmonds	Gray, N. J.	Husted
Chandler, N. Y.	Edwards	Gregg	Hutchinson
Charles	Elston	Griest	James
Chilperfield	Emerson	Guernsey	Johnson, Wash.
Clark, Fla.	Estopinal	Hamilton, Mich.	Jones

Kahn	Martin	Powers	Smith, Tex.
Kearns	Meeker	Price	Snell
Keister	Miller, Del.	Ragsdale	Snyder
Kelley	Miller, Pa.	Rainey	Stedman
Kennedy, R. I.	Mooney	Reavis	Steele, Pa.
Kent	Moore, Pa.	Ricketts	Stephens, Nebr.
Key, Ohio	Moores, Ind.	Roberts, Mass.	Sterling
Kiess, Pa.	Morgan, La.	Rodenberg	Stiness
Kreider	Morin	Rowe	Sulloway
Lafean	Morrison	Rowland	Sumners
Lazaro	Moss	Rucker	Sutherland
Lee	Mott	Russell, Mo.	Switzer
Lehlbach	Murray	Russell, Ohio	Taylor, Ark.
Lenroot	Nelson	Sanford	Tilson
Leshner	Norton	Saunders	Tinkham
Lieb	Oakey	Schall	Treadway
Liebel	Oglesby	Scott, Mich.	Tribble
Lindbergh	Olney	Scott, Pa.	Van Dyke
Loft	O'Shaunessy	Scully	Vare
Loud	Overmyer	Sells	Walker
McCulloch	Page, N. C.	Shackelford	Ward
McDermott	Paige, Mass.	Shallenberger	Watson, Pa.
McFadden	Parker, N. J.	Sherley	Williams, T. S.
McGillcuddy	Parker, N. Y.	Sherwood	Williams, Ohio
McKinley	Patten	Sims	Wilson, Fla.
McLaughlin	Peters	Slemp	Wilson, La.
Madden	Platt	Small	Winslow
Magee	Porter	Smith, Mich.	Wise
Mapes	Pou	Smith, N. Y.	Wood, Ind.

The SPEAKER. On this roll call 213 Members answered to their names—not a quorum.

ADJOURNMENT.

Mr. KITCHIN. Mr. Speaker, I do not believe we can get a quorum here to-day, and I therefore move that the House do now adjourn.

The SPEAKER. The gentleman from North Carolina moves that the House do now adjourn. The question is on agreeing to that motion.

The question was taken, and the Speaker announced that the "ayes" seemed to have it.

Mr. NOLAN. A division, Mr. Speaker.

The SPEAKER. The gentleman from California [Mr. NOLAN] demands a division on the motion to adjourn.

The House divided; and there were—ayes 85, noes 63.

Mr. NOLAN. Mr. Speaker, I demand the yeas and nays.

The SPEAKER. The gentleman from California demands the yeas and nays. Those in favor of taking this vote by yeas and nays will rise and stand until they are counted. [After counting.] Forty-six gentlemen have arisen, a sufficient number, and the Clerk will call the roll. Those in favor of adjourning will, when their names are called, answer "yea"; those opposed will answer "nay."

The question was taken; and there were—yeas 86, nays 111, answered "present" 5, not voting 230, as follows:

YEAS—86.

Abercrombie	Dies	McChitic	Slayden
Adams	Dixon	McKellar	Stafford
Aiken	Doughton	McLemore	Stegall
Alexander	Ferris	Mann	Steele, Iowa
Almon	Flood	Matthews	Stephens, Miss.
Aswell	Gardner	Mays	Stephens, Tex.
Bailey	Glynn	Montague	Taylor, Ark.
Barkley	Gray, Ind.	Moon	Taylor, Colo.
Buchanan, Tex.	Greene, Vt.	Nicholls, S. C.	Thomas
Butler	Hardy	Oldfield	Tillman
Byrns, Tenn.	Hastings	Oliver	Venable
Campbell	Haugen	Olney	Vinson
Candler, Miss.	Hay	Padgett	Volstead
Caraway	Hedin	Park	Walsh
Condy	Hood	Quin	Watkins
Collier	Hull, Tenn.	Ramseyer	Watson, Va.
Cox	Johnson, Ky.	Rayburn	Webb
Cullop	Kincheloe	Rogers	Whaley
Dale, Vt.	Kitchin	Rouse	Wingo
Danforth	Lever	Rubey	Young, Tex.
Davis, Tex.	Lloyd	Sears	
Dent	Longworth	Shallenberger	

NAYS—111.

Anderson	Denison	Hamill	London
Austin	Dickinson	Hamlin	McAndrews
Ayres	Dill	Haskell	McArthur
Bacharach	Dillen	Hawley	McCracken
Beakes	Dooling	Hayden	McKenzie
Bennet	Doolittle	Helgesen	Maher
Booher	Dowler	Helvering	Miller, Minn.
Borland	Dyer	Hillard	Morgan, Okla.
Bowers	Eagle	Huddleston	Mudd
Britt	Ellsworth	Hull, Iowa	Neely
Britten	Esch	Igoe	Nichols, Mich.
Browne	Evans	Jacoway	Nolan
Browning	Farley	Johnson, S. Dak.	Phelan
Brumbaugh	Farr	Keating	Pratt
Buchanan, Ill.	Flynn	Kettner	Raker
Burke	Gallagher	King	Randall
Caldwell	Gallivan	Kinkaid	Rauch
Church	Gandy	Konop	Reilly
Cline	Gariand	La Follette	Riordan
Connelly	Goodwin, Ark.	Langley	Roberts, Nev.
Conry	Greene, Mass.	Linthicum	Sabath
Cooper, Wis.	Griffin	Littlepage	Shouse
Curry	Hadley	Lobeck	Slegel

Sinnott	Swift	Temple
Smith, Idaho	Taggart	Thompson
Smith, Minn.	Tague	Timberlake
Stone	Talbott	Towner
Sweet	Tavener	Wason

ANSWERED "PRESENT"—5.

Fuller	North	Sloan
Humphreys, Miss.		

NOT VOTING—230.

Adair	Fields	Kent	Reavis
Allen	Finley	Key, Ohio	Ricketts
Anthony	Fitzgerald	Kiess, Pa.	Roberts, Mass.
Ashbrook	Focht	Kreider	Rodenberg
Barchfeld	Fordney	Lafean	Rowe
Barnhart	Foss	Lazaro	Rowland
Beales	Foster	Lee	Rucker
Bell	Frear	Lehlbach	Russell, Mo.
Black	Freeman	Lenroot	Russell, Ohio
Blackmon	Gard	Leshner	Sanford
Bruckner	Garner	Lewis	Saunders
Burgess	Garrett	Liebel	Schall
Burnett	Gillett	Liebel	Scott, Mich.
Byrnes, S. C.	Glass	Lindbergh	Scott, Pa.
Callaway	Godwin, N. C.	Loft	Scully
Cannon	Good	Loud	Sells
Cantrill	Gordon	McCulloch	Shackelford
Capstick	Gould	McDermott	Sherley
Carew	Graham	McFadden	Sherwood
Carlin	Gray, Ala.	McGillcuddy	Sims
Carter, Mass.	Gray, N. J.	McKinley	Sisson
Carter, Okla.	Green, Iowa	McLaughlin	Slemp
Cary	Gregg	Madden	Small
Casey	Griest	Magee	Smith, Mich.
Chandler, N. Y.	Guernsey	Mapes	Smith, N. Y.
Charles	Hamilton, Mich.	Martin	Smith, Tex.
Chiperfield	Hamilton, N. Y.	Meeker	Snell
Clark, Fla.	Harrison	Miller, Del.	Snyder
Coleman	Hart	Miller, Pa.	Sparkman
Cooper, Ohio	Hayes	Mondell	Stedman
Cooper, W. Va.	Heaton	Mooney	Steele, Pa.
Copley	Helm	Moore, Pa.	Stephens, Nebr.
Costello	Henry	Moore, Ind.	Sterling
Crago	Hensley	Morgan, La.	Stiness
Cramton	Hernandez	Morin	Stout
Crisp	Hicks	Morrison	Sulloway
Crosser	Hill	Moss	Sumners
Dale, N. Y.	Hinds	Mott	Sutherland
Dallinger	Holland	Murray	Switzer
Darrow	Hollingsworth	Nelson	Tilson
Davenport	Hopwood	Norton	Tinkham
Davis, Minn.	Houston	Oakey	Treadway
Decker	Howard	Oglesby	Tribble
Dempsey	Howell	O'Shaunessy	Van Dyke
Dewalt	Hughes	Overmyer	Vare
Doremus	Hubert	Page, N. C.	Walker
Dorems	Humphrey, Wash.	Paige, Mass.	Ward
Drukker	Husted	Parker, N. J.	Watson, Pa.
Dunn	Hutchinson	Parker, N. Y.	Williams, T. S.
Dupré	James	Patten	Williams, Ohio
Eagan	Johnson, Wash.	Peters	Wilson, Fla.
Edmonds	Jones	Platt	Wilson, La.
Edwards	Kahn	Porter	Winslow
Elston	Kearns	Pou	Wise
Emerson	Keister	Powers	Wood, Ind.
Estopinal	Kelley	Price	Woods, Iowa
Fairchild	Kennedy, Iowa	Ragsdale	
Fess	Kennedy, R. I.	Rainey	

So the motion to adjourn was rejected. The Clerk announced the following pairs:

For the session:

Mr. DEWALT with Mr. MCFADDEN.
 For the balance of the session:
 Mr. FOSTER with Mr. CHIPERFIELD.
 Mr. DOREMUS with Mr. JAMES.
 Mr. GARNER with Mr. BARCHFELD.
 Until further notice:
 Mr. FINLEY with Mr. NORTH.
 Mr. JONES with Mr. MOONEY.
 Mr. CLARK of Florida with Mr. FULLER.
 Mr. CRISP with Mr. HINDS.
 Mr. T. S. WILLIAMS with Mr. WALKER.
 Mr. DALE of New York with Mr. MEEKER.
 Mr. GLASS with Mr. SLEMP.
 Mr. HOUSTON with Mr. GUERNSEY.
 Mr. CROSSER with Mr. EMERSON.
 Mr. HOLLAND with Mr. ANTHONY.
 Mr. HULBERT with Mr. GREEN of Iowa.
 Mr. GREGG with Mr. STEENERSON.
 Mr. WISE with Mr. ELSTON.
 Mr. STEPHENS of Nebraska with Mr. SLOAN.
 Mr. MCDERMOTT with Mr. CHARLES.
 Mr. CALLAWAY with Mr. PETERS.
 Mr. LEWIS with Mr. MCCULLOCH.
 Mr. RAINEY with Mr. MOTT.
 Mr. WILSON of Louisiana with Mr. SMITH of Michigan.
 Mr. BLACK with Mr. CRAGO.
 Mr. ADAIR with Mr. CAPSTICK.
 Mr. BRUCKNER with Mr. CARTER of Massachusetts.
 Mr. DAVENPORT with Mr. BEALES.
 Mr. ALLEN with Mr. COOPER of Ohio.

Mr. BYRNES of South Carolina with Mr. CHANDLER of New York.

Mr. FIELDS with Mr. DEMPSEY.
Mr. HELM with Mr. GRAY of New Jersey,
Mr. FITZGERALD with Mr. HAYES.
Mr. HUGHES with Mr. GRIEST.
Mr. EAGAN with Mr. HICKS.
Mr. EDWARDS with Mr. FOCHE.
Mr. BELL with Mr. HUTCHINSON.
Mr. MOSS with Mr. LOUD.
Mr. MORRISON with Mr. HUMPHREY of Washington.
Mr. HOWARD with Mr. GOOD.
Mr. GARD with Mr. FREEMAN.
Mr. GARRETT with Mr. GOULD.
Mr. SMITH of New York with Mr. ROBERTS of Massachusetts.
Mr. SAUNDERS with Mr. MOORES of Indiana.
Mr. SMALL with Mr. RICKETTS.
Mr. SHERWOOD with Mr. RODENBERG.
Mr. SMITH of Texas with Mr. TILSON.
Mr. WILSON of Florida with Mr. TREADWAY.
Mr. VAN DYKE with Mr. SULLOWAY.
Mr. STOUT with Mr. SNELL.
Mr. ASHBROOK with Mr. CRAMTON.
Mr. CASEY with Mr. DRUKKER.
Mr. ESTOPINAL with Mr. FESS.
Mr. CARLIN with Mr. FAIRCHILD.
Mr. BURNETT with Mr. DUNN.
Mr. CARTER of Oklahoma with Mr. DALLINGER.
Mr. CAREW with Mr. COSTELLO.
Mr. DUPRE with Mr. COLEMAN.
Mr. BARNHART with Mr. HILL.
Mr. HENSLEY with Mr. FOSS.
Mr. GORDON with Mr. HOWELL.
Mr. BURGESS with Mr. HEATON.
Mr. GODWIN of North Carolina with Mr. HAMILTON of New York.

Mr. GRAY of Alabama with Mr. MAPES.
Mr. LOFT with Mr. MILLER of Delaware.
Mr. KEY of Ohio with Mr. MCKINLEY.
Mr. LEIBEL with Mr. ROWLAND.
Mr. MCGILLICUDDY with Mr. KELLEY.
Mr. LIEB with Mr. KAHN.
Mr. CANTRILL with Mr. MONDELL.
Mr. LAZARO with Mr. KENNEDY of Iowa.
Mr. BLACKMON with Mr. HAMILTON of Michigan.
Mr. HARRISON with Mr. GILLET.
Mr. HART with Mr. HOPWOOD.
Mr. SIMS with Mr. COOPER of West Virginia.
Mr. SHACKLEFORD with Mr. GRAHAM.
Mr. SCULLY with Mr. SNYDER.
Mr. RUSSELL of Missouri with Mr. SWITZER.
Mr. SHERLEY with Mr. LAFEAN.
Mr. RAGSDALE with Mr. WATSON of Pennsylvania.
Mr. PATTEN with Mr. WILLIAMS of Ohio.
Mr. PAGE of North Carolina with Mr. SANFORD.
Mr. LEE with Mr. KENNEDY of Rhode Island.
Mr. DECKER with Mr. McLAUGHLIN.
Mr. DRISCOLL with Mr. MADDEN.
Mr. MURRAY with Mr. MOORE of Pennsylvania.
Mr. OGLESBY with Mr. MAGEE.
Mr. O'SHAUNESSY with Mr. KIESS of Pennsylvania.
Mr. LESHER with Mr. SCOTT of Michigan.
Mr. OVERMEYER with Mr. PARKER of New York.
Mr. SISSON with Mr. ROWE.
Mr. RUCKER with Mr. PLATT.
Mr. PRICE with Mr. PAIGE of Massachusetts.
Mr. TRIBBLE with Mr. STINESS.
Mr. SUMNERS with Mr. WARD.
Mr. STEDMAN with Mr. WINSLOW.
Mr. SPARKMAN with Mr. WOODS of Iowa.
Mr. STEELE of Pennsylvania with Mr. WOOD of Indiana.
Mr. HENRY with Mr. HUSTED.
Mr. POU with Mr. OAKEY.
Mr. MORGAN of Louisiana with Mr. NORTON.
From August 5 to 8, inclusive:

Mr. HUMPHREYS of Mississippi with Mr. CANNON.
The result of the vote was announced as above recorded.
The SPEAKER. There is not a quorum present and the House declines to adjourn.
Mr. SMITH of Minnesota. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record—
The SPEAKER. That request is not in order.
Mr. MANN. No such request is in order?
The SPEAKER. Not in the absence of a quorum.
Mr. RAKER. Mr. Speaker, a parliamentary inquiry,

The SPEAKER. The gentleman will state it.

Mr. RAKER. I want to ask the Speaker whether or not the following motion would be in order:

Ordered, That the Sergeant at Arms take into custody and bring to the bar of the House such of its Members as are absent without leave?

And the further inquiry, whether there was not a gentlemen's agreement that there would be no roll calls and no point of no quorum upon any bill until Members were given three days' notice to be in attendance?

Mr. MANN. Of course there was no such agreement. It would be impossible to have an agreement that there would be no point of no quorum until three days' notice had been given. Only a crazy man would try to make such an agreement as that.

Mr. RAKER. There was an understanding that on any contested bill—

Mr. MANN. There was a gentleman's agreement.

Mr. RAKER. That if there was to be any contested bill three days' notice would be given.

Mr. MANN. If any bill was brought up upon which a contest was made, it was to be put over until three days' notice had been given, but that was a gentleman's agreement.

Mr. RAKER. That is what I refer to.

Mr. MANN. And some men do not know what it is to be a gentleman.

Mr. RAKER. I made my inquiry of the Speaker for the purpose of reminding the House that there was a gentleman's agreement. I am not responsible for the comments of the gentleman from Illinois as to Members of the House.

The SPEAKER. The Chair has nothing on earth to do with the gentleman's agreement; but, answering the gentleman's parliamentary inquiry as to the first proposition, the Chair thinks that motion is in order.

Mr. FULLER. Mr. Speaker, it being evident that it is impossible to get a quorum to-night, I ask unanimous consent that further proceedings under the call be dispensed with, and that the House do now adjourn.

Mr. MANN. Of course it is not necessary to ask unanimous consent. That motion can be made.

Mr. NOLAN. I shall have to object to any unanimous consent of that kind. Mr. Speaker, I move that the Sergeant at Arms be instructed to arrest the absentees and bring them to the bar of the House.

SEVERAL MEMBERS. Oh, no!

The SPEAKER. The gentleman will reduce his motion to writing.

Mr. NOLAN. Mr. Speaker, I withdraw the motion.

Mr. FULLER. I renew the request for unanimous consent.

The SPEAKER. The gentleman from Illinois [Mr. FULLER] asks unanimous consent that further proceedings under this call be dispensed with, and that the House do now adjourn.

Mr. NOLAN. I object; and I move that the House take a recess until 10 o'clock to-morrow morning.

Mr. MANN. I make the point of order that that motion is not in order in the absence of a quorum.

The SPEAKER. The motion is not in order.

Mr. WEBB. Mr. Speaker, I will ask if there has been enough intervening business so that a motion to adjourn is in order.

Mr. MANN. Certainly.

Mr. WEBB. Then I move that the House do now adjourn.

Mr. HARRISON. Mr. Speaker, I want to appear in the Record as being present.

Mr. JOHNSON of Washington. I also desire to appear as present.

Mr. NOLAN. Mr. Speaker, if the motion to adjourn is agreed to the Unanimous Consent and Suspension Calendar is dead, is it not?

The SPEAKER. It is until two weeks from to-day. The gentleman from North Carolina moves that the House do now adjourn.

The question being taken, the Speaker announced that the ayes appeared to have it.

On a division (demanded by Mr. NOLAN) there were—ayes 111, noes 55.

Mr. NOLAN. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 100, nays 93, answered "present" 7, not voting 232, as follows:

YEAS—100.

Abercrombie	Barkley	Campbell	Danforth
Adamson	Booher	Candler, Miss.	Dent
Alexander	Britt	Church	Dickinson
Allen	Britten	Coady	Dixon
Almon	Browning	Collier	Doughton
Aswell	Buchanan, Tex.	Cox	Ferris
Bacharach	Butler	Cullop	Flood
Bailey	Byrns, Tenn.	Dale, Vt.	Gandy

Glass	Lloyd	Quin	Stout
Glynn	Longworth	Rainey	Taylor, Ark.
Goodwin, Ark.	McClintic	Ramseyer	Thomas
Gray, Ind.	McKellar	Rayburn	Tillman
Greene, Vt.	McLemore	Rogers	Venable
Hamlin	Mann	Rouse	Vinson
Hardy	Matthews	Rubey	Volstead
Harrison	Mays	Saunders	Walsh
Hastings	Montague	Sears	Watkins
Haugen	Moon	Shallenberger	Watson, Va.
Heflin	Morgan, Okla.	Sisson	Webb
Hood	Nicholls, S. C.	Slayden	Whaley
Igoe	Oldfield	Stafford	Williams, W. E.
Johnson, Ky.	Oliver	Stegall	Wilson, La.
Kincheloe	Olney	Steele, Iowa	Wingo
Kitchin	Padgett	Stephens, Miss.	Young, N. Dak.
Lever	Park	Stephens, Tex.	Young, Tex.

NAYS—93.

Anderson	Dowell	Johnson, S. Dak.	Riordan
Austin	Dyer	Johnson, Wash.	Roberts, Nev.
Ayres	Eagle	Keating	Shouse
Beakes	Ellsworth	King	Siegel
Bennet	Esch	Kinkaid	Smith, Idaho
Borland	Farley	Konop	Smith, Minn.
Bowers	Farr	La Follette	Stone
Browne	Flynn	Littlepage	Sweet
Brumbaugh	Gallagher	London	Swift
Buchanan, Ill.	Gallivan	McAndrews	Taggart
Burke	Garland	McArthur	Tague
Caldwell	Greene, Mass.	McCracken	Talbot
Carlin	Griffin	Maher	Tavener
Cline	Hadley	Miller, Minn.	Taylor, Colo.
Connelly	Hamill	Mudd	Temple
Conry	Haskell	Neely	Thompson
Cooper, Wis.	Hawley	Nichols, Mich.	Timberlake
Curry	Hayden	Nolan	Towner
Davis, Tex.	Helgesen	Phelan	Wason
Denison	Helvering	Pratt	Wheeler
Dill	Hilliard	Raker	Wilson, Ill.
Dillon	Huddleston	Randall	
Doolling	Hull, Iowa	Rauch	
Doollittle	Jacaway	Relly	

ANSWERED "PRESENT"—7.

Fuller	Humphreys, Miss.	North	Steenerson
Hay	Lobeck	Sloan	

NOT VOTING—232.

Adair	Fairchild	Kennedy, R. I.	Pou
Aiken	Fess	Kent	Powers
Anthony	Fields	Kettner	Price
Ashbrook	Finley	Key, Ohio	Ragsdale
Barchfeld	Fitzgerald	Kless, Pa.	Reavis
Barnhart	Focht	Kreider	Ricketts
Beales	Fordney	Lafean	Roberts, Mass.
Bell	Foss	Langley	Rodenberg
Black	Foster	Lazaro	Rowe
Blackmon	Frear	Lee	Rowland
Bruckner	Freeman	Lehlbach	Rucker
Burgess	Gard	Lenroot	Russell, Mo.
Burnett	Gardner	Leshler	Russell, Ohio
Byrnes, S. C.	Garner	Lewis	Sabath
Callaway	Garrett	Lieb	Sanford
Cannon	Gillett	Liebel	Schall
Cantrill	Godwin, N. C.	Lindbergh	Scott, Mich.
Capstick	Good	Linthicum	Scott, Pa.
Caraway	Gordon	Loft	Scully
Carew	Gould	Loud	Sells
Carter, Mass.	Graham	McCulloch	Shackleford
Carter, Okla.	Gray, Ala.	McDermott	Shelley
Cary	Gray, N. J.	McFadden	Sherwood
Casey	Green, Iowa	McGillicuddy	Sims
Chandler, N. Y.	Gregg	McKenzie	Sinnott
Charles	Griest	McKinley	Slemp
Chipherfield	Guernsey	McLaughlin	Small
Clark, Fla.	Hamilton, Mich.	Madden	Smith, Mich.
Coleman	Hamilton, N. Y.	Magee	Smith, N. Y.
Cooper, Ohio	Hart	Mapes	Smith, Tex.
Cooper, W. Va.	Hayes	Martin	Snell
Copley	Heaton	Meeker	Snyder
Costello	Helm	Miller, Del.	Sparkman
Crago	Henry	Miller, Pa.	Stedman
Cramton	Hensley	Mondell	Steele, Pa.
Crisp	Hernandez	Mooney	Stephens, Nebr.
Crosser	Hicks	Moore, Pa.	Sterling
Dale, N. Y.	Hill	Moore, Ind.	Stiness
Dallinger	Hinds	Morgan, La.	Sulloway
Darrow	Holland	Morin	Sumners
Davenport	Hollingsworth	Morrison	Sutherland
Davis, Minn.	Hopwood	Moss	Switzer
Decker	Houston	Mott	Tilson
Dempsey	Howard	Murray	Tinkham
Dewalt	Howell	Nelson	Treadway
Dies	Hughes	Norton	Tribble
Dorenus	Hulbert	Oakey	Van Dyke
Driscoll	Hull, Tenn.	Oglesby	Vare
Drukker	Humphrey, Wash.	O'Shaunessy	Walker
Dunn	Husted	Overmyer	Ward
Dupré	Hutchinson	Page, N. C.	Watson, Pa.
Eagan	James	Palge, Mass.	Williams, T. S.
Edmonds	Jones	Parker, N. J.	Williams, Ohio
Edwards	Kahn	Parker, N. Y.	Wilson, Fla.
Elston	Kearns	Patten	Winslow
Emerson	Kelster	Peters	Wise
Estopinal	Kelley	Platt	Wood, Ind.
Evans	Kennedy, Iowa	Porter	Woods, Iowa

So the motion was agreed to.

The Clerk announced the following additional pairs:

Until further notice:

Mr. HAY with Mr. KAHN.

Mr. LOBECK with Mr. REAVIS.
 Mr. AIKEN with Mr. COPLEY.
 Mr. KETTNER with Mr. STERLING.
 Mr. LIEB with Mr. SLEMP.
 Mr. CARAWAY with Mr. GILLETT.
 Mr. DIES with Mr. FORDNEY.
 Mr. EVANS with Mr. MCKENZIE.
 Mr. HULL of Tennessee with Mr. FAIRCHILD.
 Mr. LINTHICUM with Mr. SNELL.
 Mr. SABATH with Mr. LEHLBACH.
 Accordingly (at 5 o'clock and 26 minutes p. m.) the House adjourned until to-morrow, Tuesday, August 8, 1916, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. RAYBURN, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 16733) to amend an act entitled "An act to regulate commerce" approved February 4, 1887, as heretofore amended, and for other purposes, reported the same without amendment, accompanied by a report (No. 1093), which said bill and report were referred to the House Calendar.

Mr. HAWLEY, from the Committee on Agriculture, to which was referred the bill (H. R. 13046) to consolidate certain forest lands in the Oregon National Forest, in the State of Oregon, reported the same with amendment, accompanied by a report (No. 1094), 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 were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. KEY of Ohio, from the Committee on Pensions, to which was referred the bill (S. 6369) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, reported the same with amendment, accompanied by a report (No. 1092), which said bill and report were referred to the Private Calendar.

Mr. CALDWELL, from the Committee on Military Affairs, to which was referred the bill (H. R. 5386) for the relief of James Campbell, reported the same with amendment, accompanied by a report (No. 1095), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills and resolutions were introduced and severally referred as follows:

By Mr. MONTAGUE: A bill (H. R. 17338) making an appropriation for the construction of a public highway from the corporate limits of the city of Richmond, Va., to the Cold Harbor National Cemetery; to the Committee on Appropriations.

By Mr. GARLAND: A bill (H. R. 17339) appropriating \$50,000 for the erection of a monument to the memory of Robert Morris; to the Committee on the Library.

By Mr. BENNET: Resolution (H. Res. 341) regarding inquiry concerning Ellis Island; to the Committee on Immigration and Naturalization.

By Mr. HAY: Resolution (H. Res. 342) providing for the appointment of an additional page for the remainder of the present Congress; to the Committee on Accounts.

By Mr. RODENBERG: Concurrent resolution (H. Con Res. 53) appointing a select committee to investigate the shipment of munitions of war from the United States to the Republic of Mexico; to the Committee on Foreign Affairs.

By Mr. BROWNING: Joint resolution (H. J. Res. 291) authorizing the Secretary of War to exempt commissioned officers of the National Guard from the age provision of section 24 of the act approved June 3, 1916, entitled "An act for making further and more effectual provision for the national defense, and for other purposes"; to the Committee on Military Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 17340) granting a pension to Margaret A. Weed; to the Committee on Invalid Pensions.

By Mr. BLACKMON: A bill (H. R. 17341) granting a pension to Deborah Harrison; to the Committee on Pensions.

By Mr. DRUKKER: A bill (H. R. 17342) granting an increase of pension to Emily Davison; to the Committee on Invalid Pensions.

By Mr. FULLER: A bill (H. R. 17343) granting an increase of pension to William M. Haines; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17344) granting an increase of pension to Byron See; to the Committee on Invalid Pensions.

By Mr. GOOD: A bill (H. R. 17345) for the relief of John Dauberman; to the Committee on Military Affairs.

By Mr. KENNEDY of Iowa: A bill (H. R. 17346) granting an increase of pension to Margaret Tschoepe; to the Committee on Invalid Pensions.

By Mr. NICHOLS of Michigan: A bill (H. R. 17347) granting an increase of pension to William E. Meadows; to the Committee on Invalid Pensions.

By Mr. OLDFIELD: A bill (H. R. 17348) granting a pension to Tilman L. Crafton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17349) for the relief of R. W. Earnheart; to the Committee on Claims.

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): Petitions of women voters of Garfield and Lake Counties, Colo., favoring woman-suffrage amendment; to the Committee on the Judiciary.

By Mr. BUTLER: Memorial of Board of Trade of West Chester, Pa., indorsing the Smith-Hughes bill; to the Committee on Education.

Also, petition of citizens of Pennsylvania, opposing House bill 10845; to the Committee on Military Affairs.

Also, petition of citizens of Chester County, Pa., opposing House bill 6468; to the Committee on the Post Office and Post Roads.

Also, petition of woman's section of the Navy League of the United States, Coatesville Division, Philadelphia Branch, and Devon Division, Philadelphia Branch, favoring adequate preparation; to the Committee on Military Affairs.

Also, memorials of public meetings of Chester, Pa., favoring adoption of constitutional amendment forbidding polygamy; to the Committee on the Judiciary.

Also, memorials of union meeting of Presbyterian, Baptist, and Methodist Churches of Media; union meeting of West Chester; Presbytery of Chester; union congregational meetings of Borough of Ridley Park, Pa.; mass meetings of Darby; Methodist Episcopal Church of Parkesburg; union mass meeting of Phoenixville; Darby Methodist Episcopal Church, of Darby; public meeting of Haven Church; union meeting of the Parkland churches of Media, Pa., favoring constitutional amendment forbidding polygamy; to the Committee on the Judiciary.

By Mr. CONNELLY: Petition of citizens of Russell, Ellis, Gransfield, Osborn, and Palco, all in the State of Kansas, pertaining to enactment of such legislation as will enable the Interstate Commerce Commission to arbitrate and settle certain industrial disputes; to the Committee on Interstate and Foreign Commerce.

By Mr. DALE of New York: Petitions of J. O. Crowell, of Dennis, and A. Young, of Boston, Mass., favoring woman-suffrage amendment; to the Committee on the Judiciary.

Also, petition of Liquor Dealers' Protective Association of Illinois, relative to enforcement of United States revenue laws governing sale of intoxicating liquors; to the Committee on Ways and Means.

By Mr. EAGAN: Petition of Liquor Dealers' Protective Association of Illinois, relative to United States revenue laws governing the sale of intoxicating liquor at retail; to the Committee on Ways and Means.

By Mr. FLYNN: Petition of Seggerman Bros., of New York, against Senate amendment to revenue bill, relative to suspension of drawbacks; to the Committee on Ways and Means.

By Mr. FULLER: Papers to accompany bill granting an increase of pension to Byron See; to the Committee on Invalid Pensions.

By Mr. MATTHEWS: Evidence to support House bill 17308, granting an increase of pension to Daniel E. Warner; to the Committee on Pensions.

By Mr. OAKLEY (by request): Memorial of American Branch of the Socialist Party of Hartford, Conn., favoring 1-cent postage; to the Committee on the Post Office and Post Roads.

By Mr. RANDALL: Memorial of Joseph G. Rickels and 230 others, of San Fernando, Cal., protesting against bills to amend the postal laws; to the Committee on the Post Office and Post Roads.

SENATE.

TUESDAY, August 8, 1916.

(Legislative day of Saturday, August 5, 1916.)

The Senate reassembled at 10 o'clock a. m., on the expiration of the recess.

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

The VICE PRESIDENT. The Secretary will call the roll.

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

Ashurst	Dillingham	Lane	Smith, Ga.
Brady	Gallinger	Martin, Va.	Smith, S. C.
Brandegge	Gronna	Mvers	Smoot
Bryan	Hardwick	Nelson	Taggart
Chamberlain	Hitchcock	Overman	Tillman
Clapp	Husting	Penrose	Vardaman
Clark, Wyo.	James	Ransdell	Warren
Colt	Johnson, S. Dak.	Robinson	Williams
Culberson	Jones	Shafroth	Works
Cummins	Kenyon	Sheppard	
Curtis	Kern	Simmons	

The VICE PRESIDENT. Forty-two Senators have answered to the roll call. There is not a quorum present. The Secretary will call the roll of absentees.

The Secretary called the names of the absent Senators, and Mr. STERLING and Mr. THOMPSON answered to their names when called.

Mr. CHILTON and Mr. CLARKE of Arkansas entered the Chamber and answered to their names.

Mr. KERN. I desire to announce the absence of the senior Senator from Maryland [Mr. SMITH], the senior Senator from New Jersey [Mr. MARTINE], the junior Senator from Louisiana [Mr. BROUSSARD], and the senior Senator from Ohio [Mr. POMERENE], who are necessarily detained from the Senate.

Mr. TOWNSEND, Mr. THOMAS, Mr. BECKHAM, and Mr. BANKHEAD entered the Chamber and answered to their names.

The VICE PRESIDENT. Fifty Senators have answered to the roll call. There is a quorum present.

ARMY APPROPRIATIONS—CONFERENCE REPORT (S. DOC. NO. 526).

Mr. CHAMBERLAIN. I ask unanimous consent that the conference report on the Army appropriation bill be taken up for consideration.

The VICE PRESIDENT. Is there objection? There being no objection, the Senate proceeded to consider the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 16460) making appropriations for the support of the Army for the fiscal year ending June 30, 1917.

Mr. CHAMBERLAIN. I ask for the adoption of the report.

Mr. CLAPP. I think we ought to have the report read or some slight intimation given the Senate as to what the report contains. I should like to ask the Senator from Oregon what the conference committee did with the provision relating to the age at which young men may enlist without their parents' consent?

Mr. CHAMBERLAIN. In asking that the conference report be adopted I had no desire to hasten it through without consideration. The conference report was submitted yesterday and printed in the RECORD and it has been printed in document form and laid on the desk of Senators. I shall be glad to make any statement in reference to it.

I may state to the Senate first, generally, that the bill as reported to the Senate originally appropriated \$330,599,010.10. The net deductions on the floor of the Senate were \$16,628,563. In tabular form, I may state it as follows:

<i>On floor of Senate.</i>	
Deductions	\$29,318,295.00
Additions	12,689,732.00
Net deductions	16,628,563.00
As reported to Senate	330,599,010.10
Net deductions	16,628,563.00
As passed Senate	313,970,447.10
As passed House	182,303,356.10
Increase over House bill	131,667,091.00