

Mr. CHAMBERLAIN. I ask that the conference report may lie on the table and be printed, so that Senators will have it before them to-morrow. I wish to call it up as soon as I can do so to-morrow.

The VICE PRESIDENT. The conference report will be printed.

MILITARY ACADEMY APPROPRIATIONS—CONFERENCE REPORT (S. DOC. NO. 16).

Mr. CHAMBERLAIN. I also present the conference report on the Military Academy appropriation bill and ask that it lie on the table and be printed, to be called up to-morrow for consideration.

The report is as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 14) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1918, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 2 and 3, 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: On page 6 of the bill strike out all on line 18 and in lieu thereof insert the following:

"Thirty-eight privates, first class, and thirty-eight privates, second class, \$15,080."

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 matter stricken out by said amendment insert the following:

"That the President of the United States be, and he is hereby, authorized, by and with the advice and consent of the Senate, to appoint Bertram T. Clayton, jr., late a cadet at the Military Academy at West Point, to the position of second lieutenant of Infantry of the Army, and to place him upon the retired list with the pay of a retired second lieutenant of Infantry."

And the Senate agree to the same.

GEORGE E. CHAMBERLAIN,

G. M. HITCHCOCK,

F. E. WARREN,

Managers on the part of the Senate.

S. H. DENT, Jr.,

W. J. FIELDS,

JULIUS KAHN,

Managers on the part of the House.

The VICE PRESIDENT. The conference report will be printed.

RECESS.

Mr. OVERMAN. I move that the Senate take a recess until 11 o'clock to-morrow.

The motion was agreed to; and (at 4 o'clock and 55 minutes p. m., Friday, May 4, 1917) the Senate took a recess until to-morrow, Saturday, May 5, 1917, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

FRIDAY, May 4, 1917.

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

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

Let Thy blessing descend upon us, O Lord God our Heavenly Father, and guide us to a successful end in all our worthy undertakings. To whom much has been given, of him much shall be required. For whatever is worth having is worth defending. We thank Thee for the wave of patriotism sweeping through our land, and we pray that its manifestations may prove worthy of brave and noble men; that we may stand together for all that is nearest and dearest to our hearts; that the progress of civilization may continue until all that is best in life may be fulfilled in all the nations of the earth for the betterment of mankind in spite of every untoward effort, for Thine is the kingdom and the power and the glory, forever, amen.

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

EXTENSION OF REMARKS.

Mr. RAMSEYER. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record by printing a letter from the President of Switzerland to the President of the United States.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. POLK. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record by printing certain resolutions adopted by the City Council of Wilmington, Del., relating to the acquisition of the Delaware & Chesapeake Canal as a part of the plan of preparedness of this Government.

The SPEAKER. Is there objection? [After a pause.] The Chairs hears none.

Mr. HELM. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record on the pending bill.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. OSBORNE. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record by printing a brief telegram.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HOUSTON. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record by printing some resolutions adopted at a meeting of the citizens of Murfreesboro, Tenn.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. ASWELL. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record by printing an article on cotton prices.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. ASHBROOK. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record.

The SPEAKER. Is there objection?

There was no objection.

Mr. AUSTIN. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. LINTHICUM. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record.

The SPEAKER. Is there objection?

There was no objection.

ESPIONAGE.

The SPEAKER. The Clerk will call the committees.

The Clerk called the committees, and when the Committee on the Judiciary was called,

Mr. WEBB. Mr. Speaker, I call up the bill H. R. 291, the espionage bill.

The SPEAKER. The gentleman from North Carolina calls up the bill of which the Clerk will read the title.

The Clerk read as follows:

A bill (H. R. 291) to punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States; to punish espionage and better to enforce the criminal laws of the United States, and for other purposes.

Mr. WEBB. Mr. Speaker, I will ask the gentleman from Minnesota to use the remainder of his time, for we shall have only one more speech on our side.

Mr. VOLSTEAD. Mr. Speaker, I suggest the absence of a quorum.

The SPEAKER. The gentleman from Minnesota makes the point of no quorum, and evidently no quorum is present.

Mr. WEBB. Mr. Speaker, I move a call of the House.

The motion was agreed to.

The doors were closed, and the Sergeant at Arms was directed to notify absent Members.

The Clerk called the roll, and the following Members failed to answer to their names:

Anthony	Dixon	Hill	Martin, La.
Bacharach	Doughton	Hull, Tenn.	Moon
Blackmon	Eagan	Kearns	Moore, Pa.
Britton	Eagle	Kehoe	Morin
Brodbeck	Fairchild, G. W.	Kelley, Mich.	Mott
Caldwell	Fairfield	Kennedy, Iowa	Neely
Campbell, Kans.	Fitzgerald	Key, Ohio	Nelson
Capstick	Flynn	Kitchin	Nichols, Mich.
Carew	Focht	Kreider	Oldfield
Carlin	Fordney	Lazarus	O'Shaunessy
Collier	Gandy	Leibach	Parker, N. Y.
Connally, Tex.	Gardner	Littlepage	Porter
Cooper, Ohio	Garland	Longworth	Pou
Crago	Godwin, N. C.	McAndrews	Price
Crisp	Green, Iowa	McCulloch	Purnell
Davis	Hamill	McLaughlin, Mich.	Rainey
Dewalt	Hamilton, N. Y.	McLaughlin, Pa.	Riordan
Dill	Hayes	Martin, Ill.	Robinson

Rogers	Shackleford	Sullivan	Ward
Rowland	Sloan	Taylor, Colo.	White, Ohio
Sanders, La.	Smith, Idaho	Tinkham	Wilson, La.
Sanford	Snyder	Vare	Zihlman
Saunders, Va.	Sterling, Ill.	Venable	
Scully	Sterling, Pa.	Voigt	

The SPEAKER. On this call 336 Members have answered to their names, a quorum.

Mr. WEBB. Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to.

The doors were opened.

LEAVE OF ABSENCE.

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

To Mr. LITTLEPAGE, for five days, on account of important business.

To Mr. STRONG, for three days, on account of sickness in his family.

To Mr. DRANE, for to-day, on account of important business.

ESPIONAGE.

Mr. VOLSTEAD. Mr. Speaker, I yield 10 minutes to the gentleman from Pennsylvania [Mr. GRAHAM].

Mr. GRAHAM of Pennsylvania. Mr. Speaker, I may not occupy the entire 10 minutes, having spoken the other day upon the bill. I propose in these remarks to confine myself to the discussion of section 4 of title 1. You all doubtless know that there are four amendments—or, rather, three amendments and a motion to strike out the section—pending at this time. One amendment is that offered by the chairman of the committee having this bill in charge. Another amendment is the one offered by the gentleman from New York [Mr. DEMPSEY] and the last one is the one offered by the gentleman from Illinois [Mr. McCORMICK]. There are three amendments and then the motion presented by myself to strike section 4 from the bill.

I rise for the purpose of advocating the adoption of the amendment to strike out, and I do so upon two grounds: First, the section is so worded at present that it is full of peril to the liberties of this country; second, that not one of the proposed amendments will remove the difficulties that exist in this section. Hence, logically, the only thing to do is to strike the section from the bill, and this can be done without imperiling the validity of the remaining sections of this measure. Taking out section 4 will not interfere with the enforcement of the entire remaining portion of the bill. So that a Member in voting can confine his thought and attention to the one single question: Am I in favor of section 4 as it is written in this bill; has the discussion that has taken place on the floor and my own thought convinced me that it is a questionable measure and ought not to be introduced into this bill and made into law? Upon your conclusion in that respect you can vote upon this single paragraph without hesitation.

The gentleman from Kentucky [Mr. SHERLEY], in a question, called attention to one defect there is in the measure as it is written. I refer to the words "or communicating." They are utterly too broad to remain with safety in the bill. And yet there is no amendment pending that would strike those words out of the proposed law.

Mr. KELLY of Pennsylvania. If the gentleman will yield, there is an amendment pending for that very purpose.

Mr. GRAHAM of Pennsylvania. I accept the gentleman's statement that there is an amendment pending in regard to that particular word. If so, it is a much-needed amendment, and the striking out of the word "communicating" will make one step toward improving the text of section 4. "Communicating" is fraught with peril to innocent citizens. It would interfere with you or me if an order were issued by proclamation declaring that certain lines were forbidden; it would prevent us from communicating with each other concerning it and the citizens of the country from discussing it as a question of policy, and it ought not to exist.

Another objection lies in the words "in his judgment." As our Speaker said in discussing this measure, it is not one presented solely for the administration of Mr. Wilson, it is one to be a law upon the statute books for all coming time until repealed by the Congress of the United States. "In his judgment" has this result: That when he declares that in his judgment certain subjects are prohibited, they are removed from the trial of the cause, and the question submitted to the jury would be not whether these things so prohibited were such as might be useful to the enemy but whether or not the man charged with the offense had simply published or communicated something concerning the subject matter of the proclamation.

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

Mr. GRAHAM of Pennsylvania. I can not yield. I have not the time. Every lawyer knows that what I say is true, that on the trial there would be only the proof of the proclamation and the proof of the violation of the terms of the proclamation in order to make a man guilty and compel the court to charge the jury that the case had been made out against him. Again, the proviso that is added to this section, that nothing in this section shall be construed to limit or restrict any discussion, comment, or criticism of the acts or policies of the Government or its representatives, or the publication of the same, is placed there for the purpose of avoiding the constitutional objection that is made against the section. Does it accomplish that fact? Does it bring this section into compliance with the requirements of the Constitution of the United States?

How can a person discuss a matter that has been prohibited without referring to the thing that has been prohibited? And if he is given liberty to discuss that, then the prior portion of the section is utterly valueless and of no effect. Why then attempt to enact such a provision?

The amendments which have been offered all point in one direction, and all of them involve one single proposition, couched in various terms and in differing language, but they all point toward the accomplishment of one thing, to wit, they are intended to put into the section an enumeration of the things that are to be prohibited; or, I might rather say, they are intended to put into the section an enumeration of the things that are to be made the subject of prohibition by the President. I submit that you can not enumerate in such general terms as to make the enumeration of any service without clothing the individual who has the right to judge with a discretionary power that is inimical to the welfare of the Republic. I say to the Members of this House, it is far better to strike this section from the bill than to attempt by a patchwork that is unsatisfactory at the best to amend it or try to perfect it. Let us take the people of the country into our confidence in the management and handling and conduct of their war.

The people of the country are the sovereigns in this land, and they have a right to know about their own war, the war to which they will have to contribute the means and the men, and make the sacrifices that will bring the conflict to a right conclusion. Any attempt to hamper, any attempt to prevent proper communication, any attempt to prevent the right interchange of thought, is an attempt that will be productive of ill and can not accomplish any good.

I wish to have this section stricken from the law because of these manifold objections to its text, because its purposes can not be accomplished without injury to the cause.

During the entire Civil War, when there was danger of the communication and publication of evil things, there was never such a bill as this attempted to be put upon the statute books of our country. Why should we attempt it now? Let us make this piece of otherwise useful legislation valuable to the country and valuable to the administration by striking out section 4 and passing the rest of it with such amendments as you may deem proper to make it perfect. [Applause.]

The SPEAKER. The time of the gentleman has expired.

Mr. VOLSTEAD. I yield 10 minutes to the gentleman from Oklahoma [Mr. MORGAN].

Mr. MORGAN. Mr. Speaker, I do not think that this section should be stricken out. I believe the proper course to pursue is to make such amendments thereto as are wise and necessary. I believe I speak for the entire Judiciary Committee when I say that it is not averse to any amendment that will improve the bill. In my opinion the majority of the committee is opposed to striking out the section.

The gentleman says that this section is dangerous to the interests of the people. Why, the very object and intention of this section is to protect the interests of the people.

There are four provisions in the Constitution to which I wish to make reference. First, the President is Commander in Chief of the Army and Navy; second, the Constitution says Congress shall have power to provide for the common defense and the general welfare; third, Congress is prohibited from abridging the freedom of the press; fourth, Congress is given power to enact all laws which are necessary to carry into execution the foregoing provisions. The provision in the Constitution which gives Congress the power to provide for the common defense and the general welfare stands upon an equal footing with the prohibition against abridging the freedom of the press. The argument presented by the gentleman who preceded me [Mr. GRAHAM of Pennsylvania] is that Congress can not provide for the common defense and the general welfare if by so doing we shall in any way restrict the publication of any news or information concerning the national defense. In other words, he stands

for the enforcement of one provision of the Constitution, and he appeals to you to ignore the other portion of the Constitution.

Now, the President is Commander in Chief of the Army and Navy, and as such officer, under the Constitution, his power is supreme. This section does not in any way give the President additional power so far as he has power to restrict and limit the giving out of information concerning the Army and the Navy or the national defense. It in no way gives him any additional power. The President now is in a way conducting a censorship. In time of peace, and above all in time of war, the President has the power and it is his duty to restrict information given to the public when, in his judgment, that information would be detrimental to the cause of our Army and Navy. This section does not give him any additional power in that respect. The only thing it does is to provide a penalty to deter men from publishing information which, in the interest of the public good, should not be published.

Mr. CHANDLER of Oklahoma. Will the gentleman yield for a question?

Mr. MORGAN. I will yield to my colleague; yes.

Mr. CHANDLER of Oklahoma. Do you not believe that any newspaper that publishes anything injurious to the United States can be prosecuted under section 2 of this act?

Mr. MORGAN. I am not so certain about that. I think it is very doubtful.

Now, what is the liberty of the press? I read from Words and Phrases Judicially Defined, volume 5:

Judge Cooley, in speaking of the constitutional provisions relating to liberty of speech and of the press, says: "We understand 'liberty of speech and of the press' to imply not only liberty to publish but complete immunity from legal censure and punishment for the publication, so long as it is not harmful in its character, when tested by such standards as the law affords."

Again—

"Liberty of the press" as used in the provision of the Federal Constitution guaranteeing the liberty of the press, etc., means a right in the conductor of a newspaper to print whatever he chooses without any previous license, but subject to be held responsible therefor to exactly the same extent that anyone else would be responsible for the publication.

Again—

The liberty of the press was said by Blackstone to consist "in laying no previous restraints upon publication, and not in freedom from censure for a criminal matter when published. Every freeman has an undoubted right to lay what sentiments he pleases before the public. To forbid this is to destroy the freedom of the press, but if he publishes what is improper, mischievous, or illegal he must take the consequences of his own temerity."

Clearly, the freedom of the press under the Constitution does not mean that one is entitled to absolute freedom to publish what he pleases. If his publication injures an individual, he must respond in damages, and in many cases he may be indicted for criminal libel; and in no State of the Union is an editor or a publisher given absolute immunity from punishment for what he publishes; he is held responsible. Under all of the precedents of the past and in every State of the Union an editor or a publisher is responsible for injuring an individual; and yet you stand here and say that a publication that injures the Nation, that injures the whole public, that endangers the safety of the Nation, that may affect the success of our Army and Navy, and yet we are powerless, under the Constitution, to place any restriction upon him or hold him responsible. If it is not an abridgement of the freedom of the press to hold a man responsible for injuring an individual, in the name of my country, I ask, how is it an abridgement of the press to hold an editor responsible when he injures the public at large? How is it any abridgement of the freedom of the press if we place a restriction upon him as to such publication? I appeal to you and ask you, if this section is not in the proper language, to amend it, and, if it is necessary, stay here another day and give such attention to this section as will perfect it and enable the Government in this emergency, when we are engaged in war, to have some restriction and some limitation placed upon editors and publishers who might in time of war take advantage of the people and make publications that might be injurious. If we restrict editors in their publications respecting individuals, then for a far greater reason we should restrict them when the interests of the entire Nation is at stake.

The SPEAKER pro tempore (Mr. DECKER). The time of the gentleman from Oklahoma has expired.

Mr. WEBB. Mr. Speaker, I yield five minutes to the gentleman from Missouri [Mr. DYER].

Mr. DYER. Mr. Speaker and gentlemen of the House, the question to my mind now is whether or not you gentlemen value the lives of the boys of our coming Army and Navy who must cross the ocean to fight in France, and their safety, more than you do the giving to the press of our country absolute liberty to publish whatever they may see fit and proper.

Mr. NORTON. Mr. Speaker, will the gentleman yield?

Mr. DYER. No; not in five minutes. The question is that, and it can not be anything else. The reputable newspapers of our country, with very few exceptions, are not asking gentlemen to refuse to pass this amendment. I have not received any requests from the reputable newspapers of my district, and I have five of the great daily papers published in my district. Not one of them is sending any objections to this bill and to this section. The gentleman from Pennsylvania [Mr. GRAHAM] is one of the able and distinguished members of the Committee on the Judiciary of this House. This section was debated and considered for weeks and weeks in the Committee on the Judiciary. Every member of that committee had free and full opportunity to offer suggestions and to correct this amendment, but here to-day he comes and advocates not the correction of this section, he advocates not what the gentleman from Illinois [Mr. McCORMICK] suggests, namely, the amending of this section—and I might say that it will meet with the approval of many members of the committee to amend it so that it will be known exactly what shall not be published pertaining to the movement of ships or the movement of soldiers—but he comes here and advocates the striking out of the section altogether.

Suppose that some person who may not be a newspaper man obtains information as to the departure of thousands of our boys on transports to Europe to fight, and suppose that information is published, be it in the newspaper or not, and it becomes known to the enemy and they are able to sink those transports and drown those boys. Will you gentlemen who are standing here to-day and saying, do not make any law upon this subject at all, then feel that you have done your duty to your country as you ought to do it in this hour? Gentlemen, the President of the United States is entitled to your absolute and unconditional support in this measure. He is responsible to the people of this country. The press is not responsible to the people of this country for the conduct of this war. It is placed in the hands of the President, the Commander in Chief, and I ask you to give to him authority to say when matters should not be published that would be of benefit to the enemy. That is all that we ask.

Mr. McCORMICK. Mr. Speaker, will the gentleman yield?

Mr. DYER. Yes.

Mr. McCORMICK. The gentleman is responsible to the people of his district, is he not? If the gentleman were to discover that an epidemic of an infectious disease among the naval recruits was gravely serious and that adequate steps were not being taken to stamp it out, would he feel justified then in proclaiming the facts, in violation of the law?

Mr. DYER. Mr. Speaker, there would not be any objection to that. There would be nothing in this bill to prevent the publication of such news. There is specific provision stating at the end of this section that a newspaper shall be permitted to publish news about the management or mismanagement of the Army or the Navy.

The SPEAKER pro tempore. The time of the gentleman from Missouri has expired.

Mr. VOLSTEAD. Mr. Speaker, I yield one minute to the gentleman from Wyoming [Mr. MONDELL].

Mr. MONDELL. Mr. Speaker, that free speech and a free press are absolutely essential to the maintenance of a free government is axiomatic, and the fathers of the Republic were so fully alive to that tremendously important fact that they placed in the Constitution a provision, clear, definite, and specific, against the abridgment of free speech or a free press. The section now under discussion, either in its present form or in any form proposed by the amendments before us, would fly squarely in the face of that constitutional provision and would greatly endanger the liberties of the people by abridging the rights of free speech and of a free press. I am, therefore, in favor of striking the section out. [Applause.]

Mr. VOLSTEAD. Mr. Speaker, I believe we are all in favor of free speech and a free press, and we ought to guard that carefully. I do not believe that the section in question authorizes any violation of that right at all.

There is nothing in that section itself that impinges upon that right in any way; it does, however, give to the President the power to determine that certain matters shall not be published, but we have a right to assume that the President will obey the Constitution. Let me remind this House that we have voted in favor of war and that we have voted in favor of compelling the boys to go into the trenches to fight our battles here and abroad. When we did that we placed upon the President the greatest possible responsibility, infinitely greater than any that we propose to confer on him by this bill. We are asked now to give to him the power to protect our soldiers from treachery at home. I can not understand how anyone can insist that

the power necessary to protect them should not be given simply because somebody contends that free speech in some fashion may be infringed. I have talked with a number of old soldiers who served in the Civil War. They have told me that in many instances information published in one section or another crossed the line and was very detrimental to this Government in carrying on that war. Are we going to permit the same during this war? The other sections of this bill do not cover this matter at all. As I called attention in speaking on this bill a couple of days ago, the first section relates to obtaining information, not to publishing or communicating it. The second covers communications directly to an enemy, and the third applies to officers or others who are intrusted with information, prohibiting those people from turning the information into channels where it may reach the enemy. There is a great deal of information that may be of value to an enemy, and if you permit its publication it is evident it will reach our enemies. A newspaper, for instance, published in New York might describe fortifications, or publish the movement of ships or troops. This newspaper may go onto some foreign vessel or across the Mexican border from which they may reach Germany.

Suppose the Germans know that we have a ship laden with troops for France or Belgium or any other section? If they can have that information they will profit by it. The natural thing will be to prepare to sink it just as they did the *Lusitania*. The Germans knew when the *Lusitania* sailed and announced they would sink it and did sink it. Ought we not pass some law to restrain our people from publishing facts that will aid our enemies in sinking other ships with their cargoes of soldiers? We should not put our soldiers or sailors in a position where they are at the mercy of those who are not loyal among us. It is idle and utterly foolish to insist that our newspapers are all going to be loyal and eager to protect our national interests. We know there are numbers of people among us who are not loyal to us. Many of them are actually German soldiers. I am told there are 30,000 German reservists recorded at one consulate in the United States. With that number here, can you hope to keep the secrets we ought to keep from reaching the enemy if we permit everybody to publish anything that they may see fit? Why should we be so tender about the press, that we are willing to imperil the safety of our own military operations not to offend it? I have an amendment which I desire to offer, which I think will obviate most of the difficulties that have been suggested, and I ask that it be read in my time for the information of the House.

The SPEAKER. The Clerk will read the amendment of the gentleman from Minnesota in his time.

The Clerk read as follows:

Amendment by Mr. VOLSTEAD: At the end of section 4, page 36, insert the following:

"Provided further, That the effect that any information may have upon the morale of the United States, its enemy, or the armed forces of either, shall not be considered in determining whether any information is of value to the enemy but only information which might be of direct use to the enemy in directing operations of the war shall be so considered, and the question whether the information is of such character shall in prosecutions under this section be submitted to the jury for its determination."

Mr. VOLSTEAD. Mr. Speaker, I believe that if that amendment were added to the section so that it will relate only to information that will be of use to the enemy in carrying on military operations the power of the President would be greatly limited. To make doubly sure that the President shall not make any unreasonable restrictions on the press, I leave it to the jury to determine whether the information he condemns is of such a character that it would be injurious to the country. It seems to me if that amendment is adopted no one need hesitate to vote for this section. I feel that in this emergency we can not afford to play politics; that it is our duty to stand by the administration. We are appropriating millions of dollars and raising millions of troops and we must not hesitate to protect those troops. We must not hesitate to protect the interests of the United States. [Applause.]

Mr. WEBB. Mr. Speaker, I regret very much that my friend from Pennsylvania [Mr. GRAHAM], a member of the committee, has seen fit, after assisting in the perfection of the amendment in the committee and without voicing any objection to it there, should move to strike out the section from the bill on the floor of the House. And I should regret very much if this House—

Mr. GRAHAM of Pennsylvania. Will the gentleman permit an interrogatory?

Mr. WEBB. Just a question.

Mr. GRAHAM of Pennsylvania. I want to ask the chairman what the doings in the committee have to do with the perfected language of the bill? And in that connection I wish also to ask him whether I did not request, if it were possible, that the

committee should not meet on the following Monday, when this bill was reported, but meet on the following Tuesday, so that I might be present to reconsider the whole bill? Is not that the fact?

Mr. WEBB. I do not remember that, Mr. Speaker; and, in fact, I do not care to say what took place in the committee, but it was my understanding all along that there was only one member of the Committee on the Judiciary who objected to section 4, and that was the gentleman from Massachusetts [Mr. WALSH], who, in the committee, notified the committee that he was opposed to it and would oppose it on the floor of the House.

Mr. MANN. Does the gentleman think it is reasonable that a member of the committee objects to the bill as reported to the House?

Mr. WEBB. I was stating that I regretted that a member of the committee who seemed to favor the section in the committee and help draft it should, on the floor of the House, move to strike the section from the bill. As I started to say, I hope very much that the House in this great crisis, the greatest this country has ever encountered from its beginning, when, if there ever was a time in its history that it is supremely important to keep information that is useful to the enemy from being published throughout the broad land, where there are so many hundreds of thousands of alien sympathizers with the enemy, will not strike this section out of the bill entirely. Every man who is sitting before me should realize that in a time like this there ought to be some restrictions upon the publication of those things concerning the vital interests of our national defense, and which, if communicated to the enemy by such publication, would be detrimental to our defense and helpful to the enemy.

If you strike this section out of the bill many thousands of newspapers of the country, many of them published in foreign languages, many published by alien enemies, many by foreign sympathizers, will be turned loose to publish in this country for the benefit of every spy and every sympathizer with our common enemy things concerning the most vital part of our Government, namely, the national defense, and that information can be transmitted to the enemy and taken advantage of when we come to do our part of the fighting.

Mr. DILL. Will the gentleman yield?

Mr. WEBB. For a question only.

Mr. DILL. Are they not now free to do that?

Mr. WEBB. Yes; they are free to do that now. That is, the honorable newspapers have agreed to publish only certain things, but that is a gentleman's agreement. They have volunteered to do that. Others will not adhere to the agreement. I am in favor of conscripting them and making them do it. [Applause.] There are many newspapers of this country that have not entered that agreement and which at the first opportunity will violate the agreement that only a few of the newspapers of the country have made. This amendment—

Mr. HULBERT. Will the gentleman yield?

The SPEAKER pro tempore. Does the gentleman from North Carolina yield to the gentleman from New York?

Mr. WEBB. I regret that I can not yield just now.

This amendment I have offered gives the President power from time to time by proclamation to designate the character of information that in his opinion would be useful to the enemy if published, and then the Congress prohibits its publication. This will hurt no honest newspaper man; will hurt no patriotic publisher of a newspaper. Therefore that kind of newspaper ought not to object to it and all other kinds ought to be made to stand by such a provision.

Mr. REAVIS. Will the gentleman yield?

Mr. WEBB. I will yield to the gentleman.

Mr. REAVIS. I would like to have the gentleman's opinion regarding the amendment offered by the gentleman from Minnesota [Mr. VOLSTEAD], making the issue as to whether the information was of such a character as might be useful to the enemy one of fact to be determined by a jury rather than depending upon the President's proclamation.

Mr. WEBB. Yes; you might have our Government destroyed before a jury trial ever took place.

Mr. SHERLEY. Was not that the real crux of the fight that was made in regard to the old English libel laws—the fight Erskine made against Mansfield?

Mr. WEBB. I do not remember.

Mr. SHERLEY. You ought to know about it.

Mr. WEBB. The gentleman may know, but I do not. I know what we have before us now. I am talking of the necessities of the present, not what took place long ago.

The gentleman from Pennsylvania [Mr. GRAHAM], who moves to strike out this section, in his speech yesterday declared he thought this section was constitutional, and undoubtedly the amendment which the committee has offered has removed all

objection, technical constitutional objection, that some may have to the section.

Before proceeding further I will read from Field against Clark just a few statutes which are in line with the amendment which I was authorized by the committee yesterday to offer. In 1794 the Congress gave authority to the President to lay an embargo on all ships and vessels in the ports of the United States, as follows: "Whenever, in his opinion, the public safety shall so require," and under regulations to be continued or revoked "whenever he shall think proper."

That is the language of the statute. By the act of February 9, 1789, the President was given the power to remit and discontinue for the time being the restraint on exportations which Congress had proscribed with respect to commercial intercourse with the French Republic if he should "deem it expedient and consistent with the interests of the United States."

Now, gentlemen of the House, there are probably a hundred cases of that sort in the statutes of the United States where, as the court has said, it is absolutely necessary to leave some administrative duty to the Chief Executive or the heads of departments. The amendment which the committee has offered is absolutely in line with that long list of statutes from 1799 down to the present time, as cited in the case of Field against Clark and in the Grimaud case on down, so that the House need have no scruple in voting for the amendment on the ground that it is not constitutional.

But even if it is not unconstitutional from that standpoint—that is, that the President may designate from time to time the character of information that may be useful to the enemy—admitting that that is constitutional, the next objection, as they say, is that we have no right to abridge the freedom of the press. We have heard a great deal of beautiful oratory about the freedom of speech and of the press. We have heard a great deal of beautiful oratory about the right to life, liberty, and the pursuit of happiness, but every one of us can have our life taken from us and our happiness disturbed in certain cases by the supreme law of the land.

Now, Judge Story is a very good authority on the freedom of the press, and I want to read a few words from him on that point:

There is a good deal of loose reasoning on the subject of the liberty of the press, as if its individuality were constitutionally such that, like the King of England, it could do no wrong and was free from every inquiry and afforded a perfect sanctuary for every abuse; that, in short, it implied a despotic sovereignty to every sort of wrong, without the slightest accountability to private or public justice.

That is the position to-day. Men have argued here almost to the extreme limit to the effect that whatever the press does, it can do no wrong. I deny that any such power rests in any organization or institution in this country, high or low, from the President to the humblest citizen. Is it going to be contended here to-day that in time of war everybody must have a master except the newspapers of the country. [Applause.] I read further:

Such a notion is too extravagant to be held by any sound constitutional lawyer with regard to the rights and duties belonging to governments generally or to the State governments in particular. If it were admitted to be correct it might be justly affirmed that the liberty of the press was incompatible with the permanent existence of any free government.

I read still further from this great judge:

Besides, what is meant by restraint of the press or an abridgment of its liberty? If to publish without control or responsibility be its genuine meaning, is not that equally violated by allowing a private compensation for damages, as by a public fine? Is not a man as much restrained from doing a thing by the fear of heavy damages as by public punishment? Is he not often as severely punished by one as by the other? Surely it can make no difference in the case what is the nature or extent of the restraint, if all restraint is prohibited. The legislative power is just as much prohibited from one mode as from another. And it may be asked, where is the ground for distinguishing between public and private amenability for the wrong? The prohibition itself states no distinction. It is general; it is universal. Why, then, is the distinction attempted to be made? Plainly, because of the monstrous consequences flowing from such a doctrine. It would prostrate all personal liberty, all private peace, all enjoyment of property, and good reputation. These are the great objects for which government is instituted; and if the licentiousness of the press must endanger not only these but all public rights and public liberties, is it not as plain that the right of government to punish the violators of them—the only mode of redress which it can pursue—flows from the primary duty of self-preservation? No one can doubt the importance, in a free government, of a right to canvass the acts of public men and the tendency of public measures, to censure boldly the conduct of rulers, and to scrutinize closely the policy and plans of the Government. This is the great security of a free government. If we would preserve it public opinion must be enlightened; political vigilance must be inculcated; free, but not licentious, discussion must be encouraged. But the exercise of a right is essentially different from an abuse of it. The one is no legitimate inference from the other. Common sense here promulgates the broad doctrine, *sic utere tuo, ut non alienum laedas*; so exercise your own freedom as not to infringe the rights of others or the public peace and safety.

Now, gentlemen of the House, has not this Congress, has not this Government, the right to preserve its own existence by prohibiting the newspapers of the country from publishing secrets that are of vital importance to that very existence? I do not think any lawyer in this House will contend that we have not the power, in an effort to preserve the very life of this Government, to prohibit the publication in the public press of this country of those things which are vitally connected with our national defense, and which, if made public, would be carried to the enemy, and therefore would destroy or tend to destroy the very Government under which we operate to-day. The Congress has the power to raise armies. There is no section in the Constitution that gives us the right explicitly to gather up men by conscription. The word "conscription" or "draft" can not be found in the Constitution. And yet under the power of Congress to raise armies and to provide for the national defense we send the heavy hand of the law throughout this broad land and lay it on the shoulder of every mother's boy and say, "You must give up your liberties and come into the Army and fight for the national defense and for the existence of the Government."

No; there is no place in the Constitution which says you can make an express provision giving Congress the power to prohibit the publication of these national-defense secrets which are helpful to the enemy and hurtful to our country, except under the implied power of the Constitution, the power to raise armies and maintain them, the power to declare war; and, in fact, under the eighteenth paragraph of the eighth section of the Constitution, which says in substance that the Congress shall have power to pass all laws needful to carry out the objects and purposes of the Constitution. That gives us the power to defend the Government against destruction, and that is all that is aimed at in this section, to prevent the enemy with whom we are now at war from coming into possession of the vital secrets concerning our national defense.

Now, gentlemen of the House, after all, the fight against this bill has been made by a newspaper propaganda. I saw in a New York newspaper, whose columns have been quoted in this debate three or four times, several days ago that the editor had sent over the country 1,000 telegrams, asking expressions against "the infamous spy bill," and, of course, he got a good many. But right here, in a paper handed to me a while ago, is an illustration of what ought not to be published at this time, and yet it is published in a paper whose editorials are denouncing this morning any restriction on the liberty and freedom of the press to publish whatever it pleases. It says, "To sink U boats at their bases" is the proper campaign to wage against their menace. Is there any doubt but what that information will be gotten to the enemy? It ought not to be published. Yet it is published in a paper that is demanding wide-open license to publish whatever it pleases at a time when our country is in danger.

Mr. BOOHER. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from North Carolina yield to the gentleman from Missouri?

Mr. WEBB. Yes.

Mr. BOOHER. I agree thoroughly with the gentleman's position. Has the gentleman no censure for that member of the War Board that gave that secret away? Some member of that board must have given it away.

Mr. WEBB. I agree to that, my friend, and that is the trouble about these volunteer censorships. You can not always make them stick to their volunteering. You must have the heavy hand of the law to restrain the fellow who wants to violate the section, who wants to kick out of the volunteer censorship, and who is willing, if need be, in order to exercise that licentious liberty of the press, to scatter information to the four winds and let the enemy get it and possibly destroy his own country thereby. [Applause.]

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

Mr. WEBB. I yield.

Mr. WALSH. I should like to ask the chairman of the committee if he does not think that the President could exercise a censorship over the newspapers in the same way in which he does it over the cable and telegraph companies by an Executive order, under the authority of the Constitution and the declaration of war.

Mr. WEBB. Oh, I think not.

Mr. WALSH. Why not?

Mr. WEBB. I think if he should undertake to do that you would want to impeach him probably. In a life and death struggle between this country and another country we have the right to say that no newspaper shall publish those secrets which are necessary and vital to our own life. Why not say it like men and

not allow a few newspapers to browbeat us. And it is only a few that are trying to do it and to drive us into this position just because they want the license to publish what they please. These very same newspapers, many of them, for the last six months and longer have been crying from one end of this country to the other, "Stand by the President!" When the McLemore resolution was up they said, "Stand by the President. He knows," and we stood by him, and the newspapers told us to do it. When it came to arming merchant ships the newspapers said, "Stand by the President. He knows." And we did stand by him. Then, when we broke off diplomatic relations with Germany, these same newspapers cried, "Stand by the President. He is Commander in Chief. He knows." Then, when it came to the declaration of war, these very same newspapers declared that any man who did not stand by the President, because he knew, was practically a traitor to his country; and we stood by him. Then, when it came to raising an army with which to wage the war, which the newspapers themselves had more to do with bringing on than any other agency in the world, they said, "Stand by the President, and go to every home in the land and take the flesh and blood that has been raised with infinite pains and patience and compel the boys to join the Army to fight this war. Stand by the President. He knows," was their cry. But now, when we ask them to stand by the President and trust him, they say, "We will not do it." [Applause.]

Mr. RANDALL. Will the gentleman yield?

Mr. WEBB. I yield for a question.

Mr. RANDALL. Does not the gentleman approve of the latest act of the press in becoming a little independent?

Mr. WEBB. That is not it. I do not like to have a crowd of newspapers or a crowd of people tell this Congress incessantly, day in and day out, to stand by the President when they will not do it themselves when their interest is involved. The paper I had here a moment ago has been doing that every day and every hour for the last six months or a year and branding men with the traitor's mark who do not stand by the President. Now, when we call upon the editor of that paper to stand by the President he says, "I will not do it, because you are going to take some of my liberties away." [Applause.] I think it is time for this House to assert a little independence of the newspapers of this country, especially certain newspapers that try to control the independent action of this great body. I want to say to the newspapers of the country and to say to the House, and maybe they will see their duty when I make it so positive, that not two hours ago I received a message from the President of the United States, the Commander in Chief of all the armies of a million boys that with your vote and mine we are going to raise and put in the trenches and fight for the glory and the defense of this country. The President sent me word and asked me to say to the House that the principle of this section 4 is absolutely necessary to the defense and success of this country in this war. [Applause.]

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

Mr. WEBB. I yield for a question.

Mr. NORTON. Was that message taken down to you by the Postmaster General, Mr. Burleson, who again has been snooping around the House Office Building and the Capitol this morning?

Mr. WEBB. I do not think the gentleman ought to make observations of that kind. I got the message directly from the President of the United States, the Commander in Chief of our Army and Navy, and the man into whose hands the gentleman voted to turn over a million boys of this country. Is it possible that when you go back home you are going to say to the mothers and fathers, "I trusted Woodrow Wilson sufficiently to turn over to him a million of the noblest boys in the world, to send to their life or their death, wherever he might say, but I was not willing to take from the newspapers of the country the privilege of publishing information which might be gotten to the enemy and make it easier for them to destroy those boys." [Applause.] Oh, yes; I am tired of double dealing and hypocrisy.

If it is good to stand by the President in all those great things that we have been doing for the last few months, the newspapers ought to come across and stand by him now. When one day the newspapers call on us to stand by the President and the next day they say, "Don't you do it"—one day they tell us "if you don't stand by him you are a traitor" and the next day "if you do stand by him you are a traitor"—they remind me in their inconsistency of a story of the old farmer down in Virginia who had a pack of dogs. Among them was a greyhound. He went out one day to hunt rabbits, and the greyhound, as you know, runs by sight and not by scent. A rabbit was hopped, and the pack took off after the rabbit, and the greyhound bounded out far ahead of the rest of the pack. Suddenly he collided with

perpendicular strand of a barbed-wire fence, which slit him open from nose to tail. The old farmer ran up, saw the plight of his dog, gathered up the two parts, carried them home, and laid them in the kennel. The next morning he went out for the purpose of burying the pride of his pack, but to his great surprise he found the dog was still living, but was horrified to find that in putting the two halves together he had put the tail part where the head ought to be and the head part where the tail ought to be. Notwithstanding this condition, by what the doctors call the osmose and the endosmose the parts began to adhere and grow together, and a week or two later one of the farmer's friends said, "Bill, how is that dog getting along that was split in two the other day out in your pasture?" "Why," he said, "he is fine. He is by all odds the best dog in the pack." "How is that?" "Well, it is this way, that dog can run both ways and bark at each end." [Laughter.] So these papers that for six months have been echoing and reechoing the cry, "Stand by the President," on everything that they want done, now, when we want them to stand by the President, say, "No; we will not do it."

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

Mr. WEBB. I yield to the gentleman from Missouri.

Mr. ALEXANDER. Are the newspapers of the country in a class by themselves? Does the Constitution recognize them as having any greater rights than the citizens? Are they more patriotic than the citizens of the United States? Should they be exempt from reasonable control?

Mr. WEBB. Some of them seem to think that they are in a class by themselves and possess privileges that no one else does. Yes, gentlemen of the House, this great man up in the White House that some here seem to be afraid to trust, to him we have voted not only the control of a million boys of the country, but we have voted \$7,000,000,000 into his hands to distribute almost as he sees fit. Seven billion dollars! A sum of money by a billion dollars larger than there is gold in the entire world. It would take 12,000 horses to pull it; a line of horses 35 miles long; 250 freight cars loaded to their capacity—and yet every one of us voted to turn this stupendous amount of money over to the President of the United States; and yet we can not trust him to restrain the newspapers of the country from publishing news that would be destructive of our Government and helpful to the enemy. Let us not be so inconsistent.

Mr. CHARLES B. SMITH. Will the gentleman yield?

Mr. WEBB. Yes.

Mr. CHARLES B. SMITH. Is it not a fact that the gentleman is slightly wrong in the assumption that Members of the House are opposed to restraining the newspapers? Is it not a fact that we are opposed to this particular way of restraining them? We want to get into the law just how and to what extent we will restrain them.

Mr. WEBB. That is exactly what we have done. We propose to restrain them from publishing matters that in the judgment of the Commander in Chief of the Army and Navy will be hurtful to this country and helpful to the enemy concerning national-defense matters.

Mr. HARDY. Will the gentleman yield?

Mr. WEBB. I will yield to the gentleman.

Mr. HARDY. The gentleman from Pennsylvania has stated that it would be impossible to frame the exact conditions that would entitle the matter to prohibition. Then if you take away from the President the authority to do it, would it not leave it in the discretion of every man in the country to do it for himself?

Mr. WEBB. Yes; I think the honest newspapers of this country, all of them, are anxious not to publish national-defense secrets that would be helpful to the enemy, but we have dishonest newspapers, like we have dishonest people, and out of 20,000 publications you will find some in sympathy with the enemy who will be happy to publish many things concerning our affairs that would be helpful if communicated to the enemy. And a great many may innocently do it.

Mr. LITTLE. Will the gentleman yield?

Mr. WEBB. Yes.

Mr. LITTLE. I want to say to the gentleman that what we object to is that when a man is tried as to whether he shall go to jail or not, what we want is not the judgment of the Commander in Chief of the Army and the Navy, but the judgment of a jury.

Mr. WEBB. If you can not trust the judgment of the Commander in Chief of the Army and the Navy to say what information ought not to be published, how can you trust him with a million boys?

Mr. LITTLE. That is not the question.

Mr. WEBB. It is the question.

Mr. LITTLE. The Constitution provides that we shall have a trial and verdict by a jury. We are willing to leave to the Commander in Chief the right to command, but we do not want him to usurp the province of the jury.

Mr. WEBB. There is no usurpation of the province of the jury whatever in this section. Trial by jury is absolutely preserved.

Mr. LITTLE. If you had not put that provision in, you would not have had this opposition.

Mr. SHERLEY. Will the gentleman yield?

Mr. WEBB. I will yield to the gentleman from Kentucky.

Mr. SHERLEY. One reason why we are willing to trust the Executive with great power is because his exercise of that power may be subject to the discriminating criticism and judgment of the people of the country. [Applause.]

Mr. WEBB. Mr. Speaker, I want to read after that applause what we have put in this bill. Talk about the rights of discrimination and discussion—it was not necessary to write this in the section, but for the sake of those who fear that there was some influence that wanted to strike down the criticism of the press, we have written this into the section:

Provided, That nothing in this section shall be construed to limit or restrict any discussion, comment, or criticism of the acts or policies of the Government or its representatives or the publication of the same.

Mr. SHERLEY. What we want is to go to the jury with the right to determine not only whether the matter prohibited was published, but whether it was of such a character as would be helpful to the enemy.

Mr. WEBB. Yes; and in this country with all the delays of a jury trial you will find that the country could be destroyed, the forts blown up, and transports sunk before you could get your trial. [Applause.] War is a serious business. You have entered into it, and it takes strong and stern acts in time of war to preserve the country. The gentleman from Kentucky himself made an argument to that effect.

Mr. HARDY. Will the gentleman yield?

Mr. WEBB. Yes.

Mr. HARDY. The very proposition would carry the further proposition that you must submit to the jury the intention—as intention is the gist of the crime—of the intention to violate the spirit of the law. So that every man would be tried not on the question of whether his action was harmful, but whether he intended it to be harmful, and then you would leave it to the fools and the traitors to betray the country.

Mr. SHERLEY. That was the same argument made by the crown when the criminal libel laws were passed, and led to the Fox libel law, which gave to the jury the right to determine the law as well as the fact.

Mr. WEBB. I am sorry that the gentleman did not vouchsafe his knowledge to the Judiciary Committee four or five days ago instead of waiting until this late hour.

Mr. WALSH. Will the gentleman yield?

Mr. WEBB. Yes.

Mr. WALSH. If the newspapers should publish information useful to the enemy, will not that be giving aid and comfort to the enemy, and will not that publisher be guilty of treason, and could not he be punished without this law?

Mr. WEBB. No; he would not. And if you do not put something like this in the law, when trouble breaks loose, when the shooting and killing begins, you are going to turn loose 20,000 newspapers, and every one will rush in to get the first information, the first news, to be published in his paper, while there are thousands of alien enemies in our midst to pick it up and possibly send it to the very enemy we are fighting. The papers may do it innocently, but that does not alter the fact that the information may be used tremendously against our success.

Mr. CHANDLER of New York. Mr. Speaker, will the gentleman yield?

Mr. WEBB. For a question.

Mr. CHANDLER of New York. The gentleman states that the proviso saves the situation by providing that criticism of acts and policies of the Government would not be prohibited. Who is to decide what constitutes acts and policies of the Government and that which is proper to prohibit?

Mr. WEBB. Anybody who knows what an act or a policy is can decide that for himself.

Mr. CHANDLER of New York. What effect would that have on the press?

Mr. WEBB. None, in so far as criticism is concerned. The New York American can say just as many things about the President and Congress, and all of the rest of the newspapers can say as many things as they choose.

Mr. CHANDLER of New York. Suppose the President, in construing this proviso, in the exercise of his discretion, makes a mistake, is there any appeal from his decision?

Mr. WEBB. No appeal, except to public opinion, which can criticize him from one end of the country to the other. That is the way they do with the gentleman and myself when we make mistakes.

Mr. LA GUARDIA. Mr. Speaker, will the gentleman yield?

Mr. WEBB. No; I can not yield any further. I am going to conclude now. Gentlemen, when you go back home and tell the people whose boys you have drafted into the Army to wage this great war that you voted \$7,000,000,000 of taxes upon them and have done everything to try to make your country successful in war, but tell them you would not vote to keep the newspapers of the country from publishing facts about your national defense, secrets which might protect your boys in foreign fields, or in the trenches, or in transit over the ocean, what do you think they are going to say or think about it? Do you think that you can fool them? Do you think that they will be fooled? No; they will tell you that you ought to treat the newspapers just as you have treated them in a great crisis like this, and require the newspapers, if need be, to make some little sacrifice, to give up some of their boasted rights, as you have taken the liberty of their boys from them. You can not fool the folks on that. It will be just like the negro boy who went down to a livery stable one day dressed up with a red necktie and a hard hat and a pair of creased trousers. He walked into the stable where an overall boy was working, and while the dude was standing there something kept flying around him, and he said to the overall boy, "What is that flying around me?" The boy who was working said, "That is a green fly." "What does the green fly do?" "Why, it flies around garbage cans and the like of that." "Well," said the negro dude, "I ain't no garbage can, is I?" "Do I look like one?" The other boy said, "You don't look like a garbage can to me, but you can't fool a green fly." [Laughter.] So you can not fool the people on this thing when you go home and tell them that you voted to take their liberties and their boys from them when it comes to fighting a great war, but that you balked when it came to taking any of the rights of the newspapers away from them.

Mr. Speaker, it is said there are 30,000 German reservists registered in the city of Chicago alone. There are German sympathizers and Austrian sympathizers throughout the United States, and let us suppose that the first shipload of boys, two or three thousand, were put upon a transport and started across to the foreign fields to fight. Suppose some newspaper then concludes that that is too big a piece of news not to publish and concludes in its own mind that it does not care anything for a voluntary censorship but that it is going to publish it in the newspaper and let the people know what has happened, and it does so, and some one of these many thousand German reservists relays that to Mexico and from Mexico it is wirelessly out to a submarine which lies in wait for the destruction of our boys, which goes out and blows them up, then will you feel any remorse of conscience when you look back and say, "I declined by my vote to prohibit that kind of information being given to the enemy?" We have talked so much about the *Lusitania* horror. Would that be anything more horrible? And yet it is entirely possible that that thing may happen. You can not control 20,000 newspapers, nor 10,000 of them, by a voluntary censorship; and every publication of that kind would go like the wind, and it may be that thousands upon tens of thousands of our boys may be blown up in midocean because of the transmission of such information.

Mr. COOPER of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. WEBB. Yes.

Mr. COOPER of Wisconsin. The McCormick amendment, as I heard it read, provides in express terms that there shall be no publication by newspapers of the country of the movement of troops, of the number of troops, of their location, or anything of that kind.

Mr. WEBB. I understand that.

Mr. COOPER of Wisconsin. In other words, that that provision shall be in the act itself.

Mr. WEBB. I understand that; and if the newspapers want that, I am for it, because it is a broader provision and will limit their "liberties" more than the provision which we have put into the section. If the House wants to adopt that amendment, let them do it.

Mr. RAGSDALE. Would not the provision in this bill that would specifically prohibit the publication of anything relating to the movement of any ship protect all of our rights on the high seas and our boys on the high seas, and yet give to the American public that information to which they are entitled in this great situation that faces them to-day?

Mr. WEBB. No; I do not think it would cover every situation. Mr. RAGSDALE. Would it not protect the people?

Mr. WEBB. It would give the President the power to cover such situations as he thought were vital, and it strikes me that if the House is willing to give him all this other colossal and stupendous power we ought not to object to giving him that power to keep from the papers those things that are useful to the enemy.

Mr. COOPER of Wisconsin. Mr. Speaker, will the gentleman yield again?

Mr. WEBB. For a question.

Mr. COOPER of Wisconsin. Mr. Speaker, I will say to the gentleman from North Carolina that I have in my hand the McCormick amendment.

Mr. WEBB. I heard it read here yesterday and am familiar with it.

Mr. COOPER of Wisconsin. I think it is exceedingly important—

Mr. WEBB. It will be read from the desk when we vote upon it.

Mr. COOPER of Wisconsin. Will not the gentleman permit it to come in here, so that there can be a discussion of it now?

Mr. WEBB. That was discussed yesterday, and I have stated my opinion, both yesterday and to-day. I say that if the House wants to adopt the McCormick amendment, let them do so; but I hope the House will not strike out this section without putting in something that will give the Commander in Chief the power to protect the armies and the navies of this country from things that would be hurtful to us and useful to the enemy.

Mr. LANGLEY and Mr. McCORMICK rose.

Mr. LANGLEY. Will the gentleman yield?

Mr. WEBB. No; I can not yield. How much time have I remaining, Mr. Speaker?

The SPEAKER. The gentleman has five minutes remaining.

Mr. McCORMICK. Mr. Speaker, I ask unanimous consent that the gentleman's time be extended five minutes, that he may answer some questions.

Mr. WEBB. I have been answering questions for three or four days.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the time of the gentleman from North Carolina shall be extended five minutes so that he can answer questions. Is there objection?

Mr. MANN. Mr. Speaker, I object.

The SPEAKER. The gentleman from Illinois objects.

Mr. WEBB. Mr. Speaker, here is the attitude of the honest newspapers of this country on this section, and the power conferred by this section will not hurt the honest man, as I have said before, and the dishonest paper ought to be hurt. This propaganda against this section has been carried on throughout the country to get the newspapers to oppose this bill. The Atlanta Georgian—I believe it is generally understood it is owned by Mr. Hearst—the Atlanta Georgian has been preaching that propaganda in Georgia. It telegraphed to the editor of the Columbus Inquirer-Sun, Columbus, Ga., on May 2, this month, urging him as follows:

INQUIRER-SUN, Columbus, Ga.:

Espionage bill now pending in Congress is, in our opinion, an assault upon the very foundation of our free institutions and freedom of thought and speech. The Georgian wishes to put before Congress the judgment of leading editors of the country on the danger of withholding from the public full knowledge of public affairs, and depriving the press of the right freely to express public opinion.

There is nothing in this section that prohibits the free expression of public opinion, and here is what this editor wired back, Mr. W. H. Tucker, and sent copy to Congressman ADAMSON:

There are times when it is inexpedient for us to exercise our rights. If in a great crisis such as the present the Government deems it wise and prudent for the freedom of the press and of speech to be abridged in order that an infinitely larger freedom may be preserved and perpetuated, then we would in no circumstance interpose a single objection to such abridgment. At times, even in a great democracy such as ours, everything should be subordinated to military necessity.

[Applause.]

That is the way the patriotic newspapers of this country feel, and that is the way this House ought to feel, and, as that was written from Georgia, I can do no better in these circumstances than to quote the epitaph that is graven on the monument of Benjamin H. Hill, which stands in Atlanta, Ga., which says:

He who saves his country saves all things, and all things saved will bless him; but he who lets his country die lets all things die, and all things dying curse him.

[Applause.]

The SPEAKER. The Clerk will report the first amendment to this section.

Mr. LANGLEY. Mr. Speaker, may I ask unanimous consent to extend my remarks in the Record?

The SPEAKER. Is there objection to the request of the gentleman from Kentucky? [After a pause.] The Chair hears none.

Mr. MASON. Mr. Speaker, I desire to make the same request.

The SPEAKER. Is there objection to the request of the gentleman from Illinois? [After a pause.] The Chair hears none. All these amendments to this section are voted on before the motion of the gentleman from Pennsylvania [Mr. GRAHAM] to strike out the section. The Clerk will report the first amendment.

The Clerk read as follows:

Amendment by Mr. WEBB—

Mr. WEBB. Mr. Speaker, I ask that the amendment of the gentleman from Pennsylvania to the amendment be adopted by striking out the words "or communicate."

Mr. MANN. There has been no such amendment offered yet.

The SPEAKER. The Chair does not understand the gentleman.

Mr. MANN. There has been no such amendment offered. Does the gentleman offer to modify his amendment?

Mr. WEBB. I thought the gentleman from Pennsylvania stated he offered that amendment.

Mr. MANN. It has not been offered notwithstanding it may have been suggested.

Mr. WEBB. Then I ask unanimous consent to modify the committee's amendment by striking out the words "or communicate"—I think it is in line 6—so that the prohibition will be against the publication.

The SPEAKER. The Clerk will report the last amendment.

The Clerk read as follows:

Modification of the Webb amendment: Strike out of the amendment the words "or communicate."

Mr. HUDDLESTON. Mr. Speaker, I believe there is a request for unanimous consent. Reserving the right to object, I would like to ask the gentleman who makes the request whether he has in mind that to publish would include sending a letter and whether it would not be well to insert the words "in a newspaper"?

Mr. WEBB. No; no.

Mr. HUDDLESTON. So that this section could refer to a publication in a newspaper, to a publication by printing. It occurs to me—

Mr. WEBB. No; I do not think anybody ought to write these intensely profound important secrets.

Mr. HUDDLESTON. A soldier in the Army might write to his mother a letter that would state certain facts—

The SPEAKER. Is there objection to the request of the gentleman from North Carolina [Mr. WEBB] to strike out the words "or communicate"?

Mr. HUDDLESTON. Mr. Speaker, I object. I have an amendment which I wish to offer.

Mr. MANN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. The gentleman from North Carolina offered an amendment which is pending. The gentleman from New York [Mr. DEMPSEY] offered an amendment to that amendment which is pending; I do not know whether it is strictly an amendment to the amendment, but anyhow it was offered. The gentleman from Illinois, my colleague, offered a substitute for the Webb amendment. Does not the vote first come on the Dempsey amendment?

The SPEAKER. It would, but the gentleman from North Carolina [Mr. WEBB] asks unanimous consent—

Mr. MANN. Objection was made to that. I am trying to fix it so that he can offer it as an amendment.

Mr. WEBB. Is it now in order to move to amend the amendment?

Mr. MANN. You can not move it now because there is an amendment to the amendment pending.

Mr. WEBB. I will do it later, I will say to the Speaker.

The SPEAKER. The way it runs is this: Somebody offered an amendment and somebody else offered an amendment to that amendment, and somebody offered a substitute to the amendment to the amendment. The first thing to do is to vote on the amendment to the original amendment. The Clerk will report it.

The Clerk read as follows:

Amendment offered by Mr. DEMPSEY: Page 36, lines 1 to 9, inclusive—

Mr. CLARK of Florida. Mr. Speaker, can not we have the original amendment read first?

The SPEAKER. Without objection the original amendment to section 4, offered by the gentleman from North Carolina [Mr. WEBB], will be read.

The Clerk read as follows:

On page 36 strike out all after the figure "4" in line 1 down to and including the word "both" in line 11 and insert in lieu thereof the following:

"During a war in which the United States is engaged, or during a national emergency threatening war, the President is authorized from time to time to designate by proclamation the character of information concerning the national defense which, in his opinion, would be useful to the enemy, and thereupon it shall be unlawful for any person without proper authority to publish or communicate such information. Whoever violates this section shall be punished by a fine of not more than \$10,000 or imprisoned not more than 10 years, or both."

Mr. WEBB. Mr. Speaker, I again renew my request for unanimous consent to strike out of the amendment the words "or communicate."

The SPEAKER. Is there objection?

Mr. BANKHEAD. Mr. Speaker, reserving the right to object, I wish to call the attention of the chairman of the committee—

Mr. MANN. Mr. Speaker, I call for the regular order.

The SPEAKER. The regular order is a vote on the amendment offered by the gentleman from New York [Mr. DEMPSEY].

Is there objection to the request of the gentleman from North Carolina [Mr. WEBB] to strike out of the amendment the words "or communicate"? [After a pause.] The Chair hears none.

The Clerk will report the amendment of the gentleman from New York [Mr. DEMPSEY].

The Clerk read as follows:

Amendment offered by Mr. DEMPSEY: Page 36, lines 1 to 9, inclusive, after the word "war," in line 3, strike out the rest of the line and all of line 4; after the word "which," in line 7, strike out "in his judgment"; after the word "enemy," in line 8, insert "is hereby prohibited"; strike out the first three words in line 9, "any such prohibition," and insert in lieu thereof "this section," so that as it is proposed to be amended the section will read:

"Sec. 4. During any national emergency resulting from a war to which the United States is a party, or from threat of such a war, the publishing or communicating of, or the attempting to publish or communicate any information relating to the national defense which is of such character that it is or might be useful to the enemy is hereby prohibited. Whoever violates this section shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than 10 years, or both: *Provided*, That nothing in this section shall be construed to limit or restrict any discussion, comment, or criticism of the acts or policies of the Government or its representatives or the publication of the same.

The SPEAKER. The question is on the amendment offered by the gentleman from New York [Mr. DEMPSEY] to the amendment offered by the gentleman from North Carolina [Mr. WEBB].

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

The SPEAKER. The Clerk will report the substitute offered by the gentleman from Illinois [Mr. McCORMICK].

The Clerk read as follows:

Substitute offered by Mr. McCORMICK: Page 36, section 4, strike out all of line 7 and all of line 8 up to and including the words "to the enemy" and substitute the following: "movement, numbers, description, or disposition of any armed forces, ships, aircraft, or war materials of the United States, or with respect to the plans for the conduct of any naval or military operations, or with respect to any works or measures undertaken for or connected with or intended for the fortification or defense of any place prior to the publication or communication of such facts by the Government directly or by its authority."

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

Mr. McCORMICK. Mr. Speaker, that substitute was drawn for the original clause as reported by the gentleman from North Carolina [Mr. WEBB].

The SPEAKER. The question is on the substitute offered by the gentleman from Illinois [Mr. McCORMICK].

The question was taken, and the Speaker announced that the noes seemed to have it.

Mr. McCORMICK. Division, Mr. Speaker.

The committee divided; and there were—ayes 101, noes 133.

So the substitute was rejected.

Mr. KAHN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. KAHN. Would it be in order now to offer an amendment to strike out and insert?

The SPEAKER. The gentleman from Pennsylvania [Mr. GRAHAM] has a motion pending to strike out.

Mr. KAHN. My amendment is to strike out and insert.

Mr. MANN. Of course the motion can be offered, but we can not move on it until amendments to perfect the section are disposed of.

The SPEAKER. Of course that is the rule as to voting. The question is on the amendment of the gentleman from North Carolina [Mr. WEBB].

Mr. HUDDLESTON. Mr. Speaker, I have an amendment I wish to offer.

The SPEAKER. The gentleman from Alabama [Mr. HUDDLESTON] offers an amendment to the amendment of the gentleman from North Carolina [Mr. WEBB], which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. HUDDLESTON: Amend the amendment of Mr. WEBB by inserting, after the words "without authority to publish," the words "by printing or circulating any printed matter."

The SPEAKER. The question is on agreeing to the amendment offered by the gentleman from Alabama [Mr. HUDDLESTON].

Mr. HUDDLESTON. Mr. Speaker, a parliamentary inquiry. Is debate exhausted on this amendment under the rule?

The SPEAKER. Debate is exhausted on this title.

The question is on the amendment of the gentleman from Alabama [Mr. HUDDLESTON], just read, to the Webb amendment.

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

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

The amendment was agreed to.

The SPEAKER. The Clerk will read the next one.

Mr. KAHN rose.

The SPEAKER. For what purpose does the gentleman from California rise?

Mr. KAHN. Mr. Speaker, I desire to offer an amendment which I send to the Clerk's desk.

The SPEAKER. The Chair knows; but there are a whole lot of amendments here pending to perfect that section, the Chair thinks.

Mr. VOLSTEAD rose.

The SPEAKER. For what purpose does the gentleman from Minnesota rise?

Mr. VOLSTEAD. To offer an amendment which was read in my time.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLSTEAD: Add at the end of section 4, page 36, the following:

"*Provided further*, That the effect that any information may have upon the morale of the United States, its enemy, or the armed forces of either shall not be considered in determining whether any information is of value to the enemy, but only information which might be of direct use to the enemy in directing operations of the war shall be so considered, and the question whether the information is of such character shall in prosecutions under this section be submitted to the jury for its determination."

The SPEAKER. The question is on agreeing to the Volstead amendment just read.

The question was taken, and the Speaker announced that the noes seemed to have it.

Mr. VOLSTEAD. I ask for a division, Mr. Speaker.

The SPEAKER. The gentleman from Minnesota asks for a division.

The House divided; and there were—ayes 69, noes 126.

So the amendment was rejected.

The SPEAKER. The Clerk will read the next one.

The Clerk read as follows:

Amendment offered by Mr. ROSE: Page 36, line 9, after the word "shall," insert "upon conviction."

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

The question was taken, and the amendment was rejected.

The SPEAKER. The Chair will state that there is an amendment here on the table, offered by the gentleman from Pennsylvania [Mr. KELLY], which has already been disposed of by the unanimous consent that was given.

Mr. KELLY of Pennsylvania. Mr. Speaker, I ask unanimous consent to withdraw that amendment.

The SPEAKER. The gentleman from Pennsylvania withdraws it. The Clerk will report the Kahn amendment.

The Clerk read as follows:

Amendment offered by Mr. KAHN: Page 36, strike out all of section 4 and insert in lieu thereof the following:

"Sec. 4. During any international emergency resulting from a war to which the United States is a party, or from threat of such a war, the President shall, by proclamation, declare the existence of such an emergency and shall create immediately upon the issuance of such proclamation a board of censors, which said board shall have power to prohibit the publishing or communicating of, or the attempting to publish or communicate, any information relating to national fortifications or the movements or disposition of any armed forces, ships, aircraft, munitions, or war materials of the United States which, in their judgment, is of such character that it is or might be useful to the enemy. Said board of censors shall consist of seven members, as follows:

"One member representing the Department of State, one member who shall be a captain in the Navy, one member who shall be a brigadier general of the Army, and four members who shall be representative newspaper editors, journalists, or publishers in the United States. The appointment of said newspaper editors, journalists, or publishers shall be ratified and confirmed by the Senate, and their compensation shall be \$5,000 each per annum during the existence of

said national emergency resulting from a war to which the United States is a party.

"Whoever violates such prohibition hereinabove referred to shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than 10 years, or both: *Provided*, That nothing in this section shall be construed to limit or restrict any discussion, comment, or criticism of the acts or policies of the Government or its representatives or the publication of the same."

The SPEAKER. The question is on agreeing to the Kahn motion to strike out and insert.

The question was taken, and the motion was rejected.

The SPEAKER. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GRAHAM] to strike out the whole section.

Mr. WEBB. The section as amended.

The SPEAKER. Yes; the section as amended.

Mr. KINCHELOE rose.

The SPEAKER. For what purpose does the gentleman from Kentucky rise?

Mr. KINCHELOE. I rise to ask unanimous consent that the Webb amendment as adopted may be read again.

The SPEAKER. The Webb amendment has already been adopted.

Mr. KINCHELOE. The section as amended.

The SPEAKER. Is there objection?

Mr. MEEKER. Mr. Speaker, I object.

The SPEAKER. The gentleman from Missouri objects. The Clerk will report the Graham amendment.

The Clerk read as follows:

Amendment offered by Mr. GRAHAM of Pennsylvania: On page 36, Mr. GRAHAM moves to strike out the whole of section 4.

The SPEAKER. The question is on agreeing to the Graham amendment to strike out section 4.

The question was taken, and the Speaker announced that the yeas seemed to have it.

Mr. WEBB. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. The Clerk will call the roll. Those in favor of the Graham amendment to strike out section 4 will, when their names are called, answer "yea"; those opposed to the Graham amendment will answer "nay."

The question was taken; and there were—yeas 221, nays 167, answered "present" 1, not voting 43, as follows:

YEAS—221.

Almon	Farr	Kinkaid	Scott, Iowa
Anderson	Ferris	Knutson	Scott, Mich.
Anthony	Fess	Kraus	Scott, Pa.
Austin	Fitzgerald	LaGuardia	Sherley
Bacon	Focht	Langley	Sherwood
Bell	Fordney	Leibach	Siegel
Blackmon	Foss	Lenroot	Sinnott
Bland	Francis	Little	Sisson
Bowers	Frear	London	Slayden
Britten	Freeman	Longworth	Slomp
Browne	French	Lundeen	Sloan
Browning	Fuller, Ill.	McArthur	Smith, C. B.
Burnett	Gallagher	McCormick	Snell
Butler	Gallivan	McKenzie	Snook
Campbell, Kans.	Garland	McKinley	Stafford
Cantrill	Garrett, Tenn.	McLaughlin, Pa.	Steagall
Cary	Glynn	McLemore	Steenson
Chandler, N. Y.	Good	Madden	Sterling, Ill.
Chandler, Okla.	Goodall	Magee	Stiness
Church	Gordon	Mann	Strong
Clark, Fla.	Gould	Martin, La.	Sweet
Clark, Pa.	Graham, Ill.	Mason	Swift
Classon	Graham, Pa.	Meeker	Switzer
Claypool	Gray, Ala.	Miller, Minn.	Tague
Coady	Greene, Mass.	Miller, Wash.	Temple
Comstock	Greene, Vt.	Mondell	Templeton
Connelly, Kans.	Hadley	Montague	Thompson
Cooper, W. Va.	Hamill	Mott	Tilson
Cooper, Wis.	Hamilton, Mich.	Mudd	Timberlake
Costello	Harrison, Va.	Nelson	Tinkham
Cox	Haskell	Nichols, Mich.	Towner
Cramton	Hawley	Nolan	Treadway
Curry, Cal.	Heaton	Norton	Van Dyke
Dale, Vt.	Heintz	Olney	Vare
Dallinger	Helvering	Osborne	Vestal
Darrow	Hersey	O'Shaunessy	Voigt
Davidson	Hicks	Paige	Waldow
Davis	Hill	Powers	Walsh
Dempsey	Hilliard	Pratt	Ward
Dent	Hollingsworth	Purnell	Wason
Dill	Huddleston	Ragsdale	Watson, Pa.
Dillon	Hull, Iowa	Raker	Watson, Va.
Dominick	Humphreys	Ramseyer	Wheeler
Doremus	Husted	Randall	White, Me.
Dowell	Hutchinson	Rankin	White, Ohio
Dunn	Ireland	Reed	Williams
Dupré	James	Robbins	Wilson, Ill.
Eagan	Johnson, Wash.	Roberts	Winslow
Edmonds	Junl	Rodenberg	Wood, Ind.
Ellsworth	Kahn	Rose	Woods, Iowa
Elston	Keans	Rouse	Woodyard
Emerson	Keating	Rowe	Zihlman
Esch	Kelly, Pa.	Sabath	The Speaker
Fairchild, B. L.	Kennedy, Iowa	Sanders, Ind.	
Fairchild, G. W.	Kennedy, R. I.	Sanders, N. Y.	
Fairfield	Kettner	Schall	

NAYS—167.

Adamson	Drukker	Kincheloe	Riordan
Alexander	Dyer	King	Romjue
Ashbrook	Estopinal	Kitchin	Rubey
Aswell	Evans	La Follette	Rucker
Ayres	Fields	Larsen	Russell
Bankhead	Fisher	Lazaro	Sanders, La.
Barkley	Flood	Lea, Cal.	Saunders, Va.
Barnhart	Foster	Lee, Ga.	Scully
Bathrick	Fuller, Mass.	Leshet	Shallenberger
Black	Gard	Lever	Shouse
Blanton	Gardner	Linthicum	Sims
Booher	Garner	Lobeck	Small
Borland	Garrett, Tex.	Loneragan	Smith, Mich.
Brand	Gillett	Lunn	Smith, T. F.
Brodbeck	Glass	McClintic	Stedman
Bruckner	Goodwin, Ark.	McFadden	Steele
Brumbaugh	Gray, N. J.	McKeown	Stephens, Miss.
Buchanan	Gregg	McLaughlin, Mich.	Stephens, Nebr.
Byrnes, S. C.	Griest	Maher	Stevenson
Byrns, Tenn.	Griffin	Mansfield	Summers
Campbell, Pa.	Hamlin	Mapes	Talbott
Candler, Miss.	Hardy	Mays	Taylor, Ark.
Cannon	Harrison, Miss.	Moore, Ind.	Thomas
Caraway	Hastings	Morgan	Tillman
Carew	Haugen	Nicholls, S. C.	Venable
Carlin	Hayden	Oldfield	Vinson
Carter, Mass.	Heflin	Oliver, Ala.	Volstead
Carter, Okla.	Helm	Oliver, N. Y.	Walker
Collier	Hensley	Overmyer	Walton
Connally, Tex.	Holland	Overstreet	Watkins
Copley	Hood	Padgett	Weaver
Crisp	Houston	Park	Webb
Currie, Mich.	Howard	Parker, N. J.	Welling
Dale, N. Y.	Hulbert	Peters	Welty
Decker	Hull, Tenn.	Phelan	Whaley
Denison	Igoe	Platt	Wilson, La.
Denton	Jacoway	Polk	Wilson, Tex.
Dickinson	Johnson, Ky.	Pou	Wingo
Dies	Jones, Tex.	Quin	Wise
Dixon	Jones, Va.	Ramsey	Young, N. Dak.
Dooling	Kehoe	Rayburn	Young, Tex.
Doolittle	Klcss, Pa.	Reavis	

ANSWERED "PRESENT"—1.

Johnson, S. Dak.

NOT VOTING—43.

Bacharach	Gandy	Martin, Ill.	Rowland
Caldwell	Godwin, N. C.	Moon	Sanford
Capstick	Green, Iowa	Moore, Pa.	Sears
Cooper, Ohio	Hamilton, N. Y.	Morin	Sells
Crago	Hayes	Neely	Shackleford
Crosser	Kelley, Mich.	Parker, N. Y.	Smith, Idaho
Dewalt	Key, Ohio	Porter	Snyder
Doughton	Kreider	Price	Sterling, Pa.
Drane	Littlepage	Rainey	Sullivan
Eagle	McAndrews	Robinson	Taylor, Colo.
Flynn	McCulloch	Rogers	

The SPEAKER. The Clerk will call my name.

The Clerk called the name of Mr. CLARK of Missouri, and he voted "yea."

So the motion of Mr. GRAHAM of Pennsylvania to strike out section 4 was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. PARKER of New York (for) with Mr. LITTLEPAGE (against).

Mr. HAMILTON of New York (for) with Mr. EAGLE (against).

Mr. ROWLAND (for) with Mr. DEWALT (against).

Mr. COOPER of Ohio (for) with Mr. NEELY (against).

Until further notice:

Mr. GANDY with Mr. JOHNSON of South Dakota.

Mr. SEARS with Mr. SMITH of Idaho.

Mr. MCANDREWS with Mr. SANFORD.

Mr. CROSSER with Mr. BACHARACH.

Mr. DOUGHTON with Mr. CAPSTICK.

Mr. DRANE with Mr. CRAGO.

Mr. FLYNN with Mr. GREEN of Iowa.

Mr. GODWIN of North Carolina with Mr. HAYES.

Mr. KEY of Ohio with Mr. KELLEY of Michigan.

Mr. MARTIN of Illinois with Mr. KREIDER.

Mr. MOON with Mr. MCCULLOCH.

Mr. PRICE with Mr. MOORE of Pennsylvania.

Mr. ROBINSON with Mr. MORIN.

Mr. SHACKLEFORD with Mr. PORTER.

Mr. STERLING of Pennsylvania with Mr. ROGERS.

Mr. SULLIVAN with Mr. SELLS.

Mr. TAYLOR of Colorado with Mr. SNYDER.

Mr. FRENCH. Mr. Speaker, my colleague, Mr. SMITH of Idaho, is prevented from being present on account of the critical illness of his son.

Mr. JOHNSON of South Dakota. Mr. Speaker, I am paired with my colleague, Mr. GANDY, so I desire to withdraw my vote of "yea" and to answer "present."

Mr. CROSSER. Mr. Speaker, I was called out of the Hall when the vote was being taken. I desire to vote.

The SPEAKER. The gentleman does not bring himself within the rule, which says that a Member must be in the Hall listening for the calling of his name.

The result of the vote was announced as above recorded.

Mr. MANN. I move to reconsider the vote by which the Graham amendment was agreed to, and I move to lay that motion on the table.

The SPEAKER. Without objection, it will be so ordered.

There was no objection.

Mr. GARD. Mr. Speaker, I offer the following amendment as a new section.

The Clerk read as follows:

Sec. 4. During any national emergency resulting from a war to which the United States is a party, or from imminence of such war, the publishing willfully and without proper authority of any information relating to the national defense that is or may be useful to the enemy is hereby prohibited, and the President is hereby authorized to declare by proclamation the existence of such national emergency, and is hereby authorized from time to time by proclamation to declare the character of such information which is or may be useful to the enemy, and in any prosecution hereunder the jury trying the cause shall determine not only whether the defendant or defendants did willfully and without proper authority publish the information relating to the national defense as set out in the indictment, but also whether such information was of such character as to be useful to the enemy: *Provided*, That nothing in this section shall be construed to limit or restrict any discussion, comment, or criticism upon any fact or any of the acts or policies of the Government or its representatives, or the publication of the same.

Whoever violates the foregoing provision shall upon conviction thereof be punished by a fine of not more than \$10,000, or by imprisonment for not more than 10 years, or both.

Mr. GARD. Mr. Speaker, this new section as offered I think thoroughly establishes its constitutionality. It first makes a legislative enactment of that which is prohibited; in other words, it prohibits the willful and unlawful publication of any information relating to the national defense that is useful to the enemy, so that thereby it explicitly states what the crime is. Then it follows with the provision that the President is authorized to declare by proclamation the existence of the particular national emergency; also, by like proclamation, to declare the character of the information which is useful to the enemy. And, inasmuch as this is a prosecution and trial in the civil courts and could not go beyond that, the new section provides that in a trial by jury the jury is to determine not only the fact of publication but also whether the publication was information relating to the national defense and of such a character as to be useful to the enemy.

This takes away the contention of some Members that authority was given to the President of the United States to make an absolute determination of guilt. In the section proposed the President has nothing to do except to make a declaration of the character of the information which would be detrimental to the national defense and useful to the enemy, in the event of a national emergency resulting from war or its imminence.

The procedure after that would follow that the language complained of would have to be set out in the indictment, and it would be incumbent on the Government to prove by the degree of proof required in criminal cases, not alone that the publication was made, but that the publication was of information relating to the national defense which was useful to the enemy. So that the finding would be by the jury of vital facts and not a finding merely corroborative of the President's declaration.

Additional language in this amendment provides that there shall be no limit to the discussion upon any fact, and this includes also acts and policies of the National Government or its representatives. So that section 3a, as is proposed, provides for the observance of constitutional rights and yet affords that which our Commander in Chief says may be necessary for the protection of our country in time of war. At the same time it takes away from no man, from no person, the slightest atom of personal freedom guaranteed by the Constitution.

Mr. CLARK of Florida. Will the gentleman yield?

Mr. GARD. I will.

Mr. CLARK of Florida. I understood the amendment to say something about a jury trial. Does it specifically guarantee a jury trial?

Mr. GARD. It does; and provides that the jury trying the case shall determine not alone whether the man did make the publication of the language set out in the indictment, but also that the language set out in the indictment is information relating to the national defense and useful to the enemy. In other words, that the man should not be convicted of a crime unless he has willfully and without authority made a publication which is intentionally useful to the enemy, and I apprehend that that is what we all want to cover.

Mr. ELSTON. Will the gentleman yield?

Mr. GARD. I will.

Mr. ELSTON. The section speaks of publication without authority. That is an unusual phrase in a criminal statute, inasmuch as it implies that a precedent privilege or authority should be shown. Does not the gentleman believe that that clause could be left out because it is confusing, and I do not

think it adds anything to the section. It places the burden on the party accused to show some authority.

Mr. GARD. No; on the contrary, it places the burden on the Government to show that it was done willfully and without authority.

The SPEAKER. The time of the gentleman from Ohio has expired.

Mr. GRAHAM of Pennsylvania was recognized.

Mr. MANN. Mr. Speaker, can not we get some agreement about time?

Mr. GARD. What time would the gentleman suggest?

Mr. MANN. If the gentleman wants to spend two or three more days on this matter, I do not object.

Mr. SHERLEY. I think we can present the changes in this proposed amendment in a reasonable time. I would like five minutes. I think it is important enough for a limited debate.

Mr. GARD. I would suggest for the approval of the gentleman 20 minutes in support of the proposed section and 20 minutes against it.

Mr. MANN. I am willing to make an agreement, if it is an agreement made in good faith, and that it will be kept.

Mr. GARD. The agreement would be, of course, one in good faith if made.

Mr. MANN. I do not think that after closing debate to offer a new section and get further debate is in good faith.

Mr. GARD. That was not the purpose of offering this amendment; it was to perfect the law.

Mr. MANN. We had an agreement to close debate on section 4. Technically the gentleman gets around the agreement after a debate of two or three days by proposing a new section. You could do that 40 times if the gentleman did not carry his amendment at any time. That is a one-sided arrangement.

Mr. SHERLEY. I suggest to the gentleman—

Mr. MANN. I am not complaining; I am only seeking to know whether, if we come to an agreement, we will close debate on the subject matter.

Mr. SHERLEY. Perhaps I am somewhat responsible for the offering of this new section. But it is the crux of the whole matter and is offered to work out a solution. We do not desire any snap judgment.

Mr. GRAHAM of Pennsylvania. Would it not be far better, if the gentleman wants to perfect this part of the bill, to prepare a separate independent bill on the subject instead of trying now to put a measure through that can not be a well-considered measure?

Mr. SHERLEY. We have had a vote for and against the gentleman's amendment and other amendments, and I shall hope that if this fails that we will have a bill dealing specially with the subject. But it did not seem to me to violate the proper procedure, now that a full attendance is here and men's minds are on this matter, to have them pass upon this question.

Mr. MANN. Unless we can have an agreement to close debate upon this subject matter there will be no more agreements made.

Mr. NORTON. Mr. Speaker, I demand the regular order.

Mr. GARD. Mr. Speaker, I ask unanimous consent that debate upon this subject matter be closed in 30 minutes.

Mr. WALSH. Mr. Speaker, what does the gentleman mean by this subject matter?

Mr. GARD. On the matter contained in section 3a, and such like language and provisions.

Mr. WALSH. The gentleman's amendment includes in it several propositions that have already been submitted to the House by separate amendment and voted down.

Mr. GARD. No; it does not. It includes some voted down and some that have not been acted upon.

The SPEAKER. The gentleman from Ohio asks unanimous consent that debate upon the subject matter contained in section 4, which has just been stricken out of the bill, and also in section 3a, which is the same subject matter as in section 4, which is now proposed, be limited to 30 minutes. He has already consumed 5 minutes of those 30 minutes. Is there objection? [After a pause.] The Chair hears none, and recognizes the gentleman from Pennsylvania [Mr. GRAHAM] for five minutes.

Mr. GRAHAM of Pennsylvania. Mr. Speaker, it certainly was my understanding when the agreement was arrived at the other day that debate on section 4 and all amendments to section 4 was to be limited and concluded within the time that was agreed to, and the presentation of this new amendment, while it may be technically in order, is not within the compass of that gentleman's agreement. As most of you did, of course, I only heard the proposed substitute read from the desk, but it seems to me that it is far worse than the original proposition as contained in the bill when reported. This measure would leave every citizen unconscious and unknowing when he was violating the law until after a jury had passed upon the question.

Yes. It says that the jury shall determine whether or not the information was calculated to give aid and comfort to the enemy, or whatever the particular language may be in the proposed substitute—"useful" is the word. There is nothing in this with regard to the intent, and the vice of all of the preceding legislation circled around that thought. Where a man does a thing with intent to hurt his country, then he ought to be punished; but when an individual or a newspaper criticizes the act of the Government with the hope of bettering conditions for his Government, although what he may say would in some aspects of it be considered by a jury as useful information to the enemy, that man, I say, in the interest of liberty and the welfare of the country ought not to be prosecuted or convicted.

Mr. GARD. Mr. Speaker, I yield five minutes to the gentleman from Kentucky.

The SPEAKER. Nothing was said in the agreement about who should control the debate. The Speaker will therefore control it.

Mr. BURNETT. Mr. Speaker, I would like—not in the gentleman's time—to have the amendment again reported from the desk, as many of us did not hear it.

The SPEAKER. The Chair recognizes the gentleman from Kentucky for five minutes.

Mr. SHERLEY. Mr. Speaker, the gentleman from Pennsylvania [Mr. GRAHAM] perhaps was led into the error of several of his statements by not having seen the exact language of the amendment. The proposal before us differs from previous proposals, first, in that it lays down the rule as to what is prohibited, making that the act of Congress, and then declares that the President shall by proclamation indicate those matters that would come within the rule of prohibition; and it is fundamentally different in this, that in order to secure conviction it requires not only that the act shall be willfully done but that the jury shall determine that the thing published was such as to be useful to the enemy. The gentleman from Pennsylvania remembers that the old historic fight that took place in connection with the libel laws of England, when the Crown was undertaking for political purposes to have men indicted for the publication of various matters, was this: The Crown contended that all the jury could determine was whether the accused had published the particular thing charged, and, if they found the accused had so published it, then the court would determine the guilt and fix the punishment. Erskine, leading the fight for the liberties of the English people, declared that the jury should also have the right to determine whether the thing published was libelous. Losing his fight in the court, he went to Parliament and there had Fox pass what is known as the Fox libel law, which was copied by us here—first in Virginia, I think, and afterwards in most of the other States—so that to-day the law of the land in nearly every State of the Union, if not in every one, is that a jury shall determine not simply whether the alleged libel has been published, but whether it is in fact a libel. By the provision offered by the gentleman from Ohio [Mr. GARD] any man who would be indicted would have to have proved against him not only that he willfully published the thing charged but that the thing published was of such character as to be useful to the enemy.

I am not going to run over the old debate. I am one of those men who believe that there ought to be some censorship as to what is published at this time, but in my desire to provide that I was not willing to go to the extent that the gentleman from North Carolina [Mr. WEBB] wanted us to go, and write into the law a provision that, in the first instance, I believe to be unconstitutional, because it did not lay down a rule but left it to the President to determine a crime, and also which I thought did not give to the citizen indicted under it the proper safeguards to guarantee him in his liberty and against oppression. The proposal that is now presented does permit a censorship, but it permits a censorship so guarded that no man can be under risk of punishment except in such plain cases that the judgment of everybody would be that he should be punished, and it preserves by express proviso the principle of criticism of the administration. I would be unwilling to vote for any law that undertook to shield any administration from criticism of its acts, and in time of war it is even more important than in time of peace, because in time of war the disposition of men of opposite political parties is to get together and back up the administration without regard to old party lines, so that the position that the minority party usually fills—of criticism—is very largely taken away in time of war, and for that reason there is all the more need that the press and the public at large should be in a position to criticize along legitimate lines the action of the administration. But I had called

to my attention this morning the statement in a New York paper, printed unintentionally, but a statement that told the fishermen of New York how they might avoid the nets which were to protect the harbor of New York. Now, manifestly a statement of that kind ought not to be published, and manifestly there ought to be put upon the newspapers of America a realization by the passage of such a law as this that they must look and see to it that not through carelessness or design do they endanger the safety of the Republic by publishing matters that should not be published.

This whole bill will go into conference. Of necessity, there will be a full consideration of the various provisions as they may be passed, in this bill or a similar bill passed by the Senate, and any crudities of language can and will be corrected. But I believe the proposal now before the House is in line with what nearly all desire without really impairing the liberties of anyone. [Applause.]

The SPEAKER. The time of the gentleman has expired.

Mr. MANN. Mr. Speaker, we have spent a number of days in the discussion of the validity of section 4 of this bill. There were several days of debate mainly devoted to section 4. Then there was a long discussion under the five-minute rule where anyone in the House had an opportunity to offer amendments. The gentleman from Ohio [Mr. GARD] a member of the committee, could have presented his amendment under section 4. The House rejected section 4. With all of this opportunity to consider all amendments proposed to it, it rejected it after a long discussion. It is a proposition that vitally affects the liberties of the people. Gentlemen have talked as though it only affected the liberty of the press. It affects the liberties of all the people. The press, to begin with, is not published only for the information of men who publish the papers. It is published for the information of the people and the proposition which has been pending would prevent the publishing of matter between individuals as well, and now after all this discussion on the matter vitally affecting the liberties of the people, it is proposed offhand by an individual Member of the House, without committee sanction, to write what shall go into the law, and I speak with knowledge when I say there is not a man on the Republican side of the House who knows what the proposition is, and I do not believe there are five men on the Democratic side of the House who know what it is; and there is no one here with that great knowledge able to determine on a matter like this so vitally affecting the liberties of the people merely by hearing a casual reading of the amendment. I do not know whether the suggested amendment now is better or worse than those which were voted down, but it would be the height of folly for Congress in this way to attempt to perfect such a vital matter. If the gentleman from North Carolina wants to recommit this bill to the Committee on the Judiciary to prepare a proper amendment, I would say, very well, but the idea of asking the House at this time to do so shows what can be done by technical matters. The offering of an amendment, I will not say it was bad faith and yet it violates the understanding which the House had, is offered as a technical right. You propose to confer upon somebody in authority the power to do anything he pleases with the liberties of the people, hoping that he will not exercise that technical right when here we have an illustration of the exercise of a technical right to override the wishes of the House itself. [Applause.]

Mr. MONTAGUE. Mr. Speaker, I do not desire to enter into the debate, but I wish to make an explanation of my position. I voted "aye" upon the amendment offered by the gentleman from Pennsylvania [Mr. GRAHAM]. I voted "aye" because I entertained doubts as to the constitutional validity of the bill as proposed by the Committee on the Judiciary, and I say that with deference to the committee. But in view of the changes now made by the new section under consideration, I shall vote "aye" on this new section. I appreciate that perhaps all of us do not know what is contained in this amendment, but I do not believe that we would know any better what is contained in an amendment when offered by an individual or offered by a committee. We have got to take snapshots at amendments most frequently in this House, and that has been my experience during the four years I have been here. So far as the argument is concerned, I shall not enter into it. I think that now the section is constitutional. I think, furthermore, it safeguards the rights and liberties which the former amendment did not safeguard, and for that reason I shall vote "aye" upon this new section, or substitute, offered by the gentleman from Ohio. [Applause.]

The SPEAKER. There are two minutes remaining upon the side of the affirmative and eight minutes on the side of the negative. If no gentleman desires to speak—

Mr. MANN. Let us vote.

The SPEAKER. The question is on the proposition offered by the gentleman from Ohio [Mr. GARD].

Mr. DILLON. Mr. Speaker, I offer an amendment to the amendment.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. DILLON: After the word "willful" insert the following words: "and with the intent to aid the enemy."

The SPEAKER. The question is on the Dillon amendment.

The question was taken, and the amendment was rejected.

The SPEAKER. The question is on the Gard amendment, 3a.

The question was taken, and the Speaker announced the ayes seemed to have it.

Mr. GARD. I ask for a division, Mr. Speaker.

The House divided; and there were—ayes 79, noes 91.

Mr. GARD. Mr. Speaker, I demand the yeas and nays.

Mr. MANN. Mr. Speaker, I make the point of order, then, that there is no quorum present.

The SPEAKER. The gentleman from Illinois makes the point of order that there is no quorum present, and evidently there is not. The Doorkeeper will lock the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll.

The question was taken; and there were—yeas 191, nays 185, answered "present" 1, not voting 54, as follows:

YEAS—191.

Adamson	Dies	Huddleston	Rainey
Alexander	Dixon	Hulbert	Riayburn
Almon	Doelling	Hull, Tenn.	Riordan
Ashbrook	Doolittle	Igoe	Romjue
Aswell	Doremus	Jacoway	Rouse
Ayres	Drukner	Johnson, Ky.	Rubey
Bankhead	Dupré	Jones, Tex.	Rucker
Barkley	Dyer	Jones, Va.	Russell
Barnhart	Eagan	Kehoe	Sanders, La.
Bathrick	Estopinal	Kettner	Sanders, Va.
Bell	Evans	Kiess, Pa.	Seaully
Black	Fields	Kincheloe	Shallenberger
Blackmon	Fisher	King	Sherley
Blanton	Fitzgerald	La Follette	Sherwood
Booher	Flood	Larsen	Shouse
Borland	Foster	Lazarus	Sims
Brand	Freeman	Lee, Cal.	Slayden
Brodbeck	French	Lee, Ga.	Small
Bruckner	Fuller, Mass.	Leshner	Smith, T. F.
Brumbaugh	Gard	Lever	Stearns
Buchanan	Gardner	Linthicum	Stedman
Burnett	Garner	Lobeck	Steele
Byrnes, S. C.	Garrett, Tenn.	Lobergan	Stephens, Miss.
Byrnes, Tenn.	Garrett, Tex.	Lunn	Stephens, Nebr.
Campbell, Pa.	Gillett	McClintic	Sterling, Ill.
Candler, Miss.	Glass	McKeown	Stevenson
Cannon	Goodwin, Ark.	McLaughlin, Mich.	Summers
Cantrill	Gordon	Maher	Talbott
Caraway	Gray, Ala.	Mansfield	Taylor, Ark.
Carew	Gray, N. J.	Mapes	Thomas
Carlin	Gregg	Martin, La.	Tillman
Carter, Okla.	Griest	Mays	Vinson
Clark, Fla.	Griffin	Montague	Volstead
Claypool	Hamill	Moore, Ind.	Walker
Collier	Hamlin	Morgan	Walton
Connally, Tex.	Hardy	Nicholls, S. C.	Watkins
Connelly, Kans.	Harrison, Miss.	Oldfield	Watson, Va.
Copley	Harrison, Va.	Oliver, Ala.	Webb
Crisp	Hastings	Oliver, N. Y.	Welling
Crosser	Hayden	Overstreet	Wells
Currie, Mich.	Hedlin	Padgett	Whaley
Dale, N. Y.	Helm	Park	White, Ohio
Dallinger	Holivering	Parker, N. J.	Wilson, La.
Decker	Hensley	Phelan	Wilson, Tex.
Denson	Holland	Platt	Wingo
Dent	Hood	Pon	Wise
Denton	Houston	Quin	Young, Tex.
Dickinson	Howard	Ragsdale	

NAYS—185.

Anderson	Davidson	Glynn	Kearns
Anthony	Davis	Good	Keating
Austin	Dempsey	Goodall	Kelly, Pa.
Bacon	Dill	Goud	Kennedy, Iowa
Bland	Dillon	Graham, Ill.	Kennedy, R. I.
Bowers	Dominick	Graham, Pa.	Kinkaid
Britten	Dowell	Green, Iowa	Knutson
Browne	Dunn	Greene, Mass.	Kraus
Browning	Edmonds	Greene, Vt.	LaGuardia
Butler	Ellsworth	Langley	Langley
Campbell, Kans.	Elston	Hamilton, Mich.	Leibach
Carter, Mass.	Emerson	Haskell	Lenroot
Cary	Esch	Heaton	Little
Chandler, N. Y.	Fairchild, B. L.	Heintz	London
Chandler, Okla.	Fairchild, G. W.	Hersey	Lundeen
Church	Fairfield	Hicks	McArthur
Clark, Pa.	Farr	Hilliard	McCormick
Classon	Ferris	Hollingsworth	McFadden
Condy	Fess	Hull, Iowa	McKenzie
Constock	Focht	Humphreys	McKinley
Cooper, W. Va.	Fordney	Husted	McLaughlin, Pa.
Cooper, Wis.	Foss	Hutchinson	McLennan
Costello	Francis	Ireland	Madden
Cramton	Frear	James	Magee
Curry, Cal.	Fuller, Ill.	Johnson, Wash.	Mann
Dale, Vt.	Gallagher	Juul	Mason
Darrow	Gariand	Kahn	Mecker

Miller, Minn.
Miller, Wash.
Mott
Mudd
Nelson
Nichols, Mich.
Nolan
Norton
Olney
Osborne
O'Shaunessy
Paige
Peters
Powers
Pratt
Purnell
Raker
Ramsey
Ramseyer
Randall

Rankin
Reavis
Reed
Robbins
Roberts
Rosenberg
Rose
Rowe
Sabath
Sanders, Ind.
Sanders, N. Y.
Schall
Scott, Iowa
Scott, Mich.
Scott, Pa.
Siegel
Sinnott
Sisson
Slomp
Sloan

Smith, Mich.
Smith, C. B.
Snook
Stafford
Steenerson
Stiness
Strong
Sweet
Swift
Switzer
Tague
Temple
Templeton
Thompson
Tilson
Timberlake
Tinkham
Towner
Treadway
Van Dyke

Vare
Vestal
Waldow
Walsh
Ward
Wason
Watson, Pa.
Wheeler
White, Me.
Williams
Wilson, Ill.
Winslow
Wood, Ind.
Woods, Iowa.
Woodyard
Young, N. Dak.
Zihlman

ANSWERED "PRESENT"—1.

Johnson, S. Dak.

NOT VOTING—54.

Bacharach	Hamilton, N. Y.	Mondell	Sears
Caldwell	Haugen	Moon	Sells
Capstick	Hawley	Moore, Pa.	Shackleford
Cooper, Ohio	Hayes	Morin	Smith, Idaho
Cox	Hill	Neely	Snell
Crago	Kelley, Mich.	Overmyer	Snyder
Dewalt	Key, Ohio	Parker, N. Y.	Sterling, Pa.
Doughton	Kitchin	Polk	Sullivan
Drane	Kreider	Porter	Taylor, Colo.
Eagle	Littlepage	Price	Venable
Flynn	Longworth	Robinson	Voigt
Gallivan	McAndrews	Rogers	Weaver
Gandy	McCulloch	Rowland	
Godwin, N. C.	Martin, Ill.	Sanford	

So the amendment was agreed to.

The Clerk announced the following additional pairs:

On this vote:

Mr. DEWALT (for) with Mr. ROWLAND (against).

Mr. EAGLE (for) with Mr. HAMILTON of New York (against).

Mr. LITTLEPAGE (for) with Mr. PARKER of New York (against).

Mr. NEELY (for) with Mr. COOPER of Ohio (against).

Until further notice:

Mr. GANDY with Mr. JOHNSON of South Dakota.

Mr. CALDWELL with Mr. BACHARACH.

Mr. COX with Mr. HAUGEN.

Mr. VENABLE with Mr. HAWLEY.

Mr. GALLIVAN with Mr. HILL.

Mr. KITCHIN with Mr. LONGWORTH.

Mr. OVERMYER with Mr. MONDELL.

Mr. POLK with Mr. SNELL.

Mr. SEARS with Mr. VOIGT.

Mr. WEAVER with Mr. HAYES.

Mr. JOHNSON of South Dakota. Mr. Speaker, I am paired with my colleague, the gentleman from South Dakota, Mr. GANDY, and I wish to withdraw my vote of "nay" and vote "present."

The result of the vote was announced, as above recorded.

The SPEAKER. A quorum is present, and the Doorkeeper will open the doors. The Clerk will read.

The Clerk read as follows:

SEC. 5. Whoever in time of war willfully makes or conveys false reports or false statements with intent to interfere with the operation or success of the military or naval forces of the United States or to promote the success of the enemy or whoever in time of war willfully causes or attempts to cause insubordination, disloyalty, or refusal of duty in the military or naval forces of the United States shall be punished by a fine of not more than \$10,000, or by imprisonment for not more than 20 years, or both.

Mr. MANN. Mr. Speaker, when the gentleman from Ohio [Mr. GARD] offered his amendment, he unnecessarily labeled it as "Sec. 3a." It would have been just as much in order, or more in order, as "Sec. 4." I ask unanimous consent that the amendment agreed to be modified and labeled as "Sec. 4." There is no use in our making ourselves look silly over in the Senate.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the amendment labeled "Sec. 3a" be labeled "Sec. 4." Is there objection?

There was no objection.

Mr. BRITTEN. Mr. Speaker, I move to strike out the last word.

The SPEAKER. The gentleman from Illinois moves to strike out the last word.

Mr. BRITTEN. I ask unanimous consent, Mr. Speaker, that I may proceed for five minutes out of order.

The SPEAKER. The gentleman from Illinois asks unanimous consent to proceed for five minutes out of order. Is there objection?

There was no objection.

Mr. BRITTEN. Mr. Speaker, a matter has just come to my attention which I think the House should know, and particularly so because of the visit to the House to-morrow of the distinguished former prime minister of England, the minister of foreign affairs, at which time, I am told, he probably is going to address us.

I have just received a telegram from Chicago from a concern of shippers and manufacturers of malt. They had sold 30,000 bushels of malt to a customer in Argentina, South America. They shipped that malt to New York, naturally assuming that there would be no objection to its reshipment to Argentina, and after much parleying they are told that they can not ship. The British trade restrictions are such that an American can not even ship in an American bottom to South America without the consent of London. I wired the gentleman for further information, and he wired back and says that after much parleying and much delay he had disposed of the malt to some one else at a great financial loss to his concern, and that some one else—we will learn in a day or two—will probably sell that malt to some one in South America, who in turn will sell to the original prospective purchaser.

It occurs to me to suggest, while our distinguished visitors are here—they are our allies in war—it occurs to me that we are just as seriously interested in the defeat of Germany as they are; Germany is the common enemy—and I thought that to-day might be an opportune time to suggest that instead of dealing with generalities—and of course I realize that the British foreign minister will not deal in the same generalities that our distinguished French visitors did, because they can not refer to their Lafayette and others who came over to help our country at one time or another, so that their remarks are likely to be more specific. But I think it is time to talk about the removal of objectionable trade restrictions. How long are we expected to go under the regulations of to-day, when an American shipper, desiring to ship goods to South America or elsewhere in an American bottom under the American flag has got to wait days and weeks and months, if you please, before he can get a letter of assurance from the British foreign office in London?

That is the situation that exists to-day. They are opening our mails on the high seas, just as they were a year ago. I think that censorship on our mail and British trade restrictions should be lifted now, and that we should take care of our own trade restrictions. We are certainly capable of doing that. If not, we will make very poor allies for the British and the French.

Great Britain to-day has designated ports in Holland and in Sweden and Norway and Denmark as being under an effective blockade. We can not ship there without the consent of Great Britain. Notwithstanding that fact, however, Great Britain's exports and reexports to those same ports have increased in many instances a thousand per cent. But we can not ship there. England will not let us. Let us see what Secretary Lansing says about that particular state of affairs in his letter to Earl Grey. I read:

It is matter of common knowledge that Great Britain exports and reexports large quantities of merchandise to Norway, Sweden, Denmark, and Holland, whose ports, so far as American commerce is concerned, she regards as blockaded.

And, further:

The blockade upon which such methods are partly founded is ineffective, illegal, and indefensible.

Secretary Lansing goes on further to say that the American shipper, the American public, should not be subjected to that sort of treatment. He wants to know how long it is going to last.

Mr. MONTAGUE. Mr. Speaker, will the gentleman yield?

Mr. BRITTEN. Yes.

Mr. MONTAGUE. Will the gentleman state what is the date of the paper he is reading from?

Mr. BRITTEN. This is a resolution I have introduced to-day.

Mr. MONTAGUE. I mean the date of the paper the gentleman is reading from.

Mr. BRITTEN. October 21, 1915. The same conditions, I am told by the State Department, exist to-day.

The SPEAKER. The time of the gentleman from Illinois has expired.

Mr. BRITTEN. Mr. Speaker, I ask unanimous consent that I may proceed for five minutes.

Mr. FLOOD. I object, Mr. Speaker.

Mr. GLASS. I object, Mr. Speaker.

The SPEAKER. The gentlemen from Virginia object.

Mr. BRITTEN. I ask unanimous consent that I may extend my remarks in the RECORD.

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

Mr. GLASS. I object.

The SPEAKER. The Clerk will read.

The Clerk read as follows:

SEC. 7. Whoever harbors or conceals any person who he knows, or has reasonable grounds to believe or suspect, has committed, or is about to commit, an offense under this title shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than two years, or both.

Mr. DILLON rose.

The SPEAKER. For what purpose does the gentleman from South Dakota rise?

Mr. DILLON. I want to propound a question to some member of the committee.

The SPEAKER. The gentleman from South Dakota moves to strike out the last two words.

Mr. DILLON. Mr. Speaker, I want to ask the gentleman from North Carolina if this would prohibit the husband from harboring a wife, or a wife from harboring her husband or her sons, in the house where they live?

Mr. WEBB. I rather think so, if they are guilty.

Mr. DILLON. Does not the gentleman think that is a little too strong, and that a member of a family ought not to be required to give up another member of the family in a criminal prosecution?

Mr. WEBB. We find hardships all through the criminal law. Not even a father or mother has a right to shield a child in the commission of a crime.

Mr. DILLON. I think they ought to have a right to say nothing about it and not convey any information.

Mr. WEBB. I have no doubt the judge would take into consideration the affection of the father and mother under such circumstances, and the punishment would be very light accordingly. We have arranged the penalty so that it may be anywhere from 1 day to 10 years, or from 1 penny to \$10,000.

Mr. DILLON. Would this section require a person to act affirmatively and give information?

Mr. WEBB. I do not think I understand the gentleman's question?

Mr. DILLON. Would this section require a father to give information to the prosecuting officers about matters that he knew of, connecting his son with an offense?

Mr. WEBB. I do not think he would be required to do it.

Mr. DILLON. He could remain quiet then?

Mr. WEBB. He might refuse to testify, and all the court could do would be to put him in jail for contempt.

The SPEAKER. The pro forma amendment is withdrawn, and the Clerk will read.

The Clerk completed the reading of Title I.

Mr. WEBB. I think under the order the House should now proceed to the consideration of Title XI.

The Clerk read as follows:

TITLE XI.

USE OF MAILS.

SEC. 1100. Every letter, writing, circular, postal card, picture, print, engraving, photograph, newspaper, pamphlet, book, or other publication, matter, or thing of any kind in violation of any of the provisions of this act, or of a treasonable or anarchistic character, is hereby declared to be nonmailable matter and shall not be conveyed in the mails or delivered from any post office or by any letter carrier.

Mr. MANN. Mr. Speaker, what is the definition of "anarchistic matter" under this section?

Mr. WEBB. I will say to my friend that I described it as well as I could in my opening remarks on this bill. As I understand, an anarchist is a man who does not believe in any government.

Mr. MANN. This has nothing to do with an anarchist. This is anarchistic matter.

Mr. WEBB. Anarchistic matter is matter that advocates the abolition of the Government under which we live, or the abolition of all government.

Mr. MANN. The President of the United States has recently advocated the abolition of the existing German Government. I take it that is not anarchistic.

Mr. WEBB. I presume not. He does not advocate the abolition of all government. He advocates the abolition of one form and the substitution of another and better.

Mr. MANN. What is the occasion for putting this in here, then? There is at present a criminal law that covers this subject very fully. Nobody is now advocating the abolition of all government. What is the object of letting the Postmaster General determine what anarchistic matter is?

Mr. WEBB. The Postmaster General has nothing to do with this.

Mr. MANN. Oh, the Postmaster General, or a hireling of the Postmaster General, or, more properly speaking, an employee of the Post Office Department, is the man who will determine this.

Mr. WEBB. The Postmaster General is given no authority in this section.

Mr. MANN. If the gentleman thinks the Postmaster General has no jurisdiction, who will enforce this?

Mr. WEBB. The postmaster.

Mr. MANN. All postmasters act under the direction of the Postmaster General.

Mr. WEBB. The postmasters exclude matter from the mails.

Mr. MANN. Under the direction of the Postmaster General.

Mr. WEBB. The local postmaster would have to do the physical excluding from the mails of the matter covered in this section. Then if a man mailed it in violation of the law, the courts of the United States would try him for a violation of the law.

Mr. MANN. Oh, well, that is another thing. The Postmaster General stops the transmission in the mail. There is a newspaper published out West that I do not sympathize with, which I have heard described here as anarchistic. A number of attempts have been made to have a provision put in the law which would exclude that paper from the mails. This provision would do it. Maybe that is all right; I am not undertaking to say as to that. But the Postmaster General under this provision can exclude from the mails anything he pleases, on the ground that it is anarchistic.

Mr. WEBB. I think the courts would have a right to issue an injunction to prohibit the postmaster from doing that if his act was wrong. Undoubtedly, any aggrieved party would have the right of appeal to the courts. I do not know whether my friend heard my statement on this question or not.

Mr. MANN. I heard about a dozen of them, but I do not know whether I heard this one or not. I was entertained and instructed every time.

Mr. WEBB. The point I referred to is the very point he is discussing now. The reason that actuated the committee in inserting the word "anarchistic" was this: The committee, when it first drafted this bill, included only the word "treasonable" and eliminated the word "anarchistic"; but the Post Office Department sent down to us some pamphlets that had been going through the mail that were so horrible that neither I nor any other Member of the House was willing to have them go into the Record, although read from the Clerk's desk here, and that was what impelled us to put in the word "anarchistic." I am sure if the gentleman heard that matter read from the desk, he will agree that nobody should print such articles as that in a newspaper and send it through the mails of the United States.

Mr. MANN. There are a great many newspaper articles that I do not like to read. In fact, I think most of the articles in the newspapers are not worth the time to read them, and I do not read them. But that is not the question. The question is whether the Postmaster General, who now has almost autocratic power—greater power over mail matter than the Czar of Russia had—shall determine what is anarchistic matter.

Mr. WEBB. No; he can not determine finally.

Mr. MANN. But he does under this bill.

Mr. WEBB. The final determination is in the courts of the United States.

Mr. STAFFORD. Do I understand the gentleman to contend that if the Congress forbids matter of a certain character being put in the mails, and leaves it to the Postmaster General to determine the character of that matter, the courts have any authority whatsoever in determining whether the Postmaster General has a right to carry out the direction of Congress?

Mr. WEBB. I say the matter is not acted upon by the Postmaster General under this section, but by the postmasters.

Mr. STAFFORD. I wish to say that the decisions of the Supreme Court of the United States are uniformly in the opposite direction, holding invariably that under the post-office clause of the Constitution Congress has the right, if it sees fit, to exclude from the mails whatever it determines to exclude. These decisions point out that it can not perhaps exclude from interstate commerce, but it has plenary power to regulate the Postal Service as it sees fit, and if this amendment is adopted we vest full authority in the Postmaster General to pass upon the character of a publication without the right of resort to the courts to review his decision.

Mr. WEBB. As to that I will say that Mr. Lamar, Solicitor of the Post Office Department, was asked the question if a postmaster should exclude any matter which under the decision of the Postmaster General was regarded as anarchistic, what

would be the remedy of the person who sent it through the mail, and he said, "Take it into court and get an injunction or mandamus."

Mr. STAFFORD. That is not the law of the United States.

Mr. MANN. It is not the law that is being enforced every day in the Post Office Department.

Mr. CURRY of California. Mr. Speaker, I move to strike out the last two words. I want to ask the chairman of the committee if under this title the Government, or a bureau of the Government, would have the right to censor the mail of Members of Congress or the governors of the States, and if under the provisions of this title the Government, or a bureau of the Government, would not have the authority and right to censor the CONGRESSIONAL RECORD?

Mr. WEBB. I do not think so.

Mr. CURRY of California. The language is very broad.

Mr. WEBB. I assume that no Member of Congress is going to make an anarchistic speech advocating the destruction of the Government, or advocating no Government, while he is an officer of the existing Government.

Mr. CURRY of California. The question I asked was if an inspector was permitted to open and censor the mail.

Mr. WEBB. Suppose a treasonable speech was made on the floor. Ought it not to be censored?

Mr. CURRY of California. We would censor that ourselves.

Mr. WEBB. Then, you might censor anarchistic matter.

Mr. CURRY of California. We would, and it would be a lot better than to have a \$1,200 clerk do it.

Mr. WEBB. The only way that a sealed package can be opened which is going through the mail is by issuing a search warrant and taking the package into court and opening it. No postmaster or any branch of the Post Office Department has the right or power in that connection to open a sealed package.

Mr. MANN. You could get the English Government to do it without any trouble. They open all of our mail.

Mr. WEBB. I know that has been done, but it has been done by force and not by law.

Mr. MANN. It has been done by the law of England.

Mr. WEBB. Yes; orders in council, against which we have protested.

Mr. TEMPLE. Will the gentleman yield?

Mr. WEBB. Yes.

Mr. TEMPLE. The paragraph provides that every letter in violation of the provisions of the act shall be nonmailable and shall not be conveyed in the mails or delivered from any post office or by any letter carrier. How is the letter carrier to know whether a sealed letter comes under that description or not?

Mr. WEBB. He would not know it, but that is the law to-day.

Mr. TEMPLE. Then what is the necessity of putting it in here?

Mr. WEBB. This is practically a reenactment of the present statute, with the addition of the words "treasonable or anarchistic."

Mr. TEMPLE. Why is it necessary to reenact it?

Mr. WEBB. Because it does not apply to the things in this statute. The only way would be—

Mr. TEMPLE. I should like to know whether they are going to open my letters to find out whether they are mailable or whether the letter carrier is authorized to deliver them?

Mr. WEBB. The only way would be that if you suspected a man of transmitting through the mails prohibited matter you get a search warrant and discover the letter, and if you find the letter and that it has been mailed you can convict him.

Mr. GOOD. Can you convict the letter carrier?

Mr. WEBB. Not without he had some knowledge of it.

Mr. GREENE of Vermont. Mr. Speaker, I desire to improve this time by calling the attention of the House to the character of some publications and other matter probably intended to be sent through the mails that are prohibited and penalized under this section. I have received from a confidential source a copy of what is called The Internationalist, published by the Socialist Propaganda League of America. Without going into the full text of it, which obviously should not be printed, I will read a few extracts:

In conformity with and applying these general principles the Socialist Party of America lays down the following program of action during the war:

(1) Representatives of the Socialist Party in the various governing bodies shall refuse to vote for war credits or any other measures of war. Action shall immediately be taken to expel party members violating this decision.

(2) We pledge ourselves and our organization to resist all efforts at recruiting by means of meetings, an aggressive educational propaganda, mass demonstrations, and by any other means in accord with revolutionary socialist principles and tactics.

And so on in the same line and with the same general purport in purpose and effect. It winds up by saying that they will

pursue this policy whether it be declared legal or illegal. This circular came from a confidential source as being pertinent to the discussion of the espionage bill.

Mr. FESS. Will the gentleman yield?

Mr. GREENE of Vermont. Yes.

Mr. FESS. Is it the judgment of the gentleman that if the law is passed this matter could not legally go through the mails?

Mr. GREENE of Vermont. That is the intention.

Mr. FESS. In other words, that would fall within the terminology of anarchistic.

Mr. GREENE of Vermont. Yes; defiance of law, order, and government, and these enemies are employing our own mails to facilitate the dissemination of their propaganda.

Mr. GOOD. Will the gentleman yield?

Mr. GREENE of Vermont. Yes.

Mr. GOOD. The gentleman is a military expert.

Mr. GREENE of Vermont. I am not.

Mr. GOOD. The gentleman is so considered by the House. I noticed this morning in a rather prominent place information that evidently comes from the military arm of the Government, giving away the plan that is proposed to destroy the submarines by discovering their base and surrounding them with nets.

Does not the gentleman think there ought to be some law to curb these inefficient Government officials who are giving out, apparently, this kind of information that ought not to be given out under any circumstances?

Mr. GREENE of Vermont. Mr. Speaker, I think it may be stated as a general proposition, not only with regard to this but to many other occasions, that if some law could be made to work that would stop people talking and writing too much we would all vote for it.

Mr. MANN. Oh, no; we would all be convicted under it.

Mr. Speaker, I move to strike out the last word. I do not know whether the gentleman from Vermont [Mr. GREENE] who read that circular or letter believes that such matters ought not to be published. Somebody may want to advocate that this Government make peace with Germany. Do I understand that the gentleman thinks that such a man has no rights under the Government?

Mr. GREENE of Vermont. Is the gentleman addressing his remarks to me?

Mr. MANN. I was only commenting upon the gentleman's remarks. I have heard very strong language uttered by Members of this House since the conscript amendment was passed by the House denouncing what had already been done. Do I understand that gentlemen think that those men are traitors? There seems to be a great idea just now abroad in the land that nobody shall be permitted to express an opinion unless it agrees with your own. A whole lot of people here and elsewhere seem to think that if a man does not agree with you he is a traitor and is guilty of treasonable utterances. Some people seem to imagine that no one is right except themselves. The very principles of our Government, the basis upon which we founded our liberty, is the right of people to differ and express their opinions. Then the majority is supposed to have control of Government, but not to oppress those who differ with them in opinion. I am not in favor yet of giving the administration such power as has just been granted it by the House. Perhaps I may be a traitor because I do not agree with the foolishness that the House adopted this afternoon. I am not prepared to let some men in this Government tell me how I shall think or what I shall say, and thinking so myself I have no desire to tell other people how they shall think or what they shall say. Freedom is to be attained by having liberty, not by curtailing it. [Applause.]

Mr. GRAHAM of Pennsylvania. Mr. Speaker, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Mr. GRAHAM of Pennsylvania moves to insert, after the word "carrier" in the eleventh line, page 60, the following:

"Provided, That nothing in this section shall be taken or construed to clothe the Government of the United States or any department thereof with power to open any letter intrusted to the mail by any citizen, except on cause shown under oath in accordance with section 10 hereof."

Mr. WEBB. Mr. Speaker, I do not see any use in writing into the law what the Supreme Court has decided. They have decided that the only way you can get into a sealed package of mail is by having a search warrant issued. There is no use in writing that into the law. To attempt to open a sealed package is contrary to the criminal law. I have known of postmasters who have been thrown into jail for doing that.

Mr. GRAHAM of Pennsylvania. Mr. Speaker, the gentleman ought to realize that the Supreme Court has not passed upon this bill, because it has not yet become a law, and this provision is simply to make clear that it is not the purpose of this law

to clothe any Postmaster General or any subordinate in the department with the power to open my letter or your letter when in transit through the mail.

Mr. WEBB. Mr. Speaker, will the gentleman yield?

Mr. GRAHAM of Pennsylvania. Yes.

Mr. WEBB. Mr. Speaker, the Supreme Court did construe this paragraph line by line and word for word, except that the words "treasonable" and "anarchistic" were not in it. A case arose in New York, and in an exhaustive opinion the court declared that no Government authority had the power to open any sealed package of mail except by first swearing out a search warrant and taking charge of it in a regular way. I do not see any need for incorporating what is the law now.

Mr. WALSH. Mr. Speaker, will the gentleman yield?

Mr. WEBB. Yes.

Mr. WALSH. Will the gentleman state in what case the Supreme Court construed the language of this section as it is written in this bill? The expression was on a different statute.

Mr. WEBB. I do not recall the title of the case, but I think it is in the ninety-sixth United States. I read it last evening. I believe the title is "In re Jackson," in the ninety-sixth United States.

Mr. WALSH. But it is different language.

Mr. WEBB. Oh, no.

Mr. STEENERSON rose.

The SPEAKER. For what purpose does the gentleman rise?

Mr. STEENERSON. To discuss the amendment.

The SPEAKER. Debate upon the amendment is exhausted.

Mr. STEENERSON. Then I move to strike out the last word. Mr. Speaker, this applies not only to ordinary mail, unsealed, but it applies to sealed letters, and adds to the kind of sealed letters that are made unailable; sealed letters that contain anything in violation of the provisions of this act. That seems to me to be sufficient. I doubt the wisdom of including the word "anarchistic," because there is a great deal of difference of opinion about what that word means. Some very good people advocate, simply as a social and political ideal, the absence of force and government, and they have no intention of interfering with the Government or doing anything that is treasonable, and, therefore, by adding the word "anarchistic" we might punish people who are not intending to do anything that is treasonable.

With regard to the precise question involved in this amendment, I agree with the gentleman from North Carolina [Mr. WEBB].

In the case *In re Jackson*, Ninety-sixth Supreme Court Reports, where the lottery law was involved, they held that the constitutional provision against unreasonable search would apply to letters; that sealed letters or packages in the mail were, in the theory of the law, in the possession of the sender, and that to open them would require proceedings under affidavit sufficient to authorize the search of a man's private residence, the very thing that is contemplated by the amendment of the gentleman from Pennsylvania.

In that case the court said:

Letters and sealed packages of this kind in the mail are as fully guarded from examination and inspection, except as to their outward form and weight, as if they were retained by the parties forwarding them in their own domiciles. The constitutional guaranty of the right of the people to be secure in their papers against unreasonable searches and seizures extends to their papers, thus closed against inspection, wherever they may be. Whilst in the mail, they can only be opened and examined under like warrant, issued upon similar oath or affirmation, particularly describing the thing to be seized, as is required when papers are subjected to search in one's own household. No law of Congress can place in the hands of officials connected with the Postal Service any authority to invade the secrecy of letters and such sealed packages in the mail; and all regulations adopted as to mail matter of this kind must be in subordination to the great principle embodied in the fourth amendment to the Constitution. * * * Whilst regulations excluding matter from the mail can not be enforced in a way which would require or permit an examination into letters, or sealed packages subject to letter postage, without warrant, issued upon oath or affirmation, in the search for prohibited matter, they may be enforced upon competent evidence of their violation obtained in other ways, as from the parties receiving the letters or packages, or from agents depositing them in the post offices, or others cognizant of the facts.

So I agree with the gentleman from North Carolina [Mr. WEBB] that it is not necessary to adopt this amendment, because sealed letters are protected by the Constitution of the United States against unreasonable search and the practice of the department in regard to sealed letters is, and has been for many years, not to open them; clerks or postmasters are not entitled to open them; and the only way prosecution can be successful for mailing an obscene letter that is sealed, with nothing on the outside to indicate its contents, or one in violation of the lottery law, is for the Government to get proof as to the contents of a letter from the outside, or from some clerk or employee, of the sender, or by the man who receives it, the

addressee, or some one who has seen the letter to prove its contents. The Post Office Department does not now attempt to censor the mails, so far as sealed letters are concerned, even if they are in violation of the law against lotteries and the sending of obscene matter, and for this reason I do not believe it is necessary to adopt the amendment proposed by the gentleman from Pennsylvania, but I do not think that the word "anarchistic" here is unnecessary. If you simply make this prohibition against mailable matter which is in violation of this act, you go as far as this act was intended to go. You are simply running into a field that is very dangerous if you include this word "anarchistic," which may be construed in many different ways. In the Standard Dictionary one of the definitions given is, "An anarchist is one who advocates the absence of formal government as a social and political ideal." Now, if a person advocates that as an ideal, that does not mean that that is treasonable.

The SPEAKER. The time of the gentleman has expired and the pro forma amendment will be considered as withdrawn. There is an amendment pending offered by the gentleman from Pennsylvania [Mr. GRAHAM].

Mr. CROSSER. Mr. Speaker, I desire to offer an amendment.

The SPEAKER. Does the gentleman desire to offer that as an amendment to the amendment? The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. CROSSER: Page 60, line 9, after the word "treasonable," strike out "or anarchistic," and insert, after the word "character," "or of a character advocating the destruction of or injury to the Government by violence."

Mr. WEBB. Mr. Speaker, I move to strike out the last three words for the purpose of—

The SPEAKER. The Chair desires to ask the gentleman from Ohio if his amendment is intended to be an amendment to the amendment offered by the gentleman from Pennsylvania?

Mr. CROSSER. It is offered as a substitute really.

Mr. MANN. It is not a substitute; it has nothing to do with the amendment offered by the gentleman from Pennsylvania. It is an amendment to the section.

Mr. GRAHAM of Pennsylvania. Mr. Speaker, I will withdraw the amendment I have offered as a proviso to this section with the consent of the House.

The SPEAKER. The gentleman from Pennsylvania desires to withdraw his amendment. Is there objection? [After a pause.] The Chair hears none. Does the gentleman from Ohio want to offer his amendment as a separate proposition?

Mr. CROSSER. Yes.

The SPEAKER. The Clerk will again report the amendment so that everybody will understand it.

The Clerk read as follows:

Amendment offered by Mr. CROSSER: Page 60, line 9, after the word "treasonable," strike out "or anarchistic," and insert, after the word "character," "or of a character advocating the destruction of or injury to the Government by violence."

Mr. CROSSER. Mr. Speaker, I offer this amendment for the reason that there are a great many very estimable men of high character, intellect, and education who advocate what they call philosophic anarchy. Their philosophy is of a very idealistic nature, and yet if this bill passes with the language in the section as it now stands, the writings of these men would be barred from the mails entirely, so that they could not send their addresses or writings from one part of the country to another.

Mr. KINKAID. Will the gentleman yield?

Mr. CROSSER. Yes.

Mr. KINKAID. Does the gentleman mean to say advocating anarchy or socialism? The gentleman said "anarchy."

Mr. CROSSER. I said that there are a great many very estimable gentlemen of education and ability who advocate what they call philosophic anarchy. Their idea is that ultimately there ought not to be any government at all. I am told that Emerson's ideas tended in that direction. I know a man, one of the brainiest, finest men I know, who holds such views as that. He would not do harm to any person or to the Government, but he derives a great deal of satisfaction from his theories. He is a very close thinker and a close reasoner. Now, it seems to me that men of that particular type, who possibly may be considered what the chairman of the committee has called an anarchist, will be done a great injustice by having their writings and philosophy barred from the mails. What the gentleman from North Carolina had in mind I am quite certain is literature which advocates violence, which advocates the violent destruction or overturning of the Government or injury to the Government.

Mr. FARR. Will the gentleman yield?

The SPEAKER. Does the gentleman from Ohio yield?

Mr. CROSSER. I do.

Mr. FARR. Might not that type of philosophy incite somebody else?

Mr. CROSSER. Not the kind to which I refer. Emerson, I am told, advocated a kind of anarchy and everybody knows that he was a very fine writer.

Mr. FESS. Will the gentleman yield?

Mr. CROSSER. Yes.

Mr. FESS. The philosophic anarchy that was indorsed by Emerson, Tolstoy, and many others was a state of society under whose ideal operation there was no need of government in restraint.

Mr. CROSSER. That is exactly it.

Mr. FESS. There is not any doubt but that there is that sort of anarchy, and yet we apply the term to "forcible anarchy."

Mr. CROSSER. The gentleman will admit that if this bill in its present form is enacted into law we would prevent the passage of such literature as that through the mails.

Mr. FESS. As one of these authors said, "The ideal conception of heaven is that of anarchy."

Mr. CROSSER. Yes, I do not remember the names of other writers at the present time, but Emerson, Thoreau, Tolstoy, are men often so referred to. It seems to me it would be a great misfortune if their writings could be barred from the mails at the whim of some executive officer by putting his own construction upon it.

Mr. TOWNER. Will the gentleman yield?

Mr. CROSSER. Yes.

Mr. TOWNER. I thought perhaps it should be understood that Mr. Emerson never claimed to be an anarchist. The anarchists, however, have claimed that Emerson's philosophy was in reality within the anarchistic definition.

Mr. CROSSER. Some men take a pride in giving their writings a label and others do not. Some like to give them the name "philosophic anarchy." Personally I am not subscribing to any of these doctrines, but I think, Mr. Speaker, that it is a dangerous thing to say, "You shall not write or say things except those with which I agree." I think we are doing a great deal toward preventing the freedom of thought and restricting the liberty of expressing thought that is so necessary in a free Government.

Mr. TOWNER. I agree with what the gentleman says, of course, but I think Mr. Emerson would be very much surprised if he had known that after his death he would be claimed as an anarchist.

The SPEAKER. The time of the gentleman from Ohio [Mr. CROSSER] has expired.

LEAVE OF ABSENCE.

Mr. TALBOTT, by unanimous consent, was granted leave of absence, until Monday, on account of important business.

ESPIONAGE.

Mr. LONDON. Mr. Speaker—

The SPEAKER. The gentleman from New York [Mr. LONDON] is recognized for five minutes.

Mr. LONDON. Mr. Speaker, I am glad to find here a Democrat with enough love of democracy to make that motion. The ignorance displayed by the membership of this House on the subjects of socialism and anarchism is a sufficient reason for eliminating the words "or anarchistic" from this section.

The gentleman from Vermont [Mr. GREENE] called from the text of a long article from some publication, the character of which I do not know, the phrase "international revolutionary socialism," and he thought that expression was so horrid, was so suggestive of revolution, of an immediate change by violence that he welcomed the adoption of this section with the phrase "anarchistic" in it, because it promised to exclude from the mails anything dealing with "international revolutionary socialism." His intention is good, but he is ignorant on the subject. I am a believer in international revolutionary socialism. I believe that we are in the midst of a revolution, and that revolution began long ago with the organization of the first fighting unit on the economic and the political fields with the spread of intelligence among the working people. That is when it began. The word "revolution" does not mean violence.

Mr. GREENE of Vermont. Will the gentleman permit?

Mr. LONDON. Yes.

Mr. GREENE of Vermont. The gentleman was addressing his remarks to me?

Mr. LONDON. I was referring to the phrase "revolutionary international socialism," and it seems to me the gentleman was trying to convey the impression that the use of that expression in itself constituted a violation of the law.

Mr. GREENE of Vermont. The gentleman quite misunderstood my expression. I was merely quoting the language that

the socialists had employed in the circular as being objectionable.

Mr. JOHNSON of Washington. I want to ask the gentleman if he believes in direct action?

Mr. LONDON. I will take care of the lumber interests of the State of Washington in a minute. I will come to that. Now, unless I entirely misunderstood the gentleman from Vermont [Mr. GREENE] the things that he quoted were not in violation of any existing law.

Gentlemen, let me call your attention to the fundamental fact. I tried to make it clear yesterday. There is a world of distinction between the philosophy of a thing and the method. The Ku-Klux were terrorists. They used violence, but they were not socialists; they were not anarchists. They had no distinct philosophy about the reorganization of the world. They were just Ku-Klux, using terrorism to promote the things they believed in. The Night Rider, fighting the Tobacco Trust, was a terrorist. He was not an anarchist. He was a violator of the law. He resorted to violence. The industrial corporations, whether in the State of Washington or in Colorado, who hired gunmen against strikers were terrorists. Please draw the distinction between method and philosophy. So far as the socialists are concerned, they have always and everywhere sought to promote their cause by peaceful methods. Even Social Democrats of Russia, having to deal with the most autocratic Government in the world, pinned their faith upon education and the growth of a greater knowledge among the people.

The SPEAKER. The time of the gentleman from New York has expired.

Mr. LONDON. I ask unanimous consent, Mr. Speaker, to proceed for five minutes more.

The SPEAKER. Is there objection to the gentleman's request?

There was no objection.

Mr. LONDON. Now, I ask you gentlemen to eliminate that phrase. It will give an opportunity to every ignorant person and to every little postmaster and to every man who is under the pressure, it may be, of the lumber interests or of some other interest to remove from the mail everything that will advise the people to fight for their rights under the guise that they advocate anarchy. Make it clear that you are opposed to the use of the mail for the purpose of advocating the overthrow of government by violence. Make it clear so that there will be no mistake about it.

I call your serious attention to it, and I speak in all earnestness, hoping that there is enough democracy and enough love of liberty left here to prevent any possible abuse by a petty official, by an ignorant official, although he may be a well-meaning man, but ignorant of the rights of the common man, of the plain man. Do not try to suppress ideas by law. You can not do it. You can not accomplish it.

Mr. MILLER of Minnesota. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from New York yield to the gentleman from Minnesota?

Mr. LONDON. Yes.

Mr. MILLER of Minnesota. The gentleman was in the Hall the other afternoon when the gentleman from Texas [Mr. EAGLE] read from a circular. Does the gentleman believe that the Government should permit that kind of a publication to be sent through the mails?

Mr. LONDON. Representative EAGLE read only a part of the circular. If he wanted to challenge me to reply to him, he should have read the entire circular, because I do not know to what extent the part he did not read modified the meaning of the part that he did read. Anyone can understand that.

Mr. GREENE of Vermont. Mr. Speaker, will the gentleman yield?

Mr. LONDON. Yes.

Mr. GREENE of Vermont. What does the gentleman say about this? I read from that circular again:

In the event of conscription being forced upon the people of this country by the ruling class, we shall initiate a movement for the refusal of military service; moreover, we shall support by all means massed movements of the people organized to resist and refuse compulsory military service.

Mr. LONDON. I understand it to be the opinion of the socialists that in the event of conscription being adopted they would immediately begin a movement for the repeal of that law, placing themselves clearly on a legal foundation; and they certainly have the right to immediately begin a movement to repeal an obnoxious law.

Mr. GREENE of Vermont. Mr. Speaker, will the gentleman yield again?

The SPEAKER. Does the gentleman from New York yield to the gentleman from Vermont?

Mr. LONDON. Yes.

Mr. GREENE of Vermont. I will say to the gentleman that I do not want to take out a single phrase from a document and base questions upon it. That would be an unfair way to do.

Mr. LONDON. Read the entire document.

Mr. GREENE of Vermont. I would be willing to do it, but the character of the document is such that it should not be printed and circulated.

Mr. LONDON. I am willing to trust to the judgment of the gentleman from Vermont. I do not want him to be frightened by the word "internationalism." Our President has proclaimed the doctrines of internationalism. We are supposed to help bring about internationalism in the world and international peace. [Applause.]

Mr. GREENE of Vermont. Let me read this:

We call upon the working class, organized and unorganized, to institute strikes against the mobilization of industry and military forces under the guise of which the ruling class deprives the people of its civil and industrial rights; and we pledge ourselves to encourage and support these strikes and develop them into a general revolutionary movement against war and capitalism.

Mr. LONDON. Well, people have the right to oppose capitalism, and they have the right to oppose war. Had I agreed with the policy of using revolutionary methods to oppose the war, had I agreed with that policy, I would not have continued my attendance on the floor of Congress. I believe that by educating the people and by reaching the masses we would make war impossible.

Mr. GREENE of Vermont. There is one thing more that I wish to refer to, if the gentleman will permit me to intrude on his time.

Mr. LONDON. Yes.

Mr. GREENE of Vermont. Here is a pledge which men are asked to sign and send to headquarters:

I, the undersigned, solemnly protesting against the working class and the country of my birth (or adoption) being caught in the steel trap of militarism, will refuse to render any kind of military service when informed that 10,000 male citizens of the United States (or those who have declared their intention to become citizens), of an age between 18 and 45, have signed this pledge.

Mr. LONDON. I do not hesitate to say that I do not indorse this program, because I can not advise another man to do that which I would not do. That is why even against unjust wars and even against capitalism I believe that there is only one remedy, and that is more knowledge on the part of the people. If there had been a majority of socialists in this Congress there would have been no declaration of war. With a majority of Democrats and Republicans, the people got what they voted for.

Mr. CROSSER. Would not what has been read by the gentleman from Vermont be prohibited by the language of the amendment, anyhow?

Mr. LONDON. It would, undoubtedly.

The SPEAKER. Debate on this amendment is exhausted.

Mr. Sisson. Mr. Speaker, I move to strike out the last word.

The SPEAKER. The gentleman from Mississippi is recognized for five minutes.

Mr. Sisson. Mr. Speaker, I think the amendment offered by the gentleman from Ohio [Mr. Crosser] should be adopted. I do not believe you will suppress either socialism or anarchy by endeavoring by law to stop people from talking about them. The English Government permits people always to talk about what they please, and when you permit men to say what they please frequently you disgust people with what they have said, and frequently by the very absence of law you get the thing you would not accomplish by the enactment of law. I have no patience with the idea that because some of us voted against conscription we ought not to give our whole soul, heart, mind, and body to enabling the President of the United States to get the soldiers necessary to fight this war. I do not suppose any man in this House was more opposed to conscription than I was. I voted against the whole bill, because it had conscription in it, but the majority of the Members of the House disagreed with me, and whatever may be the final outcome, I trust that Congress will have the courage, when the war is over, to break up the standing army and go back to peace strength. I have been afraid of a large standing army, but notwithstanding that fact I now stand absolutely where every man ought to stand—squarely behind the Army and Navy—in order that we may get the very best Army possible and in the very quickest method under the law which you gentlemen will vote for when the amendment is adopted.

But, Mr. Speaker, I rose for the purpose of asking unanimous consent to extend my remarks in the Record by printing one of the most marvelous documents ever written by the pen of man upon free speech and free press. That is the marvelous document of John Milton, called the Areopagitica, said to be the most magnificent document ever written upon this subject in the entire annals of English literature.

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

There was no objection.

The document is as follows:

ARROFAGITICA.

[By John Milton.]

They who to states and governors of the commonwealth direct their speech, high court of parliament, or wanting such access in a private condition, write that which they foresee may advance the public good; I suppose them, as at the beginning of no mean endeavour, not a little altered and moved inwardly in their minds; some with doubt of what will be the success, others with fear of what will be the censure; some with hope, others with confidence of what they have to speak. And me perhaps each of these dispositions, as the subject was whereon I entered, may have at other times variously affected; and likely might in these foremost expressions now also disclose which of them swayed most, but that the very attempt of this address thus made, and the thought of whom it hath recourse to, hath got the power within me to a passion, far more welcome than incidental to a preface.

Which though I stay not to confess ere any ask, I shall be blameless, if it be no other than the joy and gratulation which it brings to all who wish to promote their country's liberty; whereof this whole discourse proposed will be a certain testimony, if not a trophy. For this is not the liberty which we can hope, that no grievance ever should arise in the commonwealth; that let no man in this world expect; but when complaints are freely heard, deeply considered, and speedily reformed, then is the utmost bound of civil liberty obtained that wise men look for. To which if I now manifest, by the very sound of this which I shall utter, that we are already in good part arrived, and yet from such a steep disadvantage of tyranny and superstition grounded into our principles as was beyond the manhood of a Roman recovery, it will be attributed first, as is most due, to the strong assistance of God, our deliverer; next, to your faithful guidance and undaunted wisdom, lords and commons of England. Neither is it in God's esteem the diminution of his glory when honourable things are spoken of good men and worthy magistrates; which if I now first should begin to do, after so fair a progress of your laudable deeds, and such a long obligation upon the whole realm to your indefatigable virtues, I might be justly reckoned among the tardiest and the unwillingest of them that praise ye.

Nevertheless there being three principal things without which all praising is but courtship and flattery: First, when that only is praised which is solidly worth praise; next, when greatest likelihoods are brought that such things are truly and really in those persons to whom they are ascribed; the other, when he who praises, by shewing that such his actual persuasion is of whom he writes, can demonstrate that he flatters not; the former two of these I have heretofore endeavoured, rescuing the employment from him who went about to impair your merits with a trivial and malignant encomium; the latter as belonging chiefly to mine own acquittal, that whom I so extolled I did not flatter, hath been reserved opportunely to this occasion. For he who freely magnifies what hath been nobly done, and fears not to declare as freely what might be done better, gives ye the best covenant of his fidelity; and that his loyal affection and his hope waits on your proceedings. His highest praising is not flattery, and his plainest advice is a kind of praising; for though I should affirm and hold by argument that it would fare better with truth, with learning, and the commonwealth, if one of your published orders, which I should name, were called in; yet at the same time it could not but much redound to the lustre of your mild and equal government, whenas private persons are hereby animated to think ye better pleased with public advice than other statists have been delighted heretofore with public flattery. And men will then see what difference there is between the magnanimity of a triennial parliament and that jealous haughtiness of prelates and cabin counsellors that usurped of late, whenas they shall observe ye in the midst of your victories and successes more gently brooking written exceptions against a voted order than other courts, which had produced nothing worth memory but the weak ostentation of wealth, would have endured the least signified dislike at any sudden proclamation.

If I should thus far presume upon the meek demeanour of your civil and gentle greatness, lords and commons, as what your published order hath directly said, that to gainsay, I might defend myself with ease, if any should accuse me of being new or insolent, did they but know how much better I find ye esteem it to imitate the old and elegant humanity of Greece than the barbaric pride of a Hunnish and Norwegian

stateliness. And out of those ages to whose polite wisdom and letters we owe that we are not yet Goths and Jutlanders, I could name him who from his private house wrote that discourse to the parliament of Athens that persuaded them to change the form of democracy which was then established. Such honour was done in those days to men who professed the study of wisdom and eloquence, not only in their own country but in other lands, that cities and signories heard them gladly, and with great respect, if they had aught in public to admonish the state. Thus did Dion Pruseus, a stranger and a private orator, counsel the Rhodians against a former edict; and I abound with other like examples, which to set here would be superfluous. But if from the industry of a life wholly dedicated to studious labours, and those natural endowments haply not the worst for two and fifty degrees of northern latitude, so much must be derogated as to count me not equal to any of those who had this privilege, I would obtain to be thought not so inferior as yourselves are superior to the most of them who received their counsel; and how far you excel them, be assured, lords and commons, there can no greater testimony appear than when your prudent spirit acknowledges and obeys the voice of reason, from what quarter soever it be heard speaking; and renders ye as willing to repeat any act of your own setting forth as any set forth by your predecessors.

If ye be thus resolved, as it were injury to think ye were not, I know not what should withhold me from presenting ye with a fit instance wherein to shew both that love of truth which ye eminently profess, and that uprightness of your judgment which is not wont to be partial to yourselves; by judging over again that order which ye have ordained "to regulate printing: that no book, pamphlet, or paper shall be henceforth printed, unless the same be first approved and licensed by such, or at least one of such, as shall be thereto appointed." For that part which preserves justly every man's copy to himself, or provides for the poor, I touch not; only wish they be not made pretences to abuse and persecute honest and painful men who offend not in either of these particulars. But that other clause of licensing books, which we thought had died with his brother quadragesimal and matrimonial when the prelates expired, I shall now attend with such a homily as shall lay before ye, first, the inventors of it to be those whom ye will be loath to own; next, what is to be thought in general of reading, whatever sort the books be; and that this order avails nothing to the suppressing of scandalous, seditious, and libellous books, which were mainly intended to be suppressed. Last, that it will be primarily to the discouragement of all learning, and the stop of truth, not only by disexercising and blunting our abilities in what we know already, but by hindering and cropping the discovery that might be yet further made, both in religious and civil wisdom.

I deny not but that it is of greatest concernment in the church and commonwealth to have a vigilant eye how books demean themselves, as well as men; and thereafter to confine, imprison, and do sharpest justice on them as malefactors; for books are not absolutely dead things, but do contain a progeny of life in them to be as active as that soul was whose progeny they are; nay, they do preserve as in a vial the purest efficacy and extraction of that living intellect that bred them. I know they are as lively, and as vigorously productive, as those fabulous dragon's teeth: and being sown up and down, may chance to spring up armed men. And yet, on the other hand, unless wariness be used, as good almost kill a man as kill a good book: who kills a man kills a reasonable creature, God's image; but he who destroys a good book, kills reason itself, kills the image of God, as it were, in the eye. Many a man lives a burden to the earth; but a good book is the precious life blood of a master-spirit, embalmed and treasured up on purpose to a life beyond life. It is true, no age can restore a life, whereof, perhaps, there is no great loss; and revolutions of ages do not oft recover the loss of a rejected truth, for the want of which whole nations fare the worse. We should be wary, therefore, what persecution ye raise against the living labours of public men, how ye spill that seasoned life of man, preserved and stored up in books; since we see a kind of homicide may be thus committed, sometimes a martyrdom; and if it extend to the whole impression, a kind of massacre, whereof the execution ends not in the slaying of an elemental life, but strikes at the ethereal and fifth essence, the breath of reason itself; slays an immortality rather than a life. But lest I should be condemned of introducing licence while I oppose licensing, I refuse not the pains to be so much historical as will serve to shew what hath been done by ancient and famous commonwealths against this disorder, till the very time that this project of licensing crept out of the inquisition, was caught up by our prelates, and hath caught some of our presbyters.

In Athens, where books and wits were ever busier than in any other part of Greece, I find but only two sorts of writings which the magistrate cared to take notice of; those either blasphemous and atheistical, or libellous. Thus the books of Protagoras were by the judges of Areopagus commanded to be burnt, and himself banished the territory for a discourse begun with his confessing not to know "whether there were gods, or whether not." And against defaming, it was agreed that none should be traduced by name, as was the manner of *Vetus Comœdia*, whereby we may guess how they censured libelling; and this course was quick enough, as Cicero writes, to quell both the desperate wits of other atheists, and the open way of defaming, as the event showed. Of other sects and opinions, though tending to voluptuousness, and the denying of divine Providence, they took no heed. Therefore we do not read that either Epicurus, or that libertine school of Cyrene, or what the Cynic impudence uttered, was ever questioned by the laws. Neither is it recorded that the writings of those old comedians were suppressed, though the acting of them were forbid; and that Plato commended the reading of Aristophanes, the loosest of them all, to his royal scholar Dionysius, is commonly known, and may be excused, if holy Chrysostom, as is reported, nightly studied so much the same author, and had the art to cleanse a scurrilous vehemence into the style of a rousing sermon.

That other leading city of Greece, Lacedæmon, considering that Lycurgus their lawgiver was so addicted to elegant learning as to have been the first that brought out of Ionia the scattered works of Homer, and sent the poet Thales from Crete, to prepare and mollify the Spartan surliness with his smooth songs and odes, the better to plant among them law and civility; it is to be wondered how museless and unbookish they were, minding nought but the feats of war. There needed no licensing of books among them, for they disliked all but their own laconic apophthegms, and took a slight occasion to chase Archilochus out of their city, perhaps for composing in a higher strain than their own soldiery ballads and roundels could reach to; or if it were for his broad verses, they were not therein so cautious but they were as dissolute in their promiscuous conversing; whence Euripides affirms, in *Andromache*, that their women were all unchaste.

This much may give us light after what sort of books were prohibited among the Greeks. The Romans also for many ages trained up only to a military roughness, resembling most the Lacedæmonian guise, knew of learning little but what their twelve tables and the pontific college with their augurs and flamens taught them in religion and law; so unacquainted with other learning that when Carneades and Critolaus, with the stoic Diogenes, coming ambassadors to Rome, took thereby occasion to give the city a taste of their philosophy, they were suspected for seducers by no less a man than Cato the Censor, who moved it in the senate to dismiss them speedily, and to banish all such Attic babblers out of Italy. But Scipio and others of the noblest senators withstood him and his old Sabine austerity; honoured and admired the men; and the censor himself at last, in his old age, fell to the study of that whereof before he was so scrupulous. And yet, at the same time, Nævius and Plautus, the first Latin comedians, had filled the city with all the borrowed scenes of Menander and Philemon. Then began to be considered there also what was to be done to libellous books and authors; for Nævius was quickly cast into prison for his unbridled pen, and released by the tribunes upon his recantation: we read also that libels were burnt, and the makers punished, by Augustus.

The like severity, no doubt, was used, if aught were impiously written against their esteemed gods. Except in these two points, how the world went in books the magistrate kept no reckoning. And therefore Lucretius, without impeachment, versifies his Epicurism to Memmius, and had the honour to be set forth the second time by Cicero, so great a father of the commonwealth; although himself disputes against that opinion in his own writings. Nor was the satirical sharpness or naked plainness of Lucilius, or Catullus, or Flaccus, by any order prohibited. And for matters of state, the story of Titus Livius, though it extolled that part which Pompey held, was not therefore suppressed by Octavius Cæsar, of the other faction. But that Naso was by him banished in his old age for the wanton poems of his youth, was but a mere covert of state over some secret cause; and besides, the books were neither banished nor called in. From hence we shall meet with little else but tyranny in the Roman empire, that we may not marvel if not so often bad as good books were silenced. I shall therefore deem to have been large enough, in producing what among the ancients was punishable to write, save only which, all other arguments were free to treat on.

By this time the emperors were become Christians, whose discipline in this point I do not find to have been more severe

than was formerly in practice. The books of those whom they took to be grand heretics were examined, refuted, and condemned in the general councils; and not till then were prohibited, or burnt, by authority of the emperor. As for the writings of heathen authors, unless they were plain invectives against Christianity, as those of Porphyrius and Proclus, they met with no interdiction that can be cited, till about the year 400, in a Carthaginian council, wherein bishops themselves were forbid to read the books of Gentiles, but heresies they might read; while others long before them, on the contrary, scrupled more the books of heretics than of Gentiles. And that the primitive councils and bishops were wont only to declare what books were not commendable, passing no further, but leaving it to each one's conscience to read or to lay by, till after the year 800, is observed already by Padre Paolo, the great unmasker of the Trentine council. After which time the popes of Rome, engrossing what they pleased of political rule into their own hands, extended their dominion over men's eyes, as they had before over their judgments, burning and prohibiting to be read what they fancied not; yet sparing in their censures, and the books not many which they so dealt with; till Martin the Fifth, by his bull, not only prohibited, but was the first that excommunicated the reading of heretical books; for about that time Wicklef and Husse growing terrible were they who first drove the papal court to a stricter policy of prohibiting. Which course Leo the Tenth and his successors followed, until the council of Trent and the Spanish inquisition, engendering together, brought forth or perfected those catalogues and expurging indexes that rake through the entrails of many an old good author with a violation worse than any could be offered to his tomb.

Nor did they stay in matters heretical, but any subject that was not to their palate, they either condemned in a prohibition, or had it straight into the new purgatory of an index. To fill up the measure of encroachment, their last invention was to ordain that no book, pamphlet, or paper should be printed (as if St. Peter had bequeathed them the keys of the press also as well as of Paradise) unless it were approved and licensed under the hands of two or three gluttonous friars. For example:

"Let the chancellor Cini be pleased to see if in this present work be contained aught that may withstand the printing."

"Vincent Rabatta, Vicar of Florence."

"I have seen this present work, and find nothing athwart the Catholic faith and good manners: in witness whereof I have given, &c."

"Nicolò Cini, Chancellor of Florence."

"Attending the precedent relation, it is allowed that this present work of Davanzati may be printed."

"Vincent Rabatta," &c.

"It may be printed, July 15."

"Friar Simon Mompel d'Amelia, Chancellor of the Holy Office in Florence."

Sure they have a conceit, if he of the bottomless pit had not long since broke prison, that this quadruple exorcism would bar him down. I fear their next design will be to get into their custody the licensing of that which they say Claudius intended, but went not through with. Vouchsafe to see another of their forms, the Roman stamp:—

"Imprimatur, If it seem good to the reverend master of the Holy Palace."

"Imprimatur," "Belcastro, Vicegerent."

"Friar Nicolò, Rodolphi, Master of the Holy Palace."

Sometimes five imprimaturs are seen together, dialogue wise, in the piazza of one titlepage, complimenting and ducking each to other with their shaven reverences, whether the author, who stands by in perplexity at the foot of his epistle, shall to the press or to the sponge. These are the pretty responsories, these are the dear antiphonies, that so bewitched of late our prelates and their chaplains with the goodly echo they made; and besotted us to the gay imitation of a lordly imprimatur, one from Lambeth-house, another from the west end of Paul's; so apishly romanizing, that the word of command still was set down in Latin; as if the learned grammatical pen that wrote it would cast no ink without Latin; or perhaps, as they thought, because no vulgar tongue was worthy to express the pure conceit of an imprimatur; but rather, as I hope, for that our English, the language of men ever famous and foremost in the achievements of liberty, will not easily find servile letters enow to spell such a dictatorial presumption Englished.

And thus ye have the inventors and the original of book licensing ripped up and drawn as lineally as any pedigree. We have it not, that can be heard of, from any ancient state, or polity, or church, nor by any statute left us by our ancestors elder or later; nor from the modern custom of any reformed city or church abroad; but from the most anti-christian council, and the most tyrannous inquisition that ever inquired. Till then books were ever as freely admitted into the world as any

other birth; the issue of the brain was no more stifled than the issue of the womb: no envious Juno sat cross-legged over the nativity of any man's intellectual offspring; but if it proved a monster, who denies but that it was justly burnt, or sunk into the sea? But that a book, in worse condition than a peccant soul, should be to stand before a jury ere it be born to the world, and undergo yet in darkness the judgment of Radamant and his colleagues, ere it can pass the ferry backward into light, was never heard before, till that mysterious iniquity, provoked and troubled at the first entrance of reformation, sought out new limboes and new hells wherein they might include our books also within the number of their damned. And this was the rare morsel so officiously snatched up and so illfavouredly imitated by our inquisitorial bishops, and the attendant minorites, their chaplains. That ye like not now these most certain authors of this licensing order, and that all sinister intention was far distant from your thoughts when ye were importuned the passing it, all men who know the integrity of your actions, and how ye honour truth, will clear ye readily.

But some will say, what though the inventors were bad, the thing for all that may be good. It may be so; yet if that thing be no such deep invention, but obvious and easy for any man to light on, and yet best and wisest commonwealths through all ages and occasions have forborne to use it, and falsest seducers and oppressors of men were the first who took it up, and to no other purpose but to obstruct and hinder the first approach of reformation; I am of those who believe, it will be a harder alchymy than Lullius ever knew, to sublimate any good use out of such an invention. Yet this only is what I request to gain from this reason, that it may be held a dangerous and suspicious fruit, as certainly it deserves, for the tree that bore it, until I can dissect one by one the properties it has. But I have first to finish, as was propounded, what is to be thought in general of reading books, whatever sort they be, and whether be more the benefit or the harm that thence proceeds.

Not to insist upon the examples of Moses, Daniel, and Paul, who were skilful in all the learning of the Egyptians, Chaldeans, and Greeks, which could not probably be without reading their books of all sorts, in Paul especially, who thought it no defilement to insert into holy scripture the sentences of three Greek poets, and one of them a tragedian; the question was notwithstanding sometimes controverted among the primitive doctors, but with great odds on that side which affirmed it both lawful and profitable, as was then evidently perceived, when Julian the Apostate, and subtlest enemy to our faith, made a decree forbidding Christians the study of heathen learning; for, said he, they wound us with our own weapons, and with our own arts and sciences they overcome us. And indeed the Christians were put so to their shifts by this crafty means, and so much in danger to decline into all ignorance, that the two Apollinarii were fain, as a man may say, to coin all the seven liberal sciences out of the Bible, reducing it into divers forms of orations, poems, dialogues, even to the calculating of a new Christian grammar.

But, saith the historian Socrates, the providence of God provided better than the industry of Apollinarius and his son, by taking away that illiterate law with the life of him who devised it. So great an injury they then held it to be deprived of Hellenic learning; and thought it a persecution more undermining and secretly decaying the church than the open cruelty of Decius or Diocletian. And perhaps it was with the same politic drift that the devil whipt St. Jerome in a lenten dream, for reading Cicero; or else it was a phantasm, bred by the fever which had then seized him. For had an angel been his discipliner, unless it were for dwelling too much on Ciceronianisms, and had chastised the reading, not the vanity, it had been plainly partial, first, to correct him for grave Cicero, and not for scurril Plautus, whom he confesses to have been reading not long before; next to correct him only, and let so many more ancient fathers wax old in those pleasant and florid studies, without the lash of such a tutoring apparition; inasmuch that Basil teaches how some good use may be made of Margites, a sportful poem, not now extant, writ by Homer; and why not then of Morgante, an Italian romance much to the same purpose?

But if it be agreed we shall be tried by visions, there is a vision recorded by Eusebius, far ancienter than this tale of Jerome, to the nun Eustochium, and besides, has nothing of a fever in it. Dionysius Alexandrinus was, about the year 240, a person of great name in the church for piety and learning, who had wont to avail himself much against heretics, by being conversant in their books; until a certain presbyter laid it scrupulously to his conscience, how he durst venture himself among those defiling volumes. The worthy man, loath to give offence, fell into a new debate with himself, what was to be thought; when suddenly a vision sent from God (it is his own epistle that so avers it)

confirmed him in these words: "Read any books whatever come to thy hands, for thou art sufficient both to judge aright and to examine each matter." To this revelation he assented the sooner, as he confesses, because it was answerable to that of the apostle to the Thessalonians: "Prove all things, hold fast that which is good."

And he might have added another remarkable saying of the same author: "To the pure, all things are pure;" not only meats and drinks, but all kind of knowledge, whether of good or evil: the knowledge cannot defile, nor consequently the books, if the will and conscience be not defiled. For books are as meat and viands are; some of good, some of evil substance; and yet God in that unapocryphal vision said without exception, "Rise, Peter, kill and eat;" leaving the choice to each man's discretion. Wholesome meats to a vitiated stomach differ little or nothing from unwholesome; and best books to a naughty mind are not unapplicable to occasions of evil. Bad meats will scarce breed good nourishment in the healthiest concoction; but herein the difference is of bad books, that they to a discreet and judicious reader serve in many respects to discover, to confute, to forewarn, and to illustrate. Whereof what better witness can ye expect I should produce, than one of your own now sitting in parliament, the chief of learned men reputed in this land, Mr. Selden; whose volume of natural and national laws proves, not only by great authorities brought together, but by exquisite reasons and theorems almost mathematically demonstrative, that all opinions, yea, errors, known, read, and collated, are of main service and assistance toward the speedy attainment of what is truest.

I conceive, therefore, that when God did enlarge the universal diet of man's body, (saving ever the rules of temperance,) he then also, as before, left arbitrary the dieting and repasting of our minds; as wherein every mature man might have to exercise his own leading capacity. How great a virtue is temperance, how much of moment through the whole life of man! Yet God commits the managing so great a trust, without particular law or prescription, wholly to the demeanour of every grown man. And therefore when he himself tabled the Jews from heaven, that omer, which was every man's daily portion of manna, is computed to have been more than might have well sufficed the heartiest feeder thrice as many meals. For those actions which enter into a man, rather than issue out of him, and therefore defile not, God uses not to captivate under a perpetual childhood of prescription, but trusts him with the gift of reason to be his own chooser; there were but little work left for preaching, if law and compulsion should grow so fast upon those things which heretofore were governed only by exhortation. Solomon informs us that much reading is a weariness to the flesh; but neither he nor other inspired author tells us that such or such reading is unlawful; yet certainly had God thought good to limit us herein, it had been much more expedient to have told us what was unlawful than what was wearisome.

As for the burning of those Ephesian books by St. Paul's converts; it is replied, the books were magic, the Syriac so renders them. It was a private act, a voluntary act, and leaves us to a voluntary imitation: the men in remorse burnt those books which were their own; the magistrate by this example is not appointed; these men practised the books, another might perhaps have read them in some sort usefully. Good and evil we know in the field of this world grow up together almost inseparably; and the knowledge of good is so involved and interwoven with the knowledge of evil, and in so many cunning resemblances hardly to be discerned, that those confused seeds which were imposed upon Psyche as an incessant labour to cull out and sort asunder, were not more intermixed. It was from out the rind of one apple tasted that the knowledge of good and evil, as two twins cleaving together, leaped forth into the world. And perhaps this is that doom which Adam fell into of knowing good and evil; that is to say, of knowing good by evil.

As therefore the state of man now is, what wisdom can there be to choose, what continence to forbear, without the knowledge of evil? He that can apprehend and consider vice with all her baits and seeming pleasures, and yet abstain, and yet distinguish, and yet prefer that which is truly better, he is the true warfaring Christian. I cannot praise a fugitive and cloistered virtue unexercised and unbreathed, that never sallies out and seeks her adversary, but slinks out of the race, where that immortal garland is to be run for, not without dust and heat. Assuredly we bring not innocence into the world, we bring impurity much rather; that which purifies us is trial, and trial is by what is contrary. That virtue therefore which is but a youngling in the contemplation of evil, and knows not the utmost that vice promises to her followers, and rejects it, is but a blank virtue, not a pure; her whiteness is but an excremental whiteness; which was the reason why our sage and serious poet Spenser, (whom I dare be known to think a better teacher than Scotus or Aquinas,)

describing true temperance under the person of Guion, brings him in with his palmer through the cave of Mammon, and the bower of earthly bliss, that he might see and know, and yet abstain.

Since therefore the knowledge and survey of vice is in this world so necessary to the constituting of human virtue, and the scanning of error to the confirmation of truth, how can we more safely, and with less danger, scout into the regions of sin and falsity, than by reading all manner of tractates, and hearing all manner of reason? And this is the benefit which may be had of books promiscuously read. But of the harm that may result hence, three kinds are usually reckoned. First, is feared the infection that may spread; but then, all human learning and controversy in religious points must remove out of the world, yea, the Bible itself; for that oftentimes relates blasphemy not nicely, it describes the carnal sense of wicked men not unelegantly, it brings in holiest men passionately murmuring against Providence through all the arguments of Epicurus: in other great disputes it answers dubiously and darkly to the common reader; and ask a Talmudist what ails the modesty of his marginal Keri, that Moses and all the prophets cannot persuade him to pronounce the textual Chetiv. For these causes we all know the Bible itself put by the papist into the first rank of prohibited books. The ancientest fathers must be next removed, as Clement of Alexandria, and that Eusebian book of evangelic preparation, transmitting our ears through a hoard of heathenish obscenities to receive the gospel. Who finds not that Irenæus, Epiphanius, Jerome, and others discover more heresies than they well confute, and that oft for heresy which is the truer opinion?

Nor boots it to say for these, and all the heathen writers of greatest infection, if it must be thought so, with whom is bound up the life of human learning, that they wrote in an unknown tongue, so long as we are sure those languages are known as well to the worst of men, who are both most able and most diligent to instil the poison they suck, first into the courts of princes, acquainting them with the choicest delights, and criticisms of sin. As perhaps did that Petronius, whom Nero called his arbiter, the master of his revels; and that notorious ribald of Arezzo, dreaded and yet dear to the Italian courtiers. I name not him, for posterity's sake, whom Henry the Eighth named in merriment his vicar of hell. By which compendious way all the contagion that foreign books can infuse will find a passage to the people far easier and shorter than an Indian voyage, though it could be sailed either by the north of Cataio eastward or of Canada westward, while our Spanish licensing gags the English press never so severely.

But, on the other side, that infection which is from books of controversy in religion is more doubtful and dangerous to the learned than to the ignorant; and yet those books must be permitted untouched by the licenser. It will be hard to instance where any ignorant man hath been ever seduced by any papistical book in English, unless it were commended and expounded to him by some of that clergy; and indeed all such tractates, whether false or true, are as the prophecy of Isaiah was to the eunuch, not to be understood without a guide. But of our priests and doctors how many have been corrupted by studying the comments of Jesuits and Sorbonists, and how fast they could transmute that corruption into the people, our experience is both late and sad. It is not forgot since the acute and distinct Arminius was perverted merely by the perusing of a nameless discourse written at Delft, which at first he took in hand to confute.

Seeing therefore that those books, and those in great abundance, which are likeliest to taint both life and doctrine, cannot be suppressed without the fall of learning and of all ability in disputation, and that these books of either sort are most and soonest catching to the learned, (from whom to the common people whatever is heretical or dissolute may quickly be conveyed,) and that evil manners are as perfectly learnt without books a thousand other ways which cannot be stopped, and evil doctrine not with books can propagate, except a teacher guide, which he might also do without writing, and so beyond prohibiting; I am not able to unfold how this cautious enterprise of licensing can be exempted from the number of vain and impossible attempts. And he who were pleasantly disposed could not well avoid to liken it to the exploit of that gallant man who thought to pound up the crows by shutting his park gate.

Besides another inconvenience, if learned men be the first receivers out of books, and disseminators both of vice and error, how shall the licensers themselves be confided in, unless we can confer upon them, or they assume to themselves, above all others in the land, the grace of infallibility and uncorruptedness? And again, if it be true that a wise man, like a good refiner, can gather gold out of the drossiest volume, and that a fool will be a fool with the best book, yea, or without book; there is no reason

that we should deprive a wise man of any advantage to his wisdom, while we seek to restrain from a fool that which being restrained will be no hindrance to his folly. For if there should be so much exactness always used to keep that from him which is unfit for his reading, we should, in the judgment of Aristotle not only but of Solomon and of our Saviour, not vouchsafe him good precepts, and by consequence not willingly admit him to good books; as being certain that a wise man will make better use of an idle pamphlet than a fool will do of sacred scripture.

It is next alleged, that we must not expose ourselves to temptations without necessity, and next to that, not employ our time in vain things. To both these objections one answer will serve, out of the grounds already laid, that to all men such books are not temptations, nor vanities; but useful drugs and materials wherewith to temper and compose effective and strong medicines, which man's life cannot want. The rest, as children and childish men, who have not the art to qualify and prepare these working minerals, well may be exhorted to forbear; but hindered forcibly they cannot be, by all the licensing that sainted inquisition could ever yet contrive; which is what I promised to deliver next: that this order of licensing conduces nothing to the end for which it was framed; and hath almost prevented me by being clear already while thus much hath been explaining. See the ingenuity of Truth, who, when she gets a free and willing hand, opens herself faster than the pace of method and discourse can overtake her. It was the task which I began with, to shew that no nation, or well instituted state, if they valued books at all, did ever use this way of licensing; and it might be answered, that this is a piece of prudence lately discovered.

To which I return, that as it was a thing slight and obvious to think on, so if it had been difficult to find out, there wanted not among them long since who suggested such a course; which they not following leave us a pattern of their judgment that it was not the not knowing, but the not approving, which was the cause of their not using it. Plato, a man of high authority indeed, but least of all for his Commonwealth, in the book of his laws, which no city ever yet received, fed his fancy with making many edicts to his airy burgomasters, which they who otherwise admire him wish had been rather buried and excused in the genial cups of an academic night sitting. By which laws he seems to tolerate no kind of learning, but by unalterable decree, consisting most of practical traditions, to the attainment whereof a library of smaller bulk than his own dialogues would be abundant. And there also enacts, that no poet should so much as read to any private man what he had written until the judges and law keepers had seen it and allowed it; but that Plato meant this law peculiarly to that commonwealth which he had imagined, and to no other, is evident. Why was he not else a lawgiver to himself, but a transgressor, and to be expelled by his own magistrates, both for the wanton epigrams and dialogues which he made, and his perpetual reading of Sophron Mimus and Aristophanes, books of grosserest infamy; and also for commending the latter of them, though he were the malicious libeller of his chief friends, to be read by the tyrant Dionysius, who had little need of such trash to spend his time on? But that he knew this licensing of poems had reference and dependence to many other provisos there set down in his fancied republic, which in this world could have no place; and so neither he himself, nor any magistrate or city, ever imitated that course, which, taken apart from those other collateral injunctions, must needs be vain and fruitless.

For if they fell upon one kind of strictness, unless their care were equal to regulate all other things of like aptness to corrupt the mind, that single endeavour they knew would be but a fond labour; to shut and fortify one gate against corruption, and be necessitated to leave others round about wide open. If we think to regulate printing, thereby to rectify manners, we must regulate all recreations and pastimes, all that is delightful to man. No music must be heard, no song be set or sung, but what is grave and Doric. There must be licensing dancers, that no gesture, motion, or deportment be taught our youth, but what by their allowance shall be thought honest; for such Plato was provided of. It will ask more than the work of twenty licensers, to examine all the lutes, the violins, and the guitars in every house; they must not be suffered to prattle as they do, but must be licensed what they may say. And who shall silence all the airs and madrigals that whisper softness in chambers? The windows also, and the balconies, must be thought on; there are shrewd books with dangerous frontispieces set to sale: who shall prohibit them, shall twenty licensers? The villages also must have their visitors to inquire what lectures the bagpipe and the rebec reads, even to the balladry and the gamut of every municipal fiddler, for these are the countryman's Arcadias and his monte mayors.

Next, what more national corruption, for which England hears ill abroad, than household gluttony? Who shall be the rectors of our daily rioting? And what shall be done to inhibit the multitudes that frequent those houses where drunkenness is sold and harboured? Our garments also should be referred to the licensing of some more sober work masters, to see them cut into a less wanton garb. Who shall regulate all the mixed conversation of our youth, male and female together, as is the fashion of this country? Who shall still appoint what shall be discoursed, what presumed, and no further? Lastly, who shall forbid and separate all idle resort, all evil company? These things will be, and must be; but how they shall be least hurtful, how least enticing, herein consists the grave and governing wisdom of a state.

To sequester out of the world into Atlantic and Utopian politics, which never can be drawn into use, will not mend our condition; but to ordain wisely as in this world of evil, in the midst whereof God hath placed us unavoidably. Nor is it Plato's licensing of books will do this, which necessarily pulls along with it so many other kinds of licensing as will make us all both ridiculous and weary, and yet frustrate; but those unwritten, or at least unconstraining laws of virtuous education, religious and civil nurture, which Plato there mentions as the bonds and ligaments of the commonwealth, the pillars and the sustainers of every written statute; these they be which will bear chief sway in such matters as these, when all licensing will be easily eluded. Impunity and remissness for certain are the bane of a commonwealth; but here the great art lies, to discern in what the law is to bid restraint and punishment, and in what things persuasion only is to work. If every action which is good or evil in man at ripe years were to be under pittance, prescription, and compulsion, what were virtue but a name, what praise could be then due to well doing, what grammar to be sober, just, or continent?

Many there be that complain of divine Providence for suffering Adam to transgress. Foolish tongues! When God gave him reason He gave him freedom to choose, for reason is but choosing; he had been else a mere artificial Adam, such an Adam as he is in the motions (puppet shows). We ourselves esteem not of that obedience, or love, or gift, which is of force; God therefore left him free, set before him a provoking object ever almost in his eyes; herein consisted his merit, herein the right of his reward, the praise of his abstinence. Wherefore did he create passions within us, pleasure roundabout us, but that these rightly tempered are the very ingredients of virtue? They are not skillful considerers of human things who imagine to remove sin by removing the matter of sin; for, besides that it is a huge heap increasing under the very act of diminishing, though some part of it may for a time be withdrawn from some persons, it cannot from all, in such a universal thing as books are; and when this is done, yet the sin remains entire. Though ye take from a covetous man all his treasure, he has yet one jewel left, ye cannot bereave him of his covetousness. Banish all objects of lust, shut up all youth into the severest discipline that can be exercised in any hermitage, ye cannot make them chaste that came not thither so: such great care and wisdom is required to the right managing of this point.

Suppose we could expel sin by this means; look how much we thus expel of sin, so much we expel of virtue: for the matter of them both is the same: remove that, and ye remove them both alike. This justifies the high providence of God, who, though he commands us temperance, justice, continence, yet pours out before us even to a profuseness of all desirable things, and gives us minds that can wander beyond all limit and satiety. Why should we then affect a rigour contrary to the manner of God and of nature, by abridging or scanting those means, which books freely permitted are, both to the trial of virtue and the exercise of truth?

It would be better done, to learn that the law must needs be frivolous which goes to restrain things uncertainly and yet equally working to good and to evil. And were I the chooser, a dram of well-doing should be preferred before many times as much the forcible hindrance of evil doing. For God sure esteems the growth and completing of one virtuous person more than the restraint of ten vicious. And albeit whatever thing we hear or see, sitting, walking, travelling, or conversing, may be fitly called our book, and is of the same effect that writings are; yet grant the thing to be prohibited were only books, it appears that this order hitherto is far insufficient to the end which it intends. Do we not see, not once or oftener, but weekly, that continued court libel (the "Mercurius Aulicus," a royalist weekly paper.—Ed.) against the parliament and city, printed, as the wet sheets can witness, and dispersed among us for all that licensing can do? Yet this is the prime service, a man would think, wherein this order should give proof of itself. If it were exe-

cuted, you will say. But, certain, if execution be remiss or blindfold now, and in this particular, what will it be hereafter, and in other books?

If then the order shall not be vain and frustrate, behold a new labour, lords and commons, ye must repeal and proscribe all scandalous and unlicensed books already printed and divulged; after ye have drawn them up into a list, that all may know which are condemned, and which not; and ordain that no foreign books be delivered out of custody, till they have been read over. This office will require the whole time of not a few overseers, and those no vulgar men. There be also books which are partly useful and excellent, partly culpable and pernicious; this work will ask as many more officials, to make expurgations and expunctions, that the commonwealth of learning be not damaged. In fine, when the multitude of books increase upon their hands, ye must be fain to catalogue all those printers who are found frequently offending, and forbid the importation of their whole suspected typography. In a word, that this your order may be exact, and not deficient, ye must reform it perfectly, according to the model of Trent and Sevil, which I know ye abhor to do.

Yet though ye should condescend to this, which God forbid, the order still would be but fruitless and defective to that end whereto ye meant it. If to prevent sects and schisms, who is so unread or uncatechised in story that hath not heard of many sects refusing books as a hindrance, and preserving their doctrine unmixed for many ages, only by unwritten traditions? The Christian faith (for that was once a schism) is not unknown to have spread all over Asia ere any gospel or epistle was seen in writing. If the amendment of manners be aimed at, look into Italy and Spain, whether those places be one scruple the better, the honester, the wiser, the chaster, since all the inquisitorial rigour that hath been executed upon books.

Another reason, whereby to make it plain that this order will miss the end it seeks, consider by the quality which ought to be in every licenser. It cannot be denied, but that he who is made judge to sit upon the birth or death of books, whether they may be wafted into this world or not, had need to be a man above the common measure, both studious, learned, and judicious; there may be else no mean mistakes in the censure of what is passable or not; which is also no mean injury.

If he be of such worth as behooves him, there cannot be a more tedious and displeasing journeywork, a greater loss of time levied upon his head, than to be made the perpetual reader of unchosen books and pamphlets, oftentimes huge volumes. There is no book that is acceptable, unless at certain seasons; but to be enjoined the reading of that at all times, and in a hand scarce legible, whereof three pages would not down at any time in the fairest print, is an imposition I cannot believe how he that values time, and his own studies, or is but of a sensible nostril, should be able to endure. In this one thing I crave leave of the present licensers to be pardoned for so thinking: who doubtless took this office up, looking on it through their obedience to the parliament, whose command perhaps made all things seem easy and unlaborious to them; but that this short trial hath wearied them out already, their own expressions and excuses to them who make so many journeys to solicit their licence are testimony enough. Seeing, therefore, those who now possess the employment by all evident signs wish themselves well rid of it, and that no man of worth, none that is not a plain unthrift of his own hours, is ever likely to succeed them, except he mean to put himself to the salary of a press corrector, we may easily foresee what kind of licensers we are to expect hereafter, either ignorant, imperious, and remiss, or basely pecuniary. This is what I had to show, wherein this order cannot conduce to that end whereof it bears the intention.

I lastly proceed from the no good it can do, to the manifest hurt it causes, in being first the greatest discouragement and affront that can be offered to learning and to learned men. It was the complaint and lamentation of prelates, upon every least of a motion to remove pluralities and distribute more equally church revenues, that then all learning would be forever dashed and discouraged. But as for that opinion, I never found cause to think that the tenth part of learning stood or fell with the clergy; nor could I ever but hold it for a sordid and unworthy speech of any churchman who had a competency left him. If therefore ye be loath to dishearten utterly and discontent, not the mercenary crew of false pretenders to learning, but the free and ingenious sort of such as evidently were born to study and love learning for itself, not for lucre, or any other end, but the service of God and of truth, and perhaps that lasting fame and perpetuity of praise, which God and good men have consented shall be the reward of those whose published labours advance the good of mankind: then know, that so far to distrust the judgment and the honesty of one who hath but a common repute in

learning, and never yet offended, as not to count him fit to print his mind without a tutor and examiner, lest he should drop a schism or something of corruption, is the greatest displeasure and indignity to a free and knowing spirit that can be put upon him.

What advantage is it to be a man over it is to be a boy at school, if we have only escaped the ferula to come under the fescue of an imprimatur? if serious and elaborate writings, as if they were no more than the theme of a grammar-lad under his pedagogue, must not be uttered without the cursory eyes of a temporizing and extemporizing licenser? He who is not trusted with his own actions, his drift not being known to be evil, and standing to the hazard of law and penalty, has no great argument to think himself reputed in the commonwealth wherein he was born for other than a fool or a foreigner. When a man writes to the world, he summons up all his reason and deliberation to assist him; he searches, meditates, is industrious, and likely consults and confers with his judicious friends; after all which done, he takes himself to be informed in what he writes as well as any that wrote before him; if in this, the most consummate act of his fidelity and ripeness, no years, no industry, no former proof of his abilities, can bring him to that state of maturity as not to be still mistrusted and suspected, unless he carry all his considerate diligence, all his midnight watchings, and expense of Palladian oil, to the hasty view of an unleisured licenser, perhaps much his younger, perhaps far his inferior in judgment, perhaps one who never knew the labour of bookwriting; and if he be not repulsed, or slighted, must appear in print like a puny with his guardian, and his censor's hand on the back of his title to be his bail and surety that he is no idiot or seducer; it cannot be but a dishonour and derogation to the author, to the book, to the privilege and dignity of learning.

And what if the author shall be one so copious of fancy as to have many things well worth the adding come into his mind after licensing, while the book is yet under the press, which not seldom happens to the best and diligentest writers; and that perhaps a dozen times in one book. The printer dares not go beyond his licensed copy; so often then must the author trudge to his leave-giver, that those his new insertions may be viewed; and many a jaunt will be made, ere that licenser, for it must be the same man, can either be found, or found at leisure; meanwhile either the press must stand still, which is no small damage, or the author lose his accuratest thoughts, and send the book forth worse than he had made it, which to a diligent writer is the greatest melancholy and vexation that can befall.

And how can a man teach with authority, which is the life of teaching; how can he be a doctor in his book, as he ought to be, or else had better be silent, whenas all he teaches, all he delivers, is but under the tuition, under the correction of his patriarchal licenser, to blot or alter what precisely accords not with the hide-bound humour which he calls his judgment?

When every acute reader, upon the first sight of a pedantic licence, will be ready with these like words to ding the book a quoit's distance from him: "I hate a pupil teacher; I endure not an instructor that comes to me under the wardship of an overseeing list. I know nothing of the licenser, but that I have his own hand here for his arrogance; who shall warrant me his judgment?" "The state, sir," replies the stationer: but has a quick return: "The state shall be my governors, but not my critics; they may be mistaken in the choice of a licenser, as easily as this licence may be mistaken in an author. This is some common stuff;" and he might add from Sir Francis Bacon, that "such authorized books are but the language of the times." For though a licenser should happen to be judicious more than ordinary, which will be a great jeopardy of the next succession, yet his very office and his commission enjoins him to let pass nothing but what is vulgarly received already.

Nay, which is more lamentable, if the work of any deceased author, though never so famous in his lifetime, and even to this day, comes to their hands for licence to be printed, or reprinted, if there be found in his book one sentence of a venturesome edge, uttered in the height of zeal, (and who knows whether it might not be the dictate of a divine spirit?) yet not suiting with every low decrepit humour of their own, though it were Knox himself, the reformer of a kingdom, that spake it, they will not pardon him their dash (forego their erasure.—Ed.); the sense of that great man shall to all posterity be lost, for the fearfulness or the presumptuous rashness of a perfunctory licenser. And to what an author this violence hath been lately done, and in what book, of greatest consequence to be faithfully published, I could now instance, but shall forbear till a more convenient season. Yet if these things be not resented seriously and timely by them who have the remedy in their power, but that

such ironmoulds as these shall have authority to gnaw out the choicest periods of exquisitest books, and to commit such a treacherous fraud against the orphan remainders of worthwhile men after death, the more sorrow will belong to that hapless race of men whose misfortune it is to have understanding. Henceforth let no man care to learn, or care to be more than worldly wise; for certainly in higher matters to be ignorant and slothful, to be a common steadfast dunce, will be the only pleasant life, and only in-request.

And as it is a particular disesteem of every knowing person alive, and most injurious to the written labours and monuments of the dead, so to me it seems an undervaluing and vilifying of the whole nation. I cannot set so light by all the invention, the art, the wit, the grave and solid judgment which is in England, as that it can be comprehended in any twenty capacities, how good soever; much less that it should not pass except their superintendence be over it, except it be sifted and strained with their strainers, that it should be uncurrent without their mutual stamp. Truth and understanding are not such wares as to be monopolized and traded in by tickets, and statutes, and standards. We must not think to make a staple commodity of all the knowledge in the land, to mark and license it like our broad-cloth and our wool-packs. What is it but a servitude like that imposed by the Philistines, not to be allowed the sharpening of our own axes and coulters, but we must repair from all quarters to twenty licensing forges?

Had any one written and divulged erroneous things and scandalous to honest life, misusing and forfeiting the esteem had of his reason among men, if after conviction this only censure were adjudged him, that he should never henceforth write but what were first examined by an appointed officer, whose hand should be annexed to pass his credit for him that now he might be safely read; it could not be apprehended less than a disgraceful punishment. Whence to include the whole nation, and those that never yet thus offended, under such a diffident and suspectful prohibition, may plainly be understood what a disparagement it is. So much the more when as debtors and delinquents may walk abroad without a keeper, but unoffensive books must not stir forth without a visible jailor in their title. Nor is it to the common people less than a reproach; for if we be so jealous over them as that we dare not trust them with an English pamphlet, what do we but censure them for a giddy, vicious, and ungrounded people; in such a sick and weak state of faith and discretion as to be able to take nothing down but through the pipe of a licenser? That this is care or love of them we cannot pretend, when as in those popish places, where the laity are most hated and despised, the same strictness is used over them. Wisdom we cannot call it, because it stops but one breach of licence, nor that neither when as those corruptions which it seeks to prevent break in faster at other doors which cannot be shut.

And in conclusion it reflects to the disrepute of our ministers also, of whose labours we should hope better, and of their proficiency which their flock reaps by them, than that after all this light of the gospel which is, and is to be, and all this continual preaching, they should be still frequented with such an unprincipled, unedified, and idle rabble as that the whiff of every new pamphlet should stagger them out of their catechism and Christian walking. This may have much reason to discourage the ministers, when such a low conceit is had of all their exhortations, and the benefiting of their hearers, as that they are not thought fit to be turned loose to three sheets of paper without a licenser; that all the sermons, all the lectures preached, printed, vended in such numbers and such volumes as have now well-nigh made all other books unsaleable, should not be armour enough against one single Enchiridion, without the castle of St. Angelo of an imprimatur.

And lest some should persuade ye, lords and commons, that these arguments of learned men's discouragement at this your order are mere flourishes, and not real, I could recount what I have seen and heard in other countries, where this kind of inquisition tyrannizes; when I have sat among their learned men, (for that honour I had), and been counted happy to be born in such a place of philosophic freedom, as they supposed England was, while themselves did nothing but bemoan the servile condition into which learning amongst them was brought; that this was it which had damped the glory of Italian wits, that nothing had been there written now these many years but flattery and fustian. There it was that I found and visited the famous Galileo, grown old, a prisoner to the inquisition, for thinking in astronomy otherwise than the Franciscan and Dominican licensers thought. And though I knew that England then was groaning loudest under the prelatial yoke, nevertheless I took it as a pledge of future happiness, that other nations were so persuaded of her liberty.

Yet was it beyond my hope, that those worthies were then breathing in her air who should be her leaders to such a deliverance as shall never be forgotten by any revolution of time that this world hath to finish. When that was once begun it was as little in my fear that what words of complaint I heard among learned men of other parts uttered against the inquisition, the same I should hear by as learned men at home uttered in time of parliament against an order of licensing; and that so generally that when I had disclosed myself a companion of their discontent, I might say, if without envy, that he whom an honest questorship had endeared to the Sicilians was not more by them importuned against Verres than the favourable opinion which I had among many who honour ye, and are known and respected by ye, loaded me with entreaties and persuasions that I would not despair to lay together that which just reason should bring into my mind toward the removal of an undesired thralldom upon learning.

That this is not, therefore, the disburdening of a particular fancy, but the common grievance of all those who had prepared their minds and studies above the vulgar pitch, to advance truth in others, and from others to entertain it, thus much may satisfy. And in their name I shall for neither friend nor foe conceal what the general murmur is; that if it come to inquisitioning again, and licensing, and that we are so timorous of ourselves, and suspicious of all men, as to fear each book, and the shaking of each leaf, before we know what the contents are; if some who but of late were little better than silenced from preaching, shall come now to silence us from reading, except what they please, it cannot be guessed what is intended by some but a second tyranny over learning, and will soon put it out of controversy that bishops and presbyters are the same to us, both name and thing.

That those evils of prelacy which before from five or six and twenty sees were distributively charged upon the whole people will now light wholly upon learning, is not obscure to us; whereas now the pastor of a small unlearned parish on the sudden shall be exalted archbishop over a large diocese of books, and yet not remove, but keep his other cure, too, a mystical pluralist. He who but of late cried down the sole ordination of every novice bachelor of art, and denied sole jurisdiction over the simplest parishioner, shall now at home in his private chair assume both these over worthiest and excellentest books and ablest authors that write them. This is not the covenants and protestations that we have made. This is not to put down prelacy; this is but to chop an episcopacy; this is but to translate the palace metropolitan from one kind of dominion into another; this is but an old canonical sleight of commuting our penance. To startle thus betimes at a mere unlicensed pamphlet, will, after a while, be afraid of every conventicle, and a while after will make a conventicle of every Christian meeting.

But I am certain that a state governed by the rules of justice and fortitude, or a church built and founded upon the rock of faith and true knowledge, can not be so pusillanimous. While things are yet not constituted in religion, that freedom of writing should be restrained by a discipline imitated from the prelates, and learned by them from the inquisition, to shut us up all again into the breast of a licenser, must needs give cause of doubt and discouragement to all learned and religious men; who cannot but discern the fineness of this politic drift, and who are the contrivers; that while bishops were to be baited down, then all presses might be open; it was the people's birth-right and privilege in time of parliament, it was the breaking forth of light.

But now the bishops abrogated and voided out of the church, as if our reformation sought no more, but to make room for others into their seats under another name; the episcopal arts begin to bud again; the cruse of truth must run no more oil; liberty of printing must be enthralled again under a prelatial commission of twenty; the privilege of the people nullified; and, which is worse, the freedom of learning must groan again, and to her old fetters; all this the parliament yet sitting. Although their own late arguments and defences against the prelates might remember them that this obstructing violence meets for the most part with an event utterly opposite to the end which it drives at: instead of suppressing sects and schisms it raises them and invests them with a reputation: "The punishing of wits enhances their authority," saith the Viscount St. Albans; "and a forbidden writing is thought to be a certain spark of truth, that flies up in the faces of them who seek to tread it out." This order, therefore, may prove a nursing mother to sects, but I shall easily shew how it will be a steplame to truth; and, first, by disabling us to the maintenance of what is known already.

Well knows he who uses to consider that our faith and knowledge thrives by exercise, as well as our limbs and complexion. Truth is compared in scripture to a streaming fountain; if her waters flow not in a perpetual progression, they sicken into a muddy pool of conformity and tradition. A man may be a heretic in the truth, and if he believe things only because his pastor says so, or the assembly so determines, without knowing other reason, though his belief be true, yet the very truth he holds becomes his heresy. There is not any burden that some would gladder post off to another than the charge and care of their religion. There be, who knows not that there be? of protestants and professors who live and die in as arrant an implicit faith as any lay papist of Loretto.

A wealthy man, addicted to his pleasure and to his profits, finds religion to be a traffic so entangled and of so many piddling accounts, that of all mysteries he cannot skill to keep a stock going upon that trade. What should he do? Fain he would have the name to be religious, fain he would bear up with his neighbors in that. What does he therefore, but resolves to give over toiling, and to find himself out some factor, to whose care and credit he may commit the whole managing of his religious affairs; some divine of note and estimation that must be. To him he adheres, resigns the whole warehouse of his religion, with all the locks and keys, into his custody, and indeed makes the very person of that man his religion; esteems his associating with him a sufficient evidence and commendatory of his own piety. So that a man may say his religion is now no more within himself, but is become a dividual movable, and goes and comes near him according as that good man frequents the house. He entertains him, gives him gifts, feasts him, lodges him; his religion comes home at night, prays, is liberally supped, and sumptuously laid to sleep; rises, is saluted, and after the malmsey, or some well-spiced bruage, and better breakfasted than He whose morning appetite would have gladly fed on green figs between Bethany and Jerusalem, his religion walks abroad at eight and leaves his kind entertainer in the shop trading all day without his religion.

Another sort there be who when they hear that all things shall be ordered, all things regulated and settled, nothing written but what passes through the custom-house of certain publicans that have the tonnage and poundage of all free-spoken truth; will straight give themselves up into your hands, make them and cut them out what religion ye please: there be delights, there be recreations and jolly pastimes, that will fetch the day about from sun to sun and rock the tedious year as in a delightful dream. What need they torture their heads with that which others have taken so strictly and so unalterably into their own purveying? These are the fruits which a dull ease and cessation of our knowledge will bring forth among the people. How goodly and how to be wished were such an obedient unanimity as this! What a fine conformity would it starch us all into! Doubtless a staunch and solid piece of framework as any January could freeze together.

Nor much better will be the consequence even among the clergy themselves: it is no new thing never heard of before for a parochial minister, who has his reward and is at his Hercules' pillars in a warm benefice, to be easily inclinable, if he have nothing else that may rouse up his studies, to finish his circuit in an English concordance and a topic folio, the gatherings and savings of a sober graduateship, a Harmony and a Catena, treading the constant round of certain common doctrinal heads, attended with their uses, motives, marks, and means; out of which, as out of an alphabet or sol-fa, by forming and transforming, joining and disjoining variously, a little bookcraft and two hours' meditation might furnish him unspeakably to the performance of more than a weekly charge of sermoning; not to reckon up the infinite helps of inter-linearies, breviaries, synopses, and other loitering gear. But as for the multitude of sermons ready printed and piled up, on every text that is not difficult, our London trading St. Thomas in his vestry, and add to boot St. Martin and St. Hugh, have not within their hallowed limits more vendible ware of all sorts ready made; so that penury he never need fear of pulpit provision, having where so plenteously to refresh his magazine. But if his rear and flanks be not impaled, if his back door be not secured by the rigid licenser, but that a bold book may now and then issue forth and give the assault to some of his old collections in their trenches, it will concern him then to keep waking, to stand in watch, to set good guards and sentinels about his received opinions, to walk the round and counter-round with his fellow-inspectors, fearing lest any of his flock be seduced, who also then would be better instructed, better exercised and disciplined. And God fend that the fear of this diligence, which must then be used, do not make us affect the laziness of a licensing church.

For if we be sure we are in the right, and do not hold the truth guiltily, which becomes not, if we ourselves condemn not our own weak and frivolous teaching, and the people for an untaught and irreligious gadding rout; what can be more fair than when a man judicious, learned, and of a conscience, for aught we know, as good as theirs that taught us what we know, shall not privily from house to house, which is more dangerous, but openly by writing, publish to the world what his opinion is, what his reasons, and wherefore that which is now thought cannot be sound? Christ urged it as wherewith to justify himself, that he preached in public; yet writing is more public than preaching, and more easy to refutation if need be, there being so many whose business and profession merely it is to be the champions of truth; which if they neglect, what can be imputed but their sloth or inability?

Thus much we are hindered and disinured by this course of licensing toward the true knowledge of what we seem to know. For how much it hurts and hinders the licensors themselves in the calling of their ministry, more than any secular employment, if they will discharge that office as they ought, so that of necessity they must neglect either the one duty or the other, I insist not, because it is a particular, but leave it to their own conscience, how they will decide it there.

There is yet behind of what I purposed to lay open, the incredible loss and detriment that this plot of licensing puts us to. More than if some enemy at sea should stop up all our havens, and ports, and creeks, it hinders and retards the importation of our richest merchandise,—truth: nay, it was first established and put in practice by anti-Christian malice and mystery, on set purpose to extinguish, if it were possible, the light of reformation, and to settle falsehood; little differing from that policy wherewith the Turk upholds his Alcoran, by the prohibiting of printing. It is not denied, but gladly confessed, we are to send our thanks and vows to heaven louder than most of nations for that great measure of truth which we enjoy, especially in those main points between us and the Pope, with his appurtenances the prelates: but he who thinks we are to pitch our tent here, and have attained the utmost prospect of reformation that the mortal glass wherein we contemplate can shew us, till we come to beatific vision, that man by this very opinion declares that he is yet far short of truth.

Truth indeed came once into the world with her divine Master, and was a perfect shape most glorious to look on: but when He ascended, and his apostles after him were laid asleep, then straight arose a wicked race of deceivers, who, as that story goes of the Egyptian Typhon with his conspirators, how they dealt with the good Osiris, took the virgin Truth, hewed her lovely form into a thousand pieces, and scattered them to the four winds. From that time ever since, the sad friends of Truth, such as durst appear, imitating the careful search that Isis made for the mangled body of Osiris, went up and down gathering up limb by limb still as they could find them. We have not yet found them all, lords and commons, nor ever shall do, till her Master's second coming; he shall bring together every joint and member, and shall mould them into an immortal feature of loveliness and perfection. Suffer not these licensing prohibitions to stand at every place of opportunity forbidding and disturbing them that continue seeking, that continue to do our obsequies to the torn body of our martyred saint.

We boast our light; but if we look not wisely on the sun itself, it smites us into darkness. Who can discern those planets that are oft combust, and those stars of brightest magnitude that rise and set with the sun, until the opposite motion of their orbs bring them to such a place in the firmament, where they may be seen evening or morning? The light which we have gained was given us, not to be ever staring on, but by it to discover onward things more remote from our knowledge. It is not the unfrocking of a priest, the unmitring of a bishop, and the removing him from off the presbyterian shoulders, that will make us a happy nation: no; if other things as great in the church, and in the rule of life both economical and political, be not looked into and reformed, we have looked so long upon the blaze that Zuinglius and Calvin have beacons up to us, that we are stark blind.

There be who perpetually complain of schisms and sects, and make it such a calamity that any man dissents from their maxims. It is their own pride and ignorance which causes the disturbing, who neither will hear with meekness, nor can convince, yet all must be suppressed which is not found in their Syntagma. They are the troublers, they are the dividers of unity, who neglect and permit not others to unite those dis-severed pieces which are yet wanting to the body of Truth. To be still searching what we know not by what we know, still closing up truth to truth as we find it, (for all her body is homogeneal, and proportional,) this is the golden rule in the-

ology as well as in arithmetic, and makes up the best harmony in a church; not the forced and outward union of cold and neutral and inwardly divided minds.

Lords and commons of England, consider what nation it is whereof ye are, and whereof ye are the governors: a nation not slow and dull, but of a quick, ingenious, and piercing spirit, acute to invent, subtle and sinewy to discourse, not beneath the reach of any point the highest that human capacity can soar to. Therefore the studies of learning in her deepest sciences have been so ancient and so eminent among us, that writers of good antiquity and able judgment have been persuaded that even the school of Pythagoras, and the Persian wisdom, took beginning from the old philosophy of this island. And that wise and civil Roman, Julius Agricola, who governed once here for Cæsar, preferred the natural wits of Britain before the laboured studies of the French. Nor is it for nothing that the grave and frugal Transylvanian sends out yearly from as far as the mountainous borders of Russia, and beyond the Hercynian wilderness, not their youth, but their staid men, to learn our language and our theologic arts. Yet that which is above all this, the favour and the love of Heaven, we have great argument to think in a peculiar manner propitious and propending toward us. Why else was this nation chosen before any other, that out of her, as out of Sion, should be proclaimed and sounded forth the first tidings and trumpet of reformation to all Europe? And had it not been the obstinate perverseness of our prelates against the divine and admirable spirit of Wicklief, to suppress him as a schismatic and innovator, perhaps neither the Bohemian Husse and Jerome, no, nor the name of Luther or of Calvin, had been ever known: the glory of reforming all our neighbours had been completely ours. But now, as our obdurate clergy have with violence demeaned the matter, we are become hitherto the latest and the backwardest scholars of whom God offered to have made us the teachers.

Now, once again by all concurrence of signs and by the general instinct of holy and devout men as they daily and solemnly express their thoughts, God is decreeing to begin some new and great period in his church, even to the reforming of reformation itself; what does he then but reveal himself to his servants, and as his manner is, first to his Englishmen? I say, as his manner is, first to us, though we mark not the method of his counsels, and are unworthy. Behold now this vast city, a city of refuge, the mansion-house of liberty, encompassed and surrounded with his protection; the shop of war hath not there more anvils and hammers working, to fashion out the plates and instruments of armed justice in defence of beleaguered truth than there be pens and heads there, sitting by their studious lamps, musing, searching, revolving new notions and ideas wherewith to present, as with their homage and their fealty, the approaching reformation: others as fast reading, trying all things, assenting to the force of reason and conviction.

What could a man require more from a nation so pliant and so prone to seek after knowledge? What wants there to such a towardly and pregnant soil but wise and faithful labourers to make a knowing people, a nation of prophets, of sages, and of worthies? We reckon more than five months yet to harvest: there need not be five weeks; had we but eyes to lift up, the fields are white already. Where there is much desire to learn, there of necessity will be much arguing, much writing, many opinions; for opinion in good men is but knowledge in the making. Under these fantastic terrors of sect and schism we wrong the earnest and zealous thirst after knowledge and understanding which God hath stirred up in this city. What some lament of we rather should rejoice at, should rather praise this pious forwardness among men to reassume the ill-deputed care of their religion into their own hands again. A little generous prudence, a little forbearance of one another, and some grain of charity might win all these diligences to join and unite into one general and brotherly search after truth; could we but forego this prelatial tradition of crowding free consciences and Christian liberties into canons and precepts of men. I doubt not if some great and worthy stranger should come among us, wise to discern the mould and temper of a people, and how to govern it, observing the high hopes and aims, the diligent alacrity of our extended thoughts and reasonings in the pursuance of truth and freedom, but that he would cry out as Pyrrhus did, admiring the Roman docility and courage, "If such were my Epirots, I would not despair the greatest design that could be attempted to make a church or kingdom happy."

Yet these are the men cried out against for schismatics and sectaries, as if, while the temple of the Lord was building, some cutting, some squaring the marble, others hewing the cedars, there should be a sort of irrational men who could not consider there must be many schisms and many dissections made in the quarry and in the timber ere the house of God can be built. And

when every stone is laid artfully together, it cannot be united into a continuity, it can but be contiguous in this world: neither can every piece of the building be of one form; nay, rather the perfection consists in this, that out of many moderate varieties and brotherly dissimilarities that are not vastly disproportional arises the goodly and the graceful symmetry that commends the whole pile and structure.

Let us therefore be more considerate builders, more wise in spiritual architecture, when great reformation is expected. For now the time seems come, wherein Moses, the great prophet, may sit in heaven rejoicing to see that memorable and glorious wish of his fulfilled, when not only our seventy elders but all the Lord's people are become prophets. No marvel then though some men, and some good men too perhaps, but young in goodness, as Joshua then was, envy them. They fret, and out of their own weakness are in agony, lest these divisions and subdivisions will undo us. The adversary again applauds, and waits the hour: when they have branched themselves out, saith he, small enough into parties and partitions, then will be our time. Fool! he sees not the firm root, out of which we all grow, though into branches; nor will beware, until he see our small divided manacles cutting through at every angle of his ill-united and unwieldy brigade. And that we are to hope better of all these supposed sects and schisms, and that we shall not need that solicitude, honest perhaps, though overtimorous, of them that vex in this behalf, but shall laugh in the end at those malicious applauders of our differences, I have these reasons to persuade me.

First, when a city shall be as it were besieged and blocked about, her navigable river infested, inroads and incursions round, defiance and battle oft rumoured to be marching up even to her wall and suburb trenches; that when the people, or the greater part, more than at other times, wholly taken up with the study of highest and most important matters to be reformed, should be disputing, reasoning, reading, inventing, discoursing, even to a rarity and admiration, things not before discoursed or written of, argues first a singular good will, contentedness, and confidence in your prudent foresight, and safe government, lords and commons; and from thence derives itself to a gallant bravery and well-grounded contempt of their enemies, as if there were no small number of as great spirits among us as his was who, when Rome was nigh besieged by Hannibal, being in the city, bought that piece of ground at no cheap rate whereon Hannibal himself encamped his own regiment.

Next, it is a lively and cheerful presage of our happy success and victory. For as in a body when the blood is fresh, the spirits pure and vigorous, not only to vital but to rational faculties, and those in the acutest and the periest operations of wit and subtlety, it argues in what good plight and constitution the body is; so when the cheerfulness of the people is so sprightly up, as that it has not only wherewith to guard well its own freedom and safety, but to spare, and to bestow upon the solidest and sublimest points of controversy and new invention, it betokens us not degenerated, nor drooping to a fatal decay, but casting off the old and wrinkled skin of corruption to outlive these pangs, and wax young again, entering the glorious ways of truth and prosperous virtue, destined to become great and honourable in these latter ages. Methinks I see in my mind a noble and puissant nation rousing herself like a strong man after sleep, and shaking her invincible locks. Methinks I see her as an eagle mewing her mighty youth, and kindling her undazzled eyes at the full midday beam, purging and unscaling her long-abused sight at the fountain itself of heavenly radiance; while the whole noise of timorous and flocking birds, with those also that love the twilight, flutter about, amazed at what she means, and in their envious gabble would prognosticate a year of sects and schisms.

What should ye do then, should ye suppress all this flowery crop of knowledge and new light sprung up and yet springing daily in this city, should ye set an oligarchy of twenty engrossers over it, to bring a famine upon our minds again, when we shall know nothing but what is measured to us by their bushel? Believe it, lords and commons, they who counsel ye to such a suppressing do as good as bid ye suppress yourselves; and I will soon shew how. If it be desired to know the immediate cause of all this free writing and free speaking, there cannot be assigned a truer than your own mild and free and humane government; it is the liberty, lords and commons, which your own valorous and happy counsels have purchased us; liberty which is the nurse of all great wits; this is that which hath rarified and enlightened our spirits like the influence of heaven; this is that which hath enfranchised, enlarged, and lifted up our apprehensions degrees above themselves. Ye can not make us now less capable, less knowing, less eagerly pursuing of the truth, unless ye first make yourselves, that made us so, less the

lovers, less the founders of our true liberty. We can grow ignorant again, brutish, formal, and slavish, as ye found us; but you then must first become that which ye cannot be, oppressive, arbitrary, and tyrannous, as they were from whom ye have freed us. That our hearts are now more capacious, our thoughts more erected to the search and expectation of greatest and exactest things, is the issue of your own virtue propagated in us; ye cannot suppress that, unless ye reinforce an abrogated and merciless law, that fathers may dispatch at will their own children. And who shall then stick closest to ye and excite others? Not he who takes up arms for coat and conduct (taxation for the clothing and conveyance of troops), and his four nobles of Danegelt. Although I dispraise not the defence of just immunities, yet love my peace better, if that were all. Give me the liberty to know, to utter, and to argue freely according to conscience, above all liberties.

What would be best advised then, if it be found so hurtful and so unequal to suppress opinions for the newness or the unsuitableness to a customary acceptance, will not be my task to say; I shall only repeat what I have learned from one of your own honourable number, a right noble and pious lord, who had he not sacrificed his life and fortunes to the church and commonwealth, we had not now missed and bewailed a worthy and undoubted patron of this argument. Ye know him, I am sure; yet I for honour's sake, and may it be eternal to him, shall name him, the Lord Brook. He writing of episcopacy, and by the way treating of sects and schisms, left ye his vote, or rather now the last words of his dying charge, which I know will ever be of dear and honoured regard with ye, so full of meekness and breathing charity, that next to His last testament, who bequeathed love and peace to his disciples, I cannot call to mind where I have read or heard words more mild and peaceful. He there exhorts us to hear with patience and humility those, however they be mis-called, that desire to live purely in such a use of God's ordinances as the best guidance of their conscience gives them, and to tolerate them, though in some conformity to ourselves. The book itself will tell us more at large, being published to the world and dedicated to the parliament by him who both for his life and for his death deserves that what advice he left be not laid by without perusal.

And now the time in special is by privilege to write and speak what may help to the further discussing of matters in agitation. The temple of Janus, with his two controversial faces, might now not insignificantly be set open. And though all the winds of doctrine were let loose to play upon the earth, so Truth be in the field, we do injuriously by licensing and prohibiting to misdoubt her strength. Let her and Falsehood grapple; who ever knew Truth put to the worse in a free and open encounter? Her confuting is the best and surest suppressing. He who hears what praying there is for light and clear knowledge to be sent down among us would think of other matters to be constituted beyond the discipline of Geneva, framed and fabricated already to our hands.

Yet when the new light which we beg for shines in upon us, there be those who envy and oppose, if it come not first in at their casements. What a collusion is this, whenas we are exhorted by the wise men to use diligence, "to seek for wisdom as for hidden treasures," early and late, that another order shall enjoin us to know nothing but by statute? When a man hath been labouring the hardest labour in the deep mines of knowledge, hath furnished out his findings in all their equipage, drawn forth his reasons as it were a battle ranged, scattered and defeated all objections in his way, calls out his adversary into the plain, offers him the advantage of wind and sun, if he please, only that he may try the matter by dint of argument; for his opponents then to skulk, to lay ambushments, to keep a narrow bridge of licensing where the challenger should pass, though it be valour enough in soldiership, is but weakness and cowardice in the wars of truth. For who knows not that truth is strong, next to the Almighty; she needs no policies, nor stratagems, nor licensings to make her victorious; those are the shifts and the defences that error uses against her power; give her but room, and do not bind her when she sleeps, for then she speaks not true, as the old Proteus did, who spoke oracles only when he was caught and bound, but then rather she turns herself into all shapes except her own, and perhaps tunes her voice according to the time, as Micaiah did before Ahab, until she be adjured into her own likeness.

Yet is it not impossible that she may have more shapes than one. What else is all that rank of things indifferent, wherein truth may be on this side or on the other without being unlike herself? What but a vain shadow else is the abolition of "those ordinances, that hand-writing nailed to the cross," what great purchase is this Christian liberty which Paul so often boasts of? His doctrine is that he who eats or eats not, regards a day or

regards it not, may do either, to the Lord. How many other things might be tolerated in peace and left to conscience, had we but charity, and were it not the chief stronghold of our hypocrisy to be ever judging one another? I fear yet this iron yoke of outward conformity hath left a slavish print upon our necks; the ghost of a linen decency yet haunts us. We stumble, and are impatient at the least dividing of one visible congregation from another, though it be not in fundamentals; and through our forwardness to suppress and our backwardness to recover any enthralled piece of truth out of the gripe of custom we care not to keep truth separated from truth, which is the fiercest rent and disunion of all. We do not see that while we still affect by all means a rigid external formality, we may as soon fall again into a gross conforming stupidity, a stark and dead congelment of "wood and hay and stubble" forced and frozen together, which is more to the sudden degenerating of a church than many sub-dichotomies of petty schisms.

Not that I can think well of every light separation; or that all in a church is to be expected "gold and silver and precious stones"; it is not possible for man to sever the wheat from the tares, the good fish from the other fry; that must be the angels' ministry at the end of mortal things. Yet if all cannot be of one mind, as who looks they should be? this doubtless is more wholesome, more prudent, and more Christian, that many be tolerated rather than all compelled. I mean not tolerated popery, and open superstition, which as it extirpates all religions and civil supremacies, so itself should be extirpated, provided first that all charitable and compassionate means be used to win and regain the weak and the misled: that also which is impious or evil absolutely either against faith or manners no law can possibly permit that intends not to unlaw itself; but those neighbouring differences, or rather indifferences, are what I speak of, whether in some point of doctrine or of discipline, which though they may be many, yet need not interrupt the unity of spirit, if we could but find among us the bond of peace.

In the meanwhile, if anyone would write, and bring his helpful hand to the slow-moving reformation which we labor under, if truth have spoken to him before others, or but seemed at least to speak, who hath so bejesuited us that we should trouble that man with asking licence to do so worthy a deed? and not consider this, that if it come to prohibiting, there is not aught more likely to be prohibited than truth itself: whose first appearance to our eyes, bleared and dimmed with prejudice and custom, is more unsightly and unpalatable than many errors; even as the person is of many a great man slight and contemptible to see to. And what do they tell us vainly of new opinions, when this very opinion of theirs, that none must be heard but whom they like, is the worst and newest opinion of all others; and is the chief cause why sects and schisms do so much abound, and true knowledge is kept at distance from us? Besides yet a greater danger which is in it: for when God shakes a kingdom with strong and healthful commotions to a general reforming, it is not untrue that many sectaries and false teachers are then busiest in seducing; but yet more true it is that God then raises to his own work men of rare abilities and more than common industry, not only to look back and revive what hath been taught heretofore, but to gain further, and to go on some new enlightened steps in the discovery of truth. For such is the order of God's enlightening his church, to dispense and deal out by degrees his beam, so as our earthly eyes may best sustain it. Neither is God appointed and confined, where and out of which place these his chosen shall be first heard to speak; for he sees not as man sees, chooses not as man chooses, lest we should devote ourselves again to set places and assemblies, and outward callings of men; planting our faith one while in the old convocation house, and another while in the chapel at Westminster; when all the faith and religion that shall be there canonized is not sufficient without plain conviction, and the charity of patient instruction, to supple the least bruise of conscience, to edify the meanest Christian who desires to walk in the spirit, and not in the letter of human trust, for all the number of voices that can be there made; no, though Harry the Seventh himself there, with all his liege tombs about him, should lend them voices from the dead to swell their number.

And if the men be erroneous who appear to be the leading schismatics, what withholds us but our sloth, our self-will, and distrust in the right cause, that we do not give them gentle meetings and gentle dismissions, that we debate not and examine the matter thoroughly with liberal and frequent audience; if not for their sakes yet for our own? Seeing no man who hath tasted learning, but will confess the many ways of profiting by those who, not contented with stale receipts, are able to manage and set forth new positions to the world. And were they but as the dust and cinders of our feet, so long as in that notion

they may yet serve to polish and brighten the armoury of truth, even for that respect they were not utterly to be cast away. But if they be of those whom God hath fitted for the special use of these times with eminent and ample gifts, and those perhaps neither among the priests nor among the pharisees, and we, in the haste of a precipitant zeal, shall make no distinction, but resolve to stop their mouths, because we fear they come with new and dangerous opinions, as we commonly forejudge them ere we understand them; no less than woe to us, while, thinking thus to defend the gospel, we are found the persecutors!

There have been not a few since the beginning of this parliament, both of the presbytery and others, who by their unlicensed books to the contempt of an imprimatur first broke that triple ice clung about our hearts, and taught the people to see day; I hope that none of those were the persuaders to renew upon us this bondage which they themselves have wrought so much good by contemning. But if neither the check that Moses gave to young Joshua, nor the countermand which our Saviour gave to young John, who was so ready to prohibit those whom he thought unlicensed, be not enough to admonish our elders how unacceptable to God their testy mood of prohibiting is; if neither their own remembrance what evil hath abounded in the church by this lett of licensing, and what good they themselves have begun by transgressing it, be not enough, but that they will persuade and execute the most Dominican part of the inquisition over us, and are already with one foot in the stirrup so active at suppressing, it would be no unequal distribution in the first place to suppress the suppressors themselves; whom the change of their condition hath puffed up, more than their late experience of harder times hath made wise.

And as for regulating the press, let no man think to have the honour of advising ye better than yourselves have done in that order published next before this, "That no book be printed, unless the printer's and the author's name, or at least the printer's, be registered." Those which otherwise come forth, if they be found mischievous and libelous, the fire and the executioner will be the timeliest and the most effectual remedy that man's prevention can use. For this authentic Spanish policy of licensing books, if I have said aught, will prove the most unlicensed book itself within a short while; and was the immediate image of a star-chamber decree to that purpose made in those times when that court did the rest of those her pious works, for which she is now fallen from the stars with Lucifer. Whereby ye may guess what kind of state prudence, what love of the people, what care of religion or good manners there was at the contriving, although with singular hypocrisy it pretended to bind books to their good behaviour. And how it got the upper hand of your precedent order so well constituted before, if we may believe those men whose profession gives them cause to inquire most, it may be doubted there was in it the fraud of some old patentees and monopolizers in the trade of book-selling; who, under pretence of the poor in their company not to be defrauded, and the just retaining of each man his several copy, (which God forbid should be gainsaid,) brought divers glossing colours to the House, which were indeed but colours, and serving to no end except it be to exercise a superiority over their neighbours; men who do not therefore labour in an honest profession, to which learning is indebted, that they should be made other men's vassals. Another end is thought was aimed at by some of them in procuring by petition this order, that having power in their hands, malignant books might the easier escape abroad, as the event shews. But of these sophisms and clenches of merchandise I skill not: this I know, that errors in a good government and in a bad are equally almost incident; for what magistrate may not be misinformed, and much the sooner, if liberty of printing be reduced into the power of a few? But to redress willingly and speedily what hath been erred, and in highest authority to esteem a plain advertisement more than others have done a sumptuous bribe, is a virtue, honoured lords and commons, answerable to your highest actions, and whereof none can participate but greatest and wisest men.

Mr. WOOD of Indiana. Mr. Speaker, I offer a substitute for the amendment.

The SPEAKER. The gentleman from Indiana offers a substitute for the Crosser amendment, which the Clerk will report.

The Clerk read as follows:

Amendment by Mr. WOOD of Indiana: Page 60, line 9, after the word "or," strike out the word "anarchistic" and insert the word "seditions."

Mr. WOOD of Indiana. Mr. Speaker, it strikes me that the committee are unfortunate in using the word that they have used. If I am correctly informed we already have a law with reference to prohibiting anarchistic matter going through the mail. If there is not such a law, it should be passed as an inde-

pendent statute. I think the word "anarchistic" is foreign to the subject matter that we are now considering.

Mr. WEBB. Can the gentleman tell us where we can find the law prohibiting anarchistic matter going through the mails?

Mr. WOOD of Indiana. I may be mistaken about it.

Mr. WEBB. I think the gentleman is mistaken.

Mr. WOOD of Indiana. If there is not such a law, there should be. I do not think the word "anarchistic," as it is used here, will accomplish the purpose desired, while the word "seditious" would.

Bouvier has defined sedition. It is the raising of commotions or disturbances in the State. It is a revolt against legitimate authority. As I understand it, it is the purpose of this bill, in the first place, to reach those things which are treasonable, and, second, to reach things which are not treasonable but which are for the purpose of disturbing the peace, which are for the purpose of creating commotion in the State. Sedition has been well defined in this country, and it has a fixed place in the law of this country, while "anarchistic" has not. We might have as many different ideas with reference to what constitutes anarchy as there are individuals in this House. As has been referred to by one of the gentlemen in this debate, Tolstoy is recognized as one of the greatest philosophical anarchists that the world has ever produced, but I do not think there is anyone who will say that the teachings of Tolstoy should be excluded from the mails.

Mr. TOWNER. Mr. Speaker, will the gentleman yield?

Mr. WOOD of Indiana. I will.

Mr. TOWNER. I would like to ask the gentleman if his attention has been called to the definition of anarchist as given in the immigration law, and if he does not think that the same definition, placed in this section as the official statutory definition, would be clear? This is the definition given in the immigration law. Among those who are prohibited from coming to this country are—

Anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States, or of all forms of law, or who disbelieve in or are opposed to organized government, or who advocate the assassination of public officials, or who advocate or teach the unlawful destruction of property.

Does not the gentleman think that with that official statutory definition attached to the word "anarchist" it would be what is intended in this statute?

Mr. WOOD of Indiana. That might be, if the two statutes were to be construed together. But I think this statute should be complete within itself, and I repeat that it is the purpose of this law, if it can be done, to inflict punishment upon those who are guilty of a lesser crime than treason. It is for the purpose of reaching those whose writings, as well as whose deeds, have a tendency to create disturbances in the community, have a tendency to attack and destroy the loyal and patriotic feelings and influences of people throughout the country.

Mr. GORDON. Does not the gentleman think the word "seditious" is a pretty broad and elastic term?

Mr. WOOD of Indiana. It is a pretty broad and elastic term.

Mr. GORDON. Would you consider the Declaration of Independence a seditious document?

Mr. WOOD of Indiana. No; I do not.

Mr. GORDON. It advocates the destruction of the British Government, and asserts the right of any people to overthrow a government whenever it becomes oppressive.

Mr. WOOD of Indiana. Had the cause of the colonists failed, no doubt England would have punished the authors of that document for sedition. The reason I am insisting upon the word "seditious" is because of the fact that it has a well-defined meaning. There is no well-defined meaning in the law for the word "anarchistic." There would be no doubt as to what would be inhibited by this section. There would be great confusion until the thing was determined in a court of last resort, if this word undefined is used, and I dare say that with reference to each individual case there would be the question of whether or not that particular thing was or was not anarchy; while anything that has a tendency to disturb the peace of the State or has a tendency to create undue commotion among the people against the interests of the State in time of war has been held to be sedition, and it seems to me that the word "seditious" would accomplish fully the purposes of the measure while the word "anarchistic" does not.

Mr. VENABLE. Mr. Speaker, I am opposed to the amendment offered by the gentleman from Indiana, as I am opposed to the language of this section as it exists and favor rather the amendment of the gentleman from Ohio. If society is to make any progress at all there certainly must be granted to the members of society the privileges and right of persuading their

fellows that the course they are following is wrong and to persuade them to follow another and better course. To say that a man shall not have the right to advocate reforms and changes is based on the assumption that the present existing order of things is absolutely right and correct. One age discovers errors in the preceding age and makes improvements. The history of the world is the history of progress, the casting aside by succeeding generations of the things held most sacred by the preceding one.

So I think men should have the right to advocate those principles which they believe to be for the best interest of society. However, I do not believe that they have a right to bring about changes by violence or force, but through persuasion alone. In other words, I think the right consists in the right to persuade one's fellows and not to coerce one's fellows. So, if that principle be correct, it seems to me it furnishes a criterion by which this legislation ought to be drawn.

The trouble with the bill as introduced, it seems to me, with all due deference and respect to the able gentlemen on the committee, and with the amendment offered by the gentleman from Indiana, is that it deals with names and not with definitions of the acts. A name is an empty bucket into which anything can be poured, and having poured it in, you can take it out again. We talk about sedition and anarchy, but before you can enforce the law it is necessary for the administrative officer to define according to his own satisfaction what is meant by sedition and what is meant by anarchy.

I favor the amendment as drawn by the gentleman from Ohio [Mr. CROSSER] because there are defined the acts which are prohibited. If this amendment is adopted to permit the section defining things and naming things which can not be done and which are condemned, we permit men to advocate the things they believe in and exercise their right to persuade the people by appeals to reason and argument.

Mr. FESS. Will the gentleman yield?

Mr. VENABLE. Yes.

Mr. FESS. In the opinion of the gentleman, does the amendment of the gentleman from Ohio give us what the committee wants to put in the law?

Mr. VENABLE. I do not think so. I do not think it is complete. For instance, "advocating overthrowing the Government by violence." We had a circular read by a gentleman in which it was advocated that soldiers should not enlist and should not fight. I think the man who advocates the doctrine that a soldier should not fight, although the soldier be a passive one, is advocating a thing which is wrong.

Mr. FESS. Is that anarchistic under this term?

Mr. VENABLE. Nobody knows what an administrative officer would bring under that term; it might be anarchistic according to my idea and not according to the ideas of another man. That is the point I am making, that we should not deal with names but ought to define the things which are prohibited.

Mr. LENROOT. Would not the court determine that rather than the administrative officer, and is not sedition as well defined in law as the word treason?

Mr. VENABLE. Hardly so well.

Mr. HARDY. Will the gentleman yield?

Mr. VENABLE. Yes.

Mr. HARDY. In regard to the amendment offered by the gentleman from Ohio [Mr. CROSSER], would it not cover all the committee's amendment if it added to it the use of violence for the overthrow of government or the resistance to the Government?

Mr. CROSSER. Or injury to. That is my amendment.

Mr. VENABLE. The gentleman from Wisconsin asked me in regard to sedition and whether or not it was not as well defined as treason. Assuming that your position be correct, that it is as well defined as treason, I do not think that we should deal with names, because we ought to have certain fixed standards by which the postal authorities could apply the test, and not have a long course of legal procedure in the courts as to whether or not the postmaster was justified in his interpretation.

Mr. STAFFORD. Mr. Speaker, I rise to remove from the mind of any Member here the belief that if we adopt this phraseology as it stands the courts will have authority to pass upon the acts of the Postmaster General in construing his action. In the debate the chairman of the committee justified this provision of allowing the word "anarchistic" to remain by saying that there was the palladium of the court still to be had in case it was abused. I challenge that statement. I have before me the decision of the United States Supreme Court in *Bates & Guilds Co. v. Payne* (194 U. S., p. 106), from which I will read a few excerpts.

In that decision, rendered by Justice Brown, he cites some extracts from former decisions of the Supreme Court, and among others *Gaines v. Thompson* (7 Wallace, 347), as follows:

It was held that the court could no more interfere by injunction than by mandamus to control the action of the head of a department; and in the United States *ex rel. Dunlap v. Black*, 128 U. S., 40, it was said that the courts would not interfere by mandamus with executive officers of the Government in the exercise of their ordinary official duties even where those duties require an interpretation of the law, no appellate power being given them for that purpose.

And then he goes on and uses language which is all-controlling of the question of whether or not the courts have any power over the decision of the heads of departments—as where Congress would vest in the Postmaster General the power to determine with his own *ipsi dixit* what is anarchistic and what may be excluded from the mails.

The rule upon this subject may be summarized as follows: That where the decision of questions of fact is committed by Congress to the judgment and discretion of the head of a department his decision thereon is conclusive; and that even upon mixed questions of law and fact, or of law alone, his decision will carry with it a strong presumption of its correctness, and the courts will not ordinarily review it, although they may have the power and will occasionally exercise the right of so doing.

So I say to the Members of the House that in the stress of war we should not confer upon any executive authority such absolute power that he may exercise it to the detriment of the people in the use of the mails or in the exercise of the privilege of the press. There is no occasion for us now to confer upon the Postmaster General this authority that would enable him to exercise such power. We have never heretofore, in war times or in peace times, conferred such autocratic power upon the Postmaster General. We should not now vest this power in him which can not be reviewed in any way by the courts.

Mr. WEBB. Mr. Speaker, will the gentleman yield?

Mr. STAFFORD. Certainly.

Mr. WEBB. I think my friend has missed the whole meaning of this section. The decision he is reading from is under a case where the Congress already had given the Postmaster General discretionary power, and the courts said they would not intervene by injunction or mandamus to control that discretion, and that is exactly what we struck out in committee. We eliminated the idea of giving the Postmaster General authority to exclude anything from the mails and have made it a question of law and fact left for the court to decide.

Mr. STAFFORD. There is nothing in the amendment which gives the court any power, and here is a decision of Mr. Justice Brown which says the courts will not interfere by mandamus or injunction in that way with the exercise by the head of the department in the construction of the law in the case where Congress gives authority to the executive head to act.

Mr. WEBB. They were interpreting an entirely different statute from the one that is now before us.

The SPEAKER pro tempore. The question is on the substitute offered by the gentleman from Indiana to the amendment offered by the gentleman from Ohio.

The substitute was rejected.

The SPEAKER pro tempore. The question now is on agreeing to the amendment offered by the gentleman from Ohio.

The amendment was agreed to.

The Clerk read as follows:

SEC. 1101. Whoever uses or attempts to use the mails or Postal Service of the United States for the transmission of any matter declared by this title to be nonmailable shall be fined not more than \$5,000 or imprisoned not more than five years, or both. Any person violating any provision of this title may be tried and punished either in the district in which the unlawful matter was mailed or to which it was carried by mail for delivery according to the direction thereon, or in which it was caused to be delivered by mail to the person to whom it was addressed.

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

The Clerk read as follows:

Amendment by Mr. MASON: Amend by striking out all of section 1101 after the word "both" in line 16.

Mr. MANN. Mr. Speaker, will the gentleman yield to me before he takes the floor?

Mr. MASON. Certainly.

Mr. MANN. I just wanted to ask the gentleman if he knew that this was the exact language of the existing law which forbids lottery-ticket schemes and various things of that kind?

Mr. MASON. Mr. Speaker, I know that it has been the practice, and the court has upheld the practice in some cases, but I have made up my mind to make the first effort I could to amend the law so that a man charged with a crime shall be tried in the district where he resides or where the crime was committed. In this particular case, if a man should send out a circular which went to half of the post offices in the country

he could be tried under the section in any locality, it makes no difference how far from his home, and the practice that has grown up in the country whereby a man may be charged with a crime against the Government of the United States and be hauled from one end of this country to the other for trial, away from home, away from neighbors, away from opportunity to give bond or bail, is really a great hardship. I feel that by striking this out in this act we can go at least that far. I do not know, however, that it would repeal the existing law in regard to lotteries. I think it would make this law so that a man could be tried and insist upon trial in the district where he is indicted and where the crime is committed.

Mr. WEBB. Mr. Speaker, I hope the amendment will not be adopted. This amendment, as has been pointed out by the gentleman from Illinois [Mr. MANN], is a verbatim copy of the language with reference to the place of trial as contained in the criminal laws of the country, United States Statutes at Large, chapter 2, section 213, and I do not think it is wise at this time, especially in view of the crimes we are denouncing in this section, to change the law with regard to the place of trial.

Mr. COX. Mr. Speaker, will the gentleman yield?

Mr. WEBB. Yes.

Mr. COX. The language in the bill is identical with the language in the so-called Reed bone-dry amendment, adopted at the last session of Congress, is it not?

Mr. WEBB. Yes.

The SPEAKER pro tempore. The question is on agreeing to the amendment offered by the gentleman from Illinois.

The amendment was rejected.

Mr. MANN. Mr. Speaker, will the gentleman from North Carolina [Mr. WEBB] yield to me for a moment?

Mr. WEBB. With pleasure.

Mr. MANN. I do not know whether there are any other amendments which gentlemen desire to offer to other sections of the bill or not?

Mr. LAGUARDIA. Mr. Speaker, I have an amendment which I desire to offer to section 13, on page 46.

Mr. MANN. That is section 509?

Mr. LAGUARDIA. Yes.

Mr. MANN. Is there any other amendment?

Mr. GRAHAM of Pennsylvania. I have two amendments, one on page 53, section 704, and one on page 57, section 1000.

Mr. RANDALL. Mr. Speaker—

The SPEAKER pro tempore. For what purpose does the gentleman rise?

Mr. RANDALL. To offer an amendment.

Mr. MANN. To what section?

Mr. RANDALL. As an additional title.

Mr. WEBB. Will my friend wait until we perfect this part of the bill?

Mr. RANDALL. I will.

Mr. MANN. Mr. Speaker, the only amendments desired to be offered are to sections 509, 704, and 1000. I suggest to the gentleman from North Carolina that he ask unanimous consent—how much time is desired for debate?

Mr. GRAHAM of Pennsylvania. I do not desire any debate upon one amendment except to state it, and the other one I might possibly wish five minutes.

Mr. LAGUARDIA. I want five minutes.

Mr. MANN. Would 10 minutes on each of these amendments be sufficient? I suggest to the gentleman from North Carolina that he ask unanimous consent that amendments be offered to sections 509, 704, and 1000 and that debate be limited to 10 minutes on each section and all amendments thereto.

Mr. WEBB. Mr. Speaker, if that is agreeable to the House—I hope it is—and if we can close up this bill this afternoon I will be gratified.

Mr. MANN. I hope we can, but if we can not we still have to-morrow.

Mr. WEBB. I understand; but I think the House is anxious to get through.

The SPEAKER pro tempore. The gentleman from North Carolina asks unanimous consent that debate upon all amendments to be offered to be limited to sections 509—

Mr. MANN. Amendments to be offered to sections 509, 704, and 1000 and debate be limited to 10 minutes on each section and all amendments.

The SPEAKER pro tempore. The gentleman from North Carolina asks unanimous consent that amendments be offered to sections 509, 704, and 1000 and that debate upon said amendments be limited to 10 minutes on each section and all amendments. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Mr. LAGUARDIA. Mr. Speaker, I offer an amendment to section 509.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows :

Amendment offered by Mr. LAGUARDIA: Page 46, strike out all of section 13 under section 509, pages 46 and 47.

Mr. LAGUARDIA. Mr. Speaker, this amendment adds to the existing statute the words in line 21, page 46, "or furnishes the money for or takes part in"; in line 22 adds the words "or naval." The statute as it exists is sufficient to cover any act that may be committed in violation of the actual neutrality of this country. The words "or furnishes money for" are absolutely dangerous and must have been inserted at the request of some foreign government. If this section had existed for the past five years or for the past nine years the Republic of Portugal would never have seen light, and the hopes of the Russian people would not have been realized. Now, under this section any person sending \$100 or any sum of money to Ireland to contribute there to the cause is a felon and liable to imprisonment. If a Bohemian sends money home for the purpose of establishing schools to further the cause of their freedom, he commits a crime under this section. And the same is true of the southern Slavs. There are Serbia, Montenegro, Bosnia, Herzegovina, Croatia, Slavonia, and Dalmatia, where they have endeavored for years to unite in a confederation, and they have been kept apart by the intrigues of Hapsburg politics. Now the time is approaching when they can realize their hopes, and if you prevent them from getting together here and collecting funds, so as to assist their brethren across the seas, we will absolutely play right into the hands of the Hapsburgs. Hungary, with the aid of her former oppressed subjects now residing in this country, could declare herself free and independent.

Mr. BORLAND. Will the gentleman yield?

Mr. LAGUARDIA. Certainly.

Mr. BORLAND. As I read this section, the word "thence," in line 23, makes it clear that the expedition must proceed from the United States or its possessions.

Mr. LAGUARDIA. And the money.

Mr. BORLAND. Not the money, but the expedition.

Mr. LAGUARDIA. And the money.

Mr. BORLAND. If I am correct about that—

Mr. LAGUARDIA. It is my interpretation that the money sent from here violates the statute.

Mr. BORLAND. But the money is to be used in an expedition to be sent from the United States or its possessions to some country with which the United States is at peace.

Mr. LAGUARDIA. It is true.

Mr. BORLAND. But does not forbid the sending of money from here to some other country.

Mr. LAGUARDIA. Then the statute covers the situation, if the contention of the gentleman from Missouri is correct, and this language is not necessary. Therefore I urge the gentleman from Missouri to assist me in putting through this amendment.

Mr. WEBB. The chief change is having the words "or naval." Every country in the world has such a statute, and we ought to preserve our neutrality in time of peace. I hope the amendment will be voted down.

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

The amendment was rejected.

Mr. GRAHAM of Pennsylvania. Mr. Speaker, I offer an amendment.

The SPEAKER pro tempore. The gentleman from Pennsylvania offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. GRAHAM of Pennsylvania: Strike out on page 53 all after the word "peace" in line 14, all of lines 15 and 16, and all preceding the word "and" in line 17, and insert "and if such injury or destruction would constitute a crime punishable by imprisonment under the laws of the United States."

Mr. GRAHAM of Pennsylvania. Mr. Speaker, the lines which I asked the House to strike out read as follows:

and if such injury or destruction would constitute a crime punishable by imprisonment under the laws of the country in which the property is situated.

This section is a section designed to punish a conspiracy to destroy property in a foreign country. Now, that would require the citizen of this country to be familiar with the laws of the foreign country, which is an anomaly in criminal legislation. The words which are sought to be substituted would make it read:

and if such injury or destruction would constitute a crime punishable by imprisonment under the laws of the United States.

And in preserving neutrality no higher standard ought to be asked from us than that the offense defined would be punishable under the laws of the United States if done against property in our own country.

Mr. WEBB. I have no objection to striking out the language the gentleman has indicated, but I do not think it is necessary to add the language he wants to substitute. We put the language he wants stricken out of the bill in the bill for the protection of a man indicted in this country. I have no objection to striking that language out, but I do not think we should insert the language that he proposes.

Mr. MANN. What is the objection to putting that language in?

Mr. WEBB. We make the conspiracy to commit a crime in a foreign country dependent upon whether it is a crime there.

Mr. MANN. We want to punish a conspiracy here to destroy property abroad; but we do not want to punish that conspiracy, as you call it, unless it would be a crime to destroy the same kind of property here.

Mr. WEBB. Suppose it is not a crime to destroy the same kind of property in a foreign country?

Mr. MANN. That does not make any difference.

Mr. WEBB. That is what we want to protect.

Mr. MANN. And you want the man in the United States to know all the criminal laws in the world. It is hard enough to know our own.

Mr. WEBB. We do not want to punish him for committing a crime unless the crime committed against a foreign country is a crime there.

Mr. MANN. A man is supposed to know whether he is going to commit a crime or not. Crimes are not supposed to be accidental, and the man who could not know what the law is ought not to be punished for crime. Now, we theoretically require all men at their own risk to know the laws of the United States, but there is no reason why we should make them know the law of a back Province in China.

Mr. WEBB. If this language is stricken out, then I think it is idle to put in the language suggested by the gentleman from Pennsylvania [Mr. GRAHAM], because every conspiracy to destroy property in the United States belonging to the United States Government of course is a crime. What is the object of putting it in?

Mr. GRAHAM of Pennsylvania. I do not think so. The gentleman is clearly mistaken about it.

Mr. MANN. Then there is no harm in putting it in. It takes the place of what the gentleman had.

Mr. WEBB. I do not think it makes any difference, one way or the other.

Mr. SISSON. If the gentleman will yield, I wish to say that unless you adopt the amendment of the gentleman from Pennsylvania, would you not virtually embody in this statute the law of every foreign nation on earth and put us in the attitude of enforcing the laws of every foreign nation on earth, however oppressive they might be?

Mr. WEBB. Certainly not. We provide the punishment. We provide the punishment, depending, however, on whether or not the conspiracy was to commit an offense in a foreign country—something which is an offense there.

Mr. SISSON. That is, you are to enforce a law of a foreign country by means of our instrumentalities here?

Mr. WEBB. No. We do not propose to have any conspiracies hatched in this country to be carried out in a foreign country if it is a crime there. If it is not a crime there, we have nothing to do with it here.

Mr. SISSON. You are attempting to enforce the laws of a foreign country by an instrumentality here?

Mr. WEBB. Oh, no.

Mr. SISSON. And as to every statute which makes it a crime in that way you put it in here to enforce that statute.

Mr. WEBB. No; we forbid a conspiracy in this country to destroy property in a foreign country with which we are at peace if that destruction of property in a foreign country is a crime there. If not, it is not punished here.

Mr. SIEGEL. Mr. Speaker, will the gentleman yield?

Mr. WEBB. Yes.

Mr. SIEGEL. In United States courts the United States district judges in enforcing the laws only take judicial notice of the laws of our own country. But, according to the way you have it, you would have the ordinary layman know all the laws of all foreign countries.

Mr. WEBB. No; the United States would be required to prove these foreign statutes. For that reason I have no objection to striking it out. It makes it harder to convict. It might affect some of the gentleman's constituents. [Laughter.]

Mr. SIEGEL. I want to say to the gentleman from North Carolina that that State of mine shows a less proportion of

crime than any other part of the country. I will put facts in the Record to prove it.

Mr. WEBB. Well, I may say there are crimes committed in my own State, so far as that is concerned. I am willing to strike it out if the gentleman wants it stricken out.

The SPEAKER pro tempore (Mr. FITZGERALD). The question is on agreeing to the amendment offered by the gentleman from Pennsylvania [Mr. GRAHAM].

The amendment was agreed to.

Mr. WEBB. Mr. Speaker, I understand that that carried with it the language?

The SPEAKER pro tempore. Yes. The gentleman from Pennsylvania offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. GRAHAM of Pennsylvania: Page 57, line 14, after the word "issued," insert "for the purpose of enforcing the provisions of this act."

Mr. GRAHAM of Pennsylvania. Mr. Speaker, I do not wish to occupy any time, scarcely, in discussing this. We are familiar with the fact that there is constitutional protection against unlawful searches and seizures. I am opposed to enlarging the search-warrant power to be used by the officials of the Government beyond that which may be covered by the statutes regulating the subject, and these words are put in solely to confine the provisions of title 10 to warrants issued for the purpose of enforcing the provisions of this act. And in passing this bill into a law, we ought to put that restrictive language in the section.

Mr. STEVENSON. Mr. Speaker, will the gentleman yield for a question?

The SPEAKER pro tempore. Does the gentleman from Pennsylvania yield to the gentleman from South Carolina?

Mr. GRAHAM of Pennsylvania. Yes, sir.

Mr. STEVENSON. I just ask for information. Is not this the general law of the United States that you are writing in here as to the issuance of search warrants, and if you put that language in here will you not make it impossible to take out a search warrant for any other purpose except for the purpose of enforcing the provisions of this particular act? Will you not destroy the whole right except with respect to this one thing?

Mr. GRAHAM of Pennsylvania. Will the gentleman listen for one moment?

Mr. STEVENSON. Yes; I am asking for information.

Mr. GRAHAM of Pennsylvania. I will endeavor to give it, so far as I can. This section does not repeal any existing law, you will notice; the language "except in cases provided for by law." I think it is a very safe rule to adopt in legislating, when you are passing bills which, when they become law, touch upon vital rights, that you shall legislate only upon what is contemplated to be the evil to be redressed by the statute which you are enacting into law; and I simply ask that you say in this law, "Sufficient unto the day is the evil thereof." When we are in this law touching upon the sciatic nerve of personal liberty, we ought not to write into the statute law of the country a statement that there is an unlimited power to issue a search warrant in every case where the agencies of the Government assume to exercise their power.

Mr. STEVENSON. But the gentleman has not answered my question. Is this the only section of the criminal statute which provides for the issuance of a search warrant?

Mr. MANN. This is not a section from the criminal acts.

Mr. STEVENSON. This is a section of the statutes of the United States, is it not?

Mr. MANN. Not at all.

Mr. STEVENSON. I want to ask this question: Where is there a statute of the United States providing for the issuance of warrants except this?

Mr. MANN. There is not; but if there was not any except this there would not be any at all. We are not repealing any statute. We are not amending any statute.

Mr. STEVENSON. I am asking the gentleman from Pennsylvania the question, Is there any power to take out a search warrant on anybody in the United States except for the purpose of enforcing the act which we are passing to-day?

Mr. MANN. The same power would exist that now exists.

Mr. STEVENSON. Where is it?

Mr. MANN. It is in the statutes.

Mr. GRAHAM of Pennsylvania. I would like the gentleman, if he has addressed the last question to me, to permit me to respond. The subject contained in this bill is the thing about which we are legislating. Whenever you take up the subject generally of issuing search warrants, then I will be ready to meet you and discuss that question intelligently. But when we are legislating on a subject such as contained in this bill, and the search-warrant power is intended to be an ancillary

power to enforce this bill, then we are to put in the bill language to the effect that it is ancillary to this bill.

Mr. STEVENSON. The gentleman does not answer the question. He says this is entirely confined to this one proposition; that it applies to nothing else. If that be true, then it is unnecessary to write "for the purpose of enforcing this act" in this bill, because it can not be greater than the act itself. But if it is a statute that should be here for the purpose of taking out search warrants for people who are counterfeiting and all that kind of thing, then they ought to limit it so that no search warrant could be taken out for any other purpose.

Mr. WEBB. Mr. Speaker, I rise for the purpose of opposing the amendment of the gentleman from Pennsylvania [Mr. GRAHAM]. There are only a few cases where a search warrant can be issued now under the laws of the United States.

It is an anomaly that while every State in the Union has a law providing for the issuance of search warrants in all cases where such issuance would assist in the detection of crime, yet the United States has no general search-warrant law, but only a law applying to liquor in the Indian country, to supposed unobtainable matter, and to a few other special things of that kind. My friend's own State of Pennsylvania has a very full and thorough law, and New York and the rest of the States have laws granting the right to issue search warrants. Why should not the United States have a general law, when it is safeguarded as this provision is carefully written and carefully safeguarded, for the aid of the United States in the detection of crime of whatever character it may be, where a search warrant is necessary to detect that crime?

Mr. GRAHAM of Pennsylvania. Will the gentleman permit a question?

Mr. WEBB. Just a question.

Mr. GRAHAM of Pennsylvania. I wish to know if it is the intention of the committee to make this a general law for the issuance of search warrants in all cases and under all circumstances?

Mr. WEBB. I will say to the gentleman that that is the intention of the committee.

Mr. GRAHAM of Pennsylvania. And not simply for the enforcement of the provisions of this bill?

Mr. WEBB. Absolutely.

Mr. GRAHAM of Pennsylvania. Then, I certainly insist upon my amendment, and hope the Members of the House will see to it that no such vicious legislation as that, in violation of constitutional rights, is put upon the statute books.

Mr. WEBB. Does my friend say it violates the Constitution?

Mr. GRAHAM of Pennsylvania. Yes.

Mr. WEBB. If it violates the Constitution, it can not help it any to confine it to the acts covered by this bill, for it would still violate the Constitution. I can not see why the gentleman should advocate a partial provision which is unconstitutional and oppose a complete provision.

Here is what the Attorney General has said on this subject:

Experience has shown that in the enforcement of laws relating to neutral obligations, as well as in the enforcement of the general Federal criminal laws, some provision for the issue of search warrants is imperatively necessary. At present the issue of search warrants is practically authorized only in statutes relative to customs and internal revenue. There are also a few statutes authorizing searches in certain particular cases, such as introduction of liquor into Indian country, presence of unobtainable matter, and vessels violating the Alaska fisheries law. In general, however, there is no provision for the issuance of a search warrant in the enforcement of the Federal criminal laws, either to recover stolen Government property or to seize property produced by, or used for, or devoted to a criminal use. It is a legitimate function of a search warrant to gain possession of such property. (State v. McNulty, 73 N. W. 87; Commonwealth v. Dana, 2 Metc. 329; Collin v. Lean, 9 Pac. 173; In re Jackson, 96 U. S. 727; see also 11 Atl. 767; Adams v. United States, 192 U. S. 598; 25 Am. & Eng. Encyl. Law, 2d ed., 146, 147.) The court in the Adams case said: "The right to issue a search warrant to discover stolen property or the means of committing crime is too long established to require discussion."

Such legislation seems now necessary for the detection and efficient punishment of Federal crimes. It seems highly illogical that State officials have power to enforce the criminal laws of the States by the issue of search warrants, while United States officials have no power to enforce the Federal criminal laws in such manner. Effective means of discovering the commission of crime are a protection to the citizens of the United States from crime. Property safeguarded, there is no danger in search warrants. The bill herewith submitted contains careful restrictions on an abuse of the power.

Mr. GRAHAM of Pennsylvania. Will the gentleman permit a question?

Mr. WEBB. A question; yes.

Mr. GRAHAM of Pennsylvania. The Attorney General recommended a great many things in connection with this bill that your committee turned down, did he not?

Mr. WEBB. Yes; and my friend seems to be wanting to turn down what the committee did.

Mr. GRAHAM of Pennsylvania. Now, I ask you whether a law with reference to the common offenses of society, issuing search warrants in cases of theft and the recovery of stolen property, is a proper basis for a clause that provides for "a full and particular description of the property or papers sought for, and of the place or places where the same are believed to be"? Why are they going to search for papers and documents? In what class of cases?

Mr. WEBB. The gentleman was not present in the committee room when this section was framed, but the subcommittee worked on it, and the full committee worked on it; and we have confined it almost verbatim to the language of the Constitution; and if it does comply with the constitutional provisions, this House ought to be willing to give the Department of Justice power to detect and break up crime of whatever nature against the United States. I can not understand any disposition to the contrary.

Mr. TOWNER. Will the gentleman yield?

Mr. WEBB. For a question; yes.

Mr. TOWNER. I think the statement was made by the chairman of the committee that this was to be a general statute, applicable in all cases. I will ask the chairman to interpret the language in the third line of the section, in which it says—

A search warrant issued under the provisions of this title.

Would that not limit it to the provisions of this title?

Mr. WEBB. Title X. That is the search-warrant title.

Mr. TOWNER. It means only as contained in this bill.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. LENROOT. I move to strike out the last word.

The SPEAKER pro tempore (Mr. FITZGERALD). Under the agreement all time has expired. The question is on the amendment of the gentleman from Pennsylvania [Mr. GRAHAM].

The question being taken, on a division (demanded by Mr. WEBB) there were—ayes 71, noes 45.

Accordingly the amendment was agreed to.

Mr. RANDALL. Mr. Speaker, I wish to offer an amendment.

Mr. STAFFORD. Before the amendment is offered I wish to direct the attention of the gentleman from North Carolina to line 16, page 59, and to ask him whether the word "orders" is not grammatically incorrect, and if it should not be "order."

Mr. WEBB. I think so.

Mr. VOLSTEAD. Mr. Speaker, I wish to offer an amendment.

The SPEAKER pro tempore. The gentleman from Minnesota offers an amendment which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. VOLSTEAD: Page 58, line 19, strike out all of line 19 after the word "issue" and strike out lines 20 and 21, and insert in lieu thereof "he shall issue it forthwith."

Mr. VOLSTEAD. This only eliminates some language that is entirely unnecessary, and which may tend to confusion. If the judge finds that a search warrant should issue, there can be no necessity of his finding further that it is in due form or that there is probable cause, because the first finding includes the others; the language is superfluous.

Mr. MANN. Will the gentleman yield?

Mr. VOLSTEAD. Yes.

Mr. MANN. Without this language in, will the commissioner have any jurisdiction except to pass on the form of the application?

Mr. VOLSTEAD. Certainly; he must determine not only that it is in due form but the real merits of the application.

Mr. MANN. I do not profess to be an expert on criminal law, but I should think that without the language in the law all the commissioner could do would be to pass upon the form of the application. With the language in he must pass upon the question of whether there is probable cause.

Mr. VOLSTEAD. It seems to me that he must determine that there is probable cause before he can determine that a warrant should issue.

Mr. MANN. It seems to me that without it he has to take the sworn statement of the applicant, if it is in proper form, and issue the warrant.

Mr. BORLAND. What the gentleman wants to do is to strike out of line 19 the words that such warrant shall issue. And he wants to leave the language that if the commissioner decides that the application is in due form and if there is probable cause he shall forthwith issue the warrant. There is a repetition of language there.

Mr. VOLSTEAD. Let me call attention to the fact that in the first part of the section you will find that the judge may summon witnesses and call for additional affidavits. This

clearly contemplates that he must consider the merit before the search warrant may issue. A finding that it should issue must involve not only the form but the facts showing grounds for its issue.

Mr. BORLAND. The gentleman wants to provide that the court or the commissioner shall find two things: First, that the application is in due form; and, second, that there is probable cause. That makes redundant the words in line 19 that the search warrant should issue. Those words are redundant.

Mr. VOLSTEAD. Mr. Speaker, I will ask unanimous consent to modify my amendment.

The SPEAKER pro tempore. The gentleman from Minnesota asks unanimous consent to modify his amendment. Is there objection?

There was no objection.

Mr. VOLSTEAD. I ask to modify it by striking out, in line 19, the words "that the search warrant should issue."

Mr. WEBB. I have no objection to that amendment.

The SPEAKER pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Amendment offered by Mr. VOLSTEAD: On page 58, line 19, strike out the words "that the search warrant should issue and."

Mr. WEBB. I have no objection to that.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Minnesota.

The amendment was agreed to.

Mr. VOLSTEAD. Is there any objection to striking out the word "further" in line 20? It is simply surplusage.

Mr. WEBB. I do not think it makes any difference whether it is in or out. Mr. Speaker, I move that, on page 59, line 16, the "s" in the word "orders" be stricken out, so that it will read "order."

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Page 59, line 16, strike out the letter "s" in the word "orders."

The amendment was agreed to.

Mr. RANDALL. Mr. Speaker, I offer the following amendment.

The Clerk read as follows:

Page 41, line 2, insert a new title as follows: "3a. Destruction of food products. Section 300a. Whoever, when the United States is at war, shall willfully destroy any cereals or vegetables which are valuable for food purposes, either by manufacturing intoxicating liquors for beverage purposes therefrom, or otherwise, shall be fined not more than \$10,000 or imprisoned not more than 10 years, or both."

Mr. MEEKER. Mr. Speaker, I make the point of order that that is not germane.

Mr. RANDALL. Will the gentleman reserve his point of order?

Mr. MEEKER. I will reserve the point of order. No, Mr. Speaker, I will make the point of order. If somebody should step on an apple or throw it into the river I do not think he ought to be fined \$10,000.

Mr. RANDALL. Mr. Speaker, I am surprised that any sane man should attempt to make a point of order against any amendment that could be offered to a bill of this kind. This bill embraces a great variety of subjects, such as vessels in ports of the United States, injuring vessels or injuring cargoes of vessels, interference with foreign commerce, enforcement of neutrality, seizure of arms, disturbance of foreign relations, illegal issue of passports, counterfeiting the Government seal, issue of search warrants, use of the mails for circulation of certain matter, publication or communication of certain information, and other subjects. It is the greatest conglomeration of legislative subjects ever presented in a single bill.

Mr. MEEKER. Mr. Speaker—

Mr. RANDALL. Mr. Speaker, I do not yield. I agree that every section of this bill is intended to help win this war. I have an amendment designed to help win this war. I submit to the Chair that any amendment which may reasonably help to win this war is in order. Mr. Speaker, a hundred times have I heard upon this floor the assertion that the real patriot of this war is the man who will feed our Army and the man who will feed America. If the man who produces food for the people is a patriot and a hero, then the man who destroys that food is a traitor to his country. The Department of Agriculture—

Mr. MEEKER. Mr. Speaker, I make the point of order that the gentlemen are not discussing the point of order.

Mr. RANDALL. Mr. Speaker, I am attempting to show that this amendment is in order upon this bill because it will assist along with the other legislation in the bill in winning this war.

Mr. MEEKER. Mr. Speaker, I make the point of order that the gentleman is not discussing the point of order. He is discussing the sanity of some man who does not agree with him.

Mr. RANDALL. I trust, Mr. Speaker, that I may be heard upon this question.

The SPEAKER pro tempore. The gentleman from California will address himself to the point of order.

Mr. RANDALL. Mr. Speaker, quoting from a report of the Department of Agriculture covering an investigation made by Dr. Alonzo Taylor, of the University of Pennsylvania, on the relation of the liquor question to the grain supply, the food supply of the country, which I submit is a question that is interesting in this emergency, it shows that in 1916 \$145,000,000 of grain and other food materials were consumed in liquor manufacture in the United States.

Mr. MEEKER. Mr. Speaker, I insist that the gentleman is not discussing the point of order.

The SPEAKER pro tempore. Upon the objection of any Member to a discussion of the merits of an amendment, the point of order having been made to the amendment, the gentleman must confine himself to a discussion of the point of order.

Mr. RANDALL. Mr. Speaker, I shall endeavor to do so. I shall endeavor to confine myself to the subject of the food supply of the country in the present emergency.

Mr. MEEKER. Mr. Speaker—

The SPEAKER pro tempore. The gentleman will suspend. The question to be determined is whether the particular amendment offered by the gentleman from California is in order as an amendment to this bill, and objection having been made several times the gentleman from California must not discuss further the merits of the amendment.

Mr. RANDALL. All right, Mr. Speaker, then I ask for a ruling, if I am not to be permitted to have any latitude whatever, similar to the latitude other gentlemen in the House have had. I ask for a ruling.

The SPEAKER pro tempore. Does the gentleman from Missouri desire to be heard upon the point of order?

Mr. MEEKER. No.

The SPEAKER pro tempore. This bill is entitled "A bill to punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States." The amendment proposed by the gentleman from California makes the destruction of food products a crime, either by manufacture of them into intoxicating liquors for beverage purposes or otherwise. The Chair does not think that it is germane to this bill, and sustains the point of order.

Mr. RANDALL. Mr. Speaker, I respectfully appeal from the decision of the Chair.

The SPEAKER pro tempore. The gentleman from California appeals from the decision of the Chair. The question is, Shall the decision of the Chair stand as the judgment of the House?

Mr. WALSH. Mr. Speaker, I move to lay that appeal on the table.

The SPEAKER pro tempore. The gentleman from Massachusetts moves that the appeal be laid on the table. The question is on the motion of the gentleman from Massachusetts.

The question was taken; and the Chair announced that the ayes seemed to have it.

Mr. RANDALL. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER pro tempore. The gentleman from California makes the point of order that there is no quorum present. The Chair will count. [After counting.] One hundred and seventy-nine Members present, not a quorum. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll. The question is on the motion to lay on the table the appeal from the decision of the Chair. The Clerk will call the roll.

The question was taken; and there were—yeas 337, nays 20, answered "present" 2, not voting 72, as follows:

YEAS—337.

Adamson	Bowers	Carew	Currie, Mich.
Alexander	Brand	Carlin	Curry, Cal.
Almon	Britten	Carter, Mass.	Dale, N. Y.
Anderson	Brodbeck	Carter, Okla.	Dale, Vt.
Anthony	Brown	Cary	Dallinger
Ashbrook	Browning	Chandler, Okla.	Darrow
Aswell	Bruckner	Clark, Fla.	Davidson
Austin	Brumbaugh	Clark, Pa.	Davis
Ayres	Burnett	Classon	Decker
Bankhead	Butler	Coady	Dempsey
Barkley	Byrnes, S. C.	Connally, Tex.	Denison
Barnhart	Byrnes, Tenn.	Cooper, W. Va.	Dent
Bathrick	Campbell, Kans.	Cooper, Wis.	Denton
Bell	Campbell, Pa.	Copley	Dickinson
Black	Candler, Miss.	Costello	Dies
Blackmon	Cannon	Cox	Doan
Bland	Cantrill	Cramton	Dooling
Booher	Caraway	Crisp	Doolittle
Borland		Crosser	Doremus

Dowell	Hersey	Montague	Sinnott
Drukker	Hicks	Moore, Ind.	Sisson
Dunn	Holland	Morgan	Slayden
Dupré	Hollingsworth	Mott	Smith, Mich.
Dyer	Hood	Mudd	Smith, C. B.
Eagan	Houston	Nelson	Smith, T. F.
Edmonds	Howard	Nicholls, S. C.	Snell
Ellsworth	Huddleston	Nichols, Mich.	Snook
Elston	Hulbert	Nolan	Stafford
Emerson	Hull, Iowa	Norton	Stegall
Esch	Humphreys	Oldfield	Stedman
Evans	Husted	Oliver, Ala.	Stephens, Miss.
Fairchild, B. L.	Hutchinson	Oliver, N. Y.	Stephens, Nebr.
Fairfield	Igoe	Olney	Sterling
Farr	Ireland	Osborne	Stevenson
Ferris	Jacoway	Overmyer	Stiness
Fess	James	Overstreet	Sumners
Fields	Johnson, Ky.	Padgett	Sweet
Flood	Johnson, Wash.	Paige	Swift
Focht	Jones, Tex.	Park	Switzer
Foss	Juul	Parker, N. J.	Tague
Foster	Kahn	Peters	Taylor, Ark.
Francis	Kearns	Phelan	Temple
Frear	Kehoe	Platt	Templeton
Freeman	Kelly, Pa.	Polk	Tillman
French	Kennedy, Iowa	Pou	Tilson
Fuller, Mass.	Kennedy, R. I.	Pratt	Timberlake
Gallagher	Kiess, Pa.	Purnell	Tinkham
Gallivan	Kincheloe	Quin	Towner
Gard	Kinkaid	Ragsdale	Treadway
Gardner	Knutson	Raker	Van Dyke
Garland	La Follette	Ramsey	Vare
Garner	La Guardia	Ramseyer	Venable
Garrett, Tenn.	Langley	Rankin	Vestal
Garrett, Tex.	Larsen	Rayburn	Vinson
Gillett	Lazaro	Reavis	Waldow
Glass	Lea, Cal.	Reed	Walker
Glynn	Lehlbach	Riordan	Walsh
Good	Lenroot	Robbins	Walton
Goodall	Leshner	Roberts	Ward
Goodwin, Ark.	Lever	Robinson	Wason
Gordon	Lobeck	Rodenberg	Watkins
Gould	London	Romjue	Watson, Pa.
Graham, Ill.	Loneragan	Rouse	Watson, Va.
Graham, Pa.	Lundeen	Rowe	Webb
Gray, Ala.	Lunn	Rubey	Welling
Gray, N. J.	McArthur	Rucker	Welty
Green, Iowa	McClintic	Russell	Whaley
Greene, Mass.	McFadden	Sabath	Wheeler
Greene, Vt.	McKenzie	Sanders, Ind.	White, Me.
Gregg	McKeown	Sanders, La.	White, Ohio
Griffin	McKinley	Sanders, N. Y.	Williams
Hadley	McLaughlin, Mich.	Saunders, Va.	Wilson, Ill.
Hamill	McLaughlin, Pa.	Schall	Wilson, La.
Hamilton, Mich.	Madden	Scott, Iowa	Wingo
Hardy	Magee	Scott, Mich.	Winslow
Harrison, Miss.	Maher	Scott, Pa.	Wise
Harrison, Va.	Mann	Scully	Wood, Ind.
Haskell	Mansfield	Sears	Woods, Iowa
Hastings	Mapes	Sells	Woodyard
Hawley	Macon	Shallenberger	Young, N. Dak.
Heaton	Mays	Sherley	Young, Tex.
Heflin	Meeker	Sherwood	Zihlman
Heintz	Miller, Minn.	Shouse	
Helm	Miller, Wash.	Siegel	
Hensley			

NAYS—20.

Bacon	Billon	King	Sims
Blanton	Hamlin	Kraus	Steenerson
Claypool	Hayden	Little	Thomas
Connolly, Kans.	Hilliard	Powers	Thompson
Dill	Keating	Randall	Volstead

ANSWERED "PRESENT"—2.

Fitzgerald Johnson, S. Dak.

NOT VOTING—72.

Bacharach	Fordney	Linthicum	Rogers
Caldwell	Fuller, Ill.	Littlepage	Rowland
Capstick	Gandy	Longworth	Sanford
Chandler, N. Y.	Godwin, N. C.	McAndrews	Shackelford
Church	Griest	McCulloch	Slemp
Collier	Hamilton, N. Y.	McLemore	Sloan
Comstock	Haugen	Martin, Ill.	Small
Cooper, Ohio	Hayes	Martin, La.	Smith, Idaho
Crago	Helvering	Mondell	Snyder
Dewalt	Hill	Moon	Steele
Dixon	Hull, Tenn.	Moore, Pa.	Sterling, Pa.
Doughton	Jones, Va.	Morin	Strong
Drane	Kelley, Mich.	Neely	Sullivan
Eagle	Kettner	O'Shaunessy	Talbot
Estopinal	Key, Ohio	Parker, N. Y.	Taylor, Colo.
Fairchild, G. W.	Kitchin	Porter	Voigt
Fisher	Kreider	Price	Weaver
Flynn	Lee, Ga.	Rainey	Wilson, Tex.

So the appeal was laid on the table.

The Clerk announced the following additional pairs:

Mr. TALBOTT with Mr. BROWNING.

Mr. DEWALT with Mr. ROWLAND.

Mr. EAGLE with Mr. HAMILTON of New York.

Mr. LITTLEPAGE with Mr. PARKER of New York.

Mr. NEELY with Mr. COOPER of Ohio.

Mr. GANDY with Mr. JOHNSON of South Dakota.

Mr. LEE of Georgia with Mr. MONDELL.

Mr. LINTHICUM with Mr. MORIN.

Mr. CHURCH with Mr. CHANDLER of New York.

Mr. COLLIER with Mr. COMSTOCK.

Mr. DIXON with Mr. GEORGE W. FAIRCHILD.

Mr. ESTOPINAL with Mr. FORDNEY.

Mr. STEELE with Mr. GRIEST.
 Mr. HELVERING with Mr. HAUGEN.
 Mr. HULL of Tennessee with Mr. HILL.
 Mr. JONES of Virginia with Mr. MARTIN of Louisiana.
 Mr. KETNER with Mr. SLEMP.
 Mr. McLEMORE with Mr. SLOAN.
 Mr. O'SHAUNESSY with Mr. STERLING of Illinois.
 Mr. RAINEY with Mr. STRONG.
 Mr. SMALL with Mr. VOIGHT.
 Mr. WILSON of Texas with Mr. SMITH of Idaho.

Mr. BROWNING. Mr. Speaker, I have a pair with Mr. TALBOTT, of Maryland, and as he would have voted the same as I do on this proposition I desire to let my vote of aye stand.

Mr. OSBORNE. Mr. Speaker, when Mr. LONGWORTH's name was called I answered by mistake and voted aye for Mr. LONGWORTH and I want to correct it.

The name of Mr. OSBORNE was called and he voted "Aye."
 Mr. JOHNSON of South Dakota. Mr. Speaker, I am paired with my colleague, Mr. GANDY. I desire to withdraw my vote of aye and answer "present."

The name of Mr. JOHNSON of South Dakota was called and he answered "Present."

The result of the vote was announced as above recorded.

The SPEAKER. A quorum is present; the Doorkeeper will unlock the doors.

Mr. WEBB. Mr. Speaker, I move the previous question on the bill H. R. 291.

The SPEAKER. The gentleman from North Carolina [Mr. WEBB] moves the previous question on the bill to final passage. The previous question was ordered.

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 read the third time.

The SPEAKER. The question is: Shall the bill pass?

Mr. MANN. Mr. Speaker, on that I ask for the yeas and nays.

The SPEAKER. The gentleman from Illinois demands the yeas and nays. Those in favor of ordering the yeas and nays will rise and stand until they are counted. [After counting.] Sixty gentlemen have risen, not a sufficient number.

Mr. MANN. Mr. Speaker, I demand the other side.

The SPEAKER. The gentleman from Illinois [Mr. MANN] demands the other side. Those opposed to taking this vote by the yeas and nays will rise and stand until counted. [After counting.] One hundred and ninety-two gentlemen have risen in the negative. Sixty is a sufficient number, and the yeas and nays are ordered.

The question was taken; and there were—yeas 260, nays 106, answered "present" 3, not voting 62, as follows:

YEAS—260.

Adamson	Crisp	Gardner	Johnson, Ky.
Alexander	Crosser	Garner	Jones, Tex.
Almon	Currie, Mich.	Garrett, Tenn.	Kehoe
Anderson	Dale, N. Y.	Garrett, Tex.	Kettner
Ashbrook	Dale, Vt.	Gillett	Kless, Pa.
Austin	Dallinger	Glass	Kincheloe
Ayres	Darrow	Glynn	King
Bankhead	Davidson	Goodall	Kitchin
Barkley	Decker	Goodwin, Ark.	Kraus
Barthart	Dempsey	Gordon	La Follette
Bathrick	Denison	Gould	Larsen
Bell	Dent	Graham, Ill.	Lazaro
Blackmon	Denton	Gray, Ala.	Lea, Cal.
Bland	Dickinson	Gray, N. J.	Lee, Ga.
Blanton	Dies	Greene, Mass.	Lehlbach
Booher	Dill	Greene, Vt.	Leshner
Borland	Dixon	Gregg	Lever
Brand	Dominick	Griffin	Lobeck
Brodbeck	Dooling	Hadley	Loneragan
Browning	Doolittle	Hamill	Lunn
Bruckner	Doremus	Hamilton, Mich.	McFadden
Brumbaugh	Drucker	Hamlin	McKeown
Buchanan	Dunn	Hardy	McLaughlin, Mich.
Burnett	Dupré	Harrison, Miss.	Magee
Butler	Dyer	Harrison, Va.	Maher
Byrnes, S. C.	Eagan	Hastings	Mansfield
Byrns, Tenn.	Ellsworth	Hayden	Mapes
Campbell, Pa.	Elston	Heflin	Martin, La.
Candler, Miss.	Emerson	Heintz	Mays
Cannon	Esch	Helm	Miller, Minn.
Cantrill	Estopinal	Helvering	Miller, Wash.
Caraway	Evans	Hensley	Montague
Carlin	Ferris	Hicks	Moore, Ind.
Carter, Mass.	Fess	Holland	Morgan
Carter, Okla.	Fields	Hood	Mott
Clark, Fla.	Fitzgerald	Houston	Nicholls, S. C.
Coady	Flood	Howard	Nichols, Mich.
Collier	Foss	Hubert	Oldfield
Connally, Tex.	Foster	Hull, Tenn.	Oliver, Ala.
Connelly, Kans.	Frear	Humphreys	Oliver, N. Y.
Copley	Freeman	Hutchinson	Olney
Costello	French	Igoe	Overmyer
Cox	Fuller, Mass.	Jacoway	Overstreet
	Gard	James	Padgett

Park
 Parker, N. J.
 Peters
 Phelan
 Platt
 Polk
 Pou
 Quinn
 Ragsdale
 Rainey
 Baker
 Ramsey
 Rayburn
 Reavis
 Riordan
 Roderberg
 Romjue
 Rouse
 Rowe
 Rubey
 Rucker

Russell
 Sabath
 Sanders, Ind.
 Sanders, La.
 Saunders, Va.
 Schall
 Scott, Mich.
 Scott, Pa.
 Scully
 Sears
 Sells
 Shallenberger
 Sherley
 Sherwood
 Shouse
 Sims
 Slayden
 Small
 Smith, Mich.
 Smith, C. B.
 Smith, T. F.

Snook
 Stafford
 Steagall
 Stedman
 Steenerson
 Stephens, Miss.
 Sterling, Ill.
 Stevensou
 Stines
 Sumners
 Swift
 Switzer
 Taylor, Ark.
 Temple
 Thomas
 Tillman
 Timberlake
 Towner
 Treadway
 Vane

Venable
 Vinson
 Volstead
 Walker
 Walsh
 Walton
 Ward
 Wason
 Watkins
 Watson, Va.
 Webb
 Welling
 Welty
 Whaley
 White, Ohio
 Wilson, La.
 Wilson, Tex.
 Wingo
 Wise
 Young, N. Dak.
 Young, Tex.

NAYS—106.

Anthony
 Bacon
 Bowers
 Britten
 Browne
 Campbell, Kans.
 Cary
 Chandler, Okla.
 Classon
 Comstock
 Cooper, W. Va.
 Cooper, Wis.
 Cramton
 Curry, Cal.
 Davis
 Dillon
 Dowell
 Edmonds
 Fairchild, B. L.
 Fairfield
 Farr
 Focht
 Francis
 Gallagher
 Gallivan
 Garland
 Good

Graham, Pa.
 Green, Iowa
 Haskell
 Haugen
 Heaton
 Hersey
 Hill
 Hilliard
 Huddleston
 Hull, Iowa
 Husted
 Ireland
 Johnson, Wash.
 Juul
 Kahn
 Kearns
 Keating
 Kelly, Pa.
 Kennedy, Iowa
 Kennedy, R. I.
 Kinkaid
 Knutson
 LaGuardia
 Langley
 Little
 London
 Lundeen

McArthur
 McCormick
 McKenzie
 McKinley
 McLaughlin, Pa.
 Mann
 Mason
 Meeker
 Mondell
 Mudd
 Nelson
 Nolan
 Norton
 Osborne
 O'Shaunessy
 Paige
 Powers
 Pratt
 Purnell
 Ramseyer
 Randall
 Rankin
 Reed
 Robbins
 Roberts
 Rose

Sanders, N. Y.
 Scott, Iowa
 Siegel
 Sinnott
 Snell
 Strong
 Sweet
 Tague
 Templeton
 Thompson
 Tilson
 Tinkham
 Van Dyke
 Vestal
 Waldow
 Watson, Pa.
 Wheeler
 White, Me.
 Williams
 Wilson, Ill.
 Winslow
 Wood, Ind.
 Woods, Iowa
 Woodyard
 Zihman

ANSWERED "PRESENT"—3.

Black

Johnson, S. Dak.

Sisson

NOT VOTING—62.

Bacharach
 Caldwell
 Capstick
 Carew
 Chandler, N. Y.
 Church
 Clark, Pa.
 Claypool
 Cooper, Ohio
 Crago
 Dewalt
 Doughton
 Drane
 Eagle
 Fairchild, G. W.
 Fisher

Flynn
 Fordney
 Fuller, Ill.
 Gandy
 Godwin, N. C.
 Griest
 Hamilton, N. Y.
 Hawley
 Hayes
 Hollingsworth
 Jones, Va.
 Kelley, Mich.
 Key, Ohio
 Kreider
 Lenroot
 Linthicum

Littlepage
 Longworth
 McAndrews
 McClintic
 McCulloch
 McLemore
 Martin, Ill.
 Moon
 Moore, Pa.
 Morin
 Neely
 Parker, N. Y.
 Porter
 Price
 Robinson
 Rogers

Rowland
 Sanford
 Shackelford
 Slemph
 Sloan
 Smith, Idaho
 Snyder
 Steele
 Sterling, Pa.
 Sullivan
 Talbot
 Taylor, Colo.
 Voigt
 Weaver

So the bill was passed.

The Clerk announced the following additional pairs:

On the vote:

Mr. BLACK (for) with Mr. McLEMORE (against).

Until further notice:

Mr. BLANTON with Mr. CLARK of Pennsylvania.

Mr. CAREW with Mr. GEORGE W. FAIRCHILD.

Mr. CLAYPOOL with Mr. FORDNEY.

Mr. FISHER with Mr. FULLER of Illinois.

Mr. FLYNN with Mr. HAWLEY.

Mr. McCLINTIC with Mr. HOLLINGSWORTH.

Mr. JONES of Virginia with Mr. VOIGHT.

Mr. COOPER of Wisconsin. Mr. Speaker, I want to make a correction.

The SPEAKER. Is it about this vote?

Mr. COOPER of Wisconsin. It is. I do not know what the name was that was called just before Mr. VOLSTEAD's name was called, but whatever it may be I by mistake answered at the time it was called, and that vote should be stricken out.

Mr. STAFFORD. It was Mr. VOIGHT, of Wisconsin, Mr. Speaker.

Mr. COOPER of Wisconsin. My own vote should stand, voting "no," but the other man's should be erased.

Mr. BROWNING. Mr. Speaker, I wish to make the same announcement that I did on the last roll call. I voted "aye," but I have a pair with the gentleman from Maryland [Mr. TALBOTT]. If he had voted, I would vote also. I wish to withdraw my vote and answer "present."

The SPEAKER. The Clerk will call the gentleman's name.

The Clerk called the name of Mr. BROWNING, and he answered "Present."

Mr. JOHNSON of South Dakota. Mr. Speaker, how am I recorded?

The SPEAKER. The gentleman is not recorded. Was the gentleman in the Hall, listening?

Mr. JOHNSON of South Dakota. I was, during both roll calls. If I were to vote, I would vote "no," but I am paired with my colleague, Mr. GANDY, and I wish to answer "present."

The SPEAKER. The Clerk will call the gentleman's name. The Clerk called the name of Mr. JOHNSON of South Dakota, and he answered "Present."

Mr. FRENCH. Mr. Speaker, my colleague [Mr. SMITH of Idaho] is prevented from being present to-day on account of the critical illness of his son.

The result of the vote was announced as above recorded.

On motion of Mr. WEBB, a motion to reconsider the vote whereby the bill was passed was laid on the table.

LEAVE OF ABSENCE.

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

To Mr. HAWLEY, at the request of Mr. MCARTHUR, for two weeks, on account of the serious illness of his mother in Oregon.

To Mr. HAYES, at the request of Mr. CURRY of California, indefinitely, on account of illness.

EXTENSION OF REMARKS.

Mr. HICKS. Mr. Speaker, I ask unanimous consent that my colleague, Hon. ISAAC SIEGEL, be permitted to extend his remarks in the Record on "Patriotism."

The SPEAKER. The gentleman from New York asks unanimous consent that his colleague, Mr. SIEGEL, shall have leave to extend his remarks. Is there objection?

There was no objection.

Mr. CARY. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record on the bill just passed.

The SPEAKER. Is there objection to the gentleman's request?

There was no objection.

Mr. ZIHLMAN. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record by printing resolutions adopted by 2,000 Baltimoreans in mass meeting in favor of universal military training.

The SPEAKER. The gentleman from Maryland asks unanimous consent to extend his remarks by printing the resolutions referred to. Is there objection?

There was no objection.

Following are the resolutions referred to:

MARYLAND LEAGUE FOR NATIONAL DEFENSE, Baltimore, Md., May 1, 1917.

Hon. FREDERICK N. ZIHLMAN,
House Office Building, Washington, D. C.

SIR: The inclosed resolution was adopted by 2,000 Baltimoreans at a mass meeting held last Sunday in the Academy of Music in the interest of universal military training.

We earnestly request your consideration of this petition and of the facts set forth therein.

Respectfully, yours,

GUY HOLLYDAY,
Secretary of the Meeting.

Whereas the administration bill passed by Congress provides that upon the expiration of the present emergency all the military forces of the United States, including the Regular Army, the National Guard, and the additional forces provided for by the act, shall be discharged, leaving this country without any armed forces subject to immediate call by the Government; and

Whereas it is imperative for the security, liberty, and independence of this great Nation that a definite, permanent military policy be adopted, and as the General Staff of the United States Army, the highest military authority, states that one year of military training is necessary to make a soldier, and inasmuch as where there is privilege there is no equality before the law, no liberty, and where there is universal liability to service there can be no privileges: Therefore be it

Resolved, That it is the opinion of this meeting that it is incumbent upon the Congress of the United States to pass an act providing for the military training of every physically fit youth in the land during times of peace, in order that the security of the country may rest equally and equitably upon its citizens and not upon an unjust, inadequate, and undemocratic volunteer system.

Resolved further, That the establishment of a system of universal obligatory military training and service is the most efficient way to prevent the growth of a military caste whose members will claim that they are entitled to special privileges because of the sacrifice which they make in devoting themselves to military service and the protection of the country, as against those who remain at home and make money.

Mr. McLAUGHLIN of Pennsylvania. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record.

The SPEAKER. Is there objection to the gentleman's request? There was no objection.

HOURLY MEETING TO-MORROW—11 O'CLOCK A. M.

Mr. KITCHIN. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock to-morrow morning.

The SPEAKER. The gentleman from North Carolina asks unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock to-morrow morning. Is there objection?

Mr. MANN. Reserving the right to object, I understand that the British commission is to be in the House to-morrow. At what hour?

The SPEAKER. Twelve-thirty is the word they sent. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

AMENDMENT OF THE FEDERAL RESERVE ACT.

Mr. MANN. Mr. Speaker, we had up the other day the Glass bill, to amend the Federal reserve act. We got to the debate under the five-minute rule. As I understand, the gentleman from Virginia is very anxious to proceed to-morrow. If there is no objection, the gentleman from North Carolina might ask that that bill be considered to-morrow.

Mr. KITCHIN. I do ask that, that the bill H. R. 3673 be considered to-morrow, after the reading of the Journal and the transaction of routine business.

The SPEAKER. The gentleman from North Carolina asks unanimous consent that to-morrow, after the reading of the Journal and the clearing up of business on the Speaker's table, the bill (H. R. 3673) to amend the Federal reserve act shall be in order. Is there objection?

Mr. LONDON. What does the bill deal with?

The SPEAKER. It is the bill to amend the Federal reserve act. Is there objection?

There was no objection.

ADJOURNMENT.

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

The motion was agreed to; accordingly (at 6 o'clock and 20 minutes p. m.) the House adjourned, pursuant to the order previously made, until to-morrow, Saturday, May 5, 1917, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury, transmitting an estimate of appropriation for inclusion in some deficiency bill (H. Doc. No. 112); to the Committee on Appropriations and ordered to be printed.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on preliminary examination of Escambia River, Fla. (H. Doc. No. 113); to the Committee on Rivers and Harbors and ordered to be printed.

3. A letter from the Secretary of the Navy, submitting a tentative draft of a bill to provide for the payment of six months' gratuity to the widows and children or dependent relatives of retired officers or enlisted men on active duty (H. Doc. No. 114); to the Committee on Naval Affairs and ordered to be printed.

4. A letter from the Secretary of the Navy, submitting a tentative draft of a bill to authorize the Secretary of the Navy to grant furloughs without pay to enlisted men of the Navy (H. Doc. No. 115); to the Committee on Naval Affairs and ordered to be printed.

5. A letter from the Secretary of the Navy, submitting a tentative draft of legislation to increase the pay of enlisted men of the Navy during the continuance of the war (H. Doc. No. 116); to the Committee on Naval Affairs and ordered to be printed.

6. A letter from the Secretary of Commerce, submitting facts regarding the need of a proper building for the Bureau of Fisheries (H. Doc. No. 117); to the Committee on Public Buildings and Grounds and ordered to be printed.

7. A letter from the Secretary of Commerce, submitting changes in certain deficiency estimates of appropriations for the service of the Department of Commerce for the fiscal year ending June 30, 1917, and prior years (H. Doc. No. 118); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. PADGETT, from the Committee on Naval Affairs, to which was referred the bill (H. R. 2337) to amend an act entitled "An act making appropriations for the naval service for the fiscal year ending June 30, 1917, and for other purposes," relative to enrollments in the Naval Reserve Force, reported the same without amendment, accompanied by a report (No. 40), which said bill and report were referred to the House Calendar.

Mr. ADAMSON, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 1655) providing that the Panama Canal rules shall govern in the measurement of vessels for imposing tolls, reported the same without amendment, accompanied by a report (No. 41), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. LEVER: A bill (H. R. 4188) to provide further for the national security and defense by stimulating agriculture and facilitating the distribution of agricultural products; to the Committee on Agriculture.

By Mr. GOULD: A bill (H. R. 4189) authorizing the use of radio stations under the jurisdiction of the Navy Department for commercial purposes between the United States and Hawaii, Guam, and the Philippines; to the Committee on Naval Affairs.

By Mr. EMERSON: A bill (H. R. 4190) to abrogate the patent upon the article known as salvarsan; to the Committee on Patents.

By Mr. RAKER: A bill (H. R. 4191) exempting enlarged homesteads from liability for debt contracted prior to issuance of patent; to the Committee on the Public Lands.

By Mr. BRITTEN: A bill (H. R. 4192) to authorize the refund of duties collected on field kitchens imported during the year 1916; to the Committee on Claims.

By Mr. HEINTZ: A bill (H. R. 4193) to provide for the publication and sale of patriotic stamps for voluntary use on mail matter; to the Committee on the Post Office and Post Roads.

By Mr. FRENCH: A bill (H. R. 4199) to restore homestead rights to settlers on the Cœur d'Alene Indian Reservation; to the Committee on the Public Lands.

By Mr. CARTEER of Massachusetts: A bill (H. R. 4210) appropriating \$500,000 for use of the Council of National Defense; to the Committee on Appropriations.

By Mr. BRITTEN: A resolution (H. Res. 73) relating to certain restrictions upon American commerce with neutral countries; to the Committee on Foreign Affairs.

By Mr. DYER: A resolution (H. Res. 74) making inquiry as to whether or not the manufacturers of cement are violating the antitrust laws or laws in restraint of trade; to the Committee on the Judiciary.

By Mr. CLARK of Pennsylvania: A joint resolution (H. J. Res. 80) authorizing and directing the Secretary of War to enter and record the name of Roe Reisinger, alias J. Monroe Reisinger, late corporal, Company H, One hundred and fiftieth Regiment Pennsylvania Volunteer Infantry, on "the Army and Navy medal of honor roll," provided by the act of Congress approved April 27, 1916, and to furnish him with a certificate of service and of the act of heroism, gallantry, bravery, or intrepidity for which the medal of honor was awarded, and of enrollment under said act, and of his right to be entitled to and receive the special pension therein granted; also to deliver to the Commissioner of Pensions a certified copy of said certificate; to the Committee on Military Affairs.

By the SPEAKER (by request): Memorial of the Legislature of the Territory of Alaska, favoring repeal of certain provisions of the law governing election of a Delegate to the House of Representatives and the enactment of a law providing for a canvassing board in each judicial division of the Territory of Alaska; to the Committee on the Territories.

By Mr. CARTER of Massachusetts: Memorial of the Legislature of the State of Massachusetts, favoring the regulation of coal and other commodities; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS.

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

By Mr. BRITTEN: A bill (H. R. 4194) for the relief of Katharine Simon; to the Committee on Claims.

By Mr. CARTER of Massachusetts: A bill (H. R. 4195) granting a pension to Pierce O'Connell; to the Committee on Pensions.

Also, a bill (H. R. 4196) granting a pension to Michael E. O'Donnell; to the Committee on Pensions.

By Mr. CARY: A bill (H. R. 4197) for the relief of the heirs of Oscar Chrysler; to the Committee on Claims.

By Mr. CURRIE of Michigan: A bill (H. R. 4198) granting a pension to Robert Patchell; to the Committee on Pensions.

By Mr. GOULD: A bill (H. R. 4200) granting a pension to Simon R. Thornton; to the Committee on Pensions.

Also, a bill (H. R. 4201) granting an increase of pension to Louis H. Blake; to the Committee on Pensions.

By Mr. HICKS: A bill (H. R. 4202) directing the reexamination of the accounts of the late Peter G. S. Ten Broeck; to the Committee on Claims.

By Mr. HUDDLESTON: A bill (H. R. 4203) for the relief of Harry C. Bradley; to the Committee on Claims.

By Mr. NOLAN: A bill (H. R. 4204) granting a pension to Henry Braunagel; to the Committee on Pensions.

By Mr. RAKER: A bill (H. R. 4205) granting an increase of pension to Joseph K. Kelly; to the Committee on Invalid Pensions.

By Mr. SCOTT of Iowa: A bill (H. R. 4206) granting an increase of pension to Thomas J. Trulock; to the Committee on Invalid Pensions.

By Mr. STRONG: A bill (H. R. 4207) granting a pension to Thomas G. Lindsay; to the Committee on Pensions.

Also, a bill (H. R. 4208) granting an increase of pension to Jacob Barger; to the Committee on Invalid Pensions.

By Mr. WINGO: A bill (H. R. 4209) granting a pension to Mary Jane Frazee; to the Committee on Pensions.

By Mr. EVANS: A bill (H. R. 4211) for the relief of Kate Canniff; 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): Memorials of William Jewell College, of Liberty, Mo.; Savannah (Ga.) Federation of Woman's Organizations; members of the Illinois Conference of the Evangelical Association; and Assembly of the University of Oklahoma, favoring national prohibition; to the Committee on the Judiciary.

Also (by request), memorials of the United Irish Societies of Seattle, Wash., and the United Irish Societies of the City of Paterson, N. J., relative to justice for the Irish nation; to the Committee on Foreign Affairs.

Also (by request), memorial of Pennsylvania Society of the War of 1812, favoring universal military training; to the Committee on Military Affairs.

Also (by request), memorial of B. of L. E. Lodge, of Galesburg, Ill., relative to putting the war tax on the rich of the country; to the Committee on Ways and Means.

Also (by request), original papers relating to claims for pensions of Rebecca Rainberger and Mary V. Rainberger; to the Committee on Invalid Pensions.

By Mr. CARY: Petition of Wisconsin Oakland Co., against extra tax on automobiles; to the Committee on Ways and Means.

Also, petition of J. B. Heil, of Milwaukee, Wis., against any bill which will levy additional tax on corporations, etc.; to the Committee on Ways and Means.

Also, petition of F. Mayer Boot & Shoe Co., of Milwaukee, Wis., against bill relating to the exchange of bank checks, etc.; to the Committee on Banking and Currency.

By Mr. DALE of New York: Petitions of sundry business people of New York, favoring passage of bill for revision of our postal rates; to the Committee on the Post Office and Post Roads.

Also, petition of John C. White, of New York, and Farmers' Feed Co., of New York, against bill to prohibit use of grain for making liquors; to the Committee on the Judiciary.

By Mr. DRUKKER: Petition of sundry citizens of Paterson, N. J., favoring woman suffrage; to the Committee on the Judiciary.

Also, memorial of Branch 87, Slovak League of America, of Passaic, N. J., pledging loyalty and support to the President and Congress; to the Committee on Military Affairs.

By Mr. FULLER of Illinois: Petition of Cigar Makers' Union, No. 99, of Ottawa, Ill., protesting against increase of tax on cigars; to the Committee on Ways and Means.

By Mr. GALLIVAN: Memorial of the Manufacturing Perfumers' Association of the United States, against stamp tax; to the Committee on Ways and Means.

By Mr. GARNER: Petition of several hundred citizens of Frio County, Tex., favoring bill for national prohibition as war measure; to the Committee on the Judiciary.

By Mr. GREENE of Vermont: Petition of I. C. Smart and others, in first congressional district of Vermont, urging that the use of grain for making alcohol be prohibited; to the Committee on the Judiciary.

By Mr. HOLLINGSWORTH: Memorial of Ohio Dry Federation, favoring prohibition of the liquor traffic during the war; to the Committee on the Judiciary.

By Mr. LINTHICUM: Petition of W. F. Applegarth, of Cambridge, Md., favoring passage of Senate bill 1867, relative to increasing supply of canned goods; to the Committee on Ways and Means.

Also, petition of O'Donovan Bros., of Baltimore, Md., against passage in espionage bill relative to suppression of the press; to the Committee on Military Affairs.

Also, petition of the R. J. Ederer Co. and Phillips Bros. & Co., of Baltimore, Md., favoring bill providing for revision of postal rates; to the Committee on the Post Office and Post Roads.

Also, petition of John C. Thomas, of Baltimore, Md., favoring the Hughes bill to create a motion-picture commission, etc.; to the Committee on Education.

Also, petition of Maryland Products Co., of Baltimore, Md., favoring regulation by Congress of food prices; to the Committee on Agriculture.

By Mr. McFADDEN: Petitions of J. O. Frost's Sons, Towanda; George C. Burns, Montrose; and Williamsport Furniture Co., of Williamsport, Pa., protesting against stamp tax on denatured alcohol; to the Committee on Ways and Means.

By Mr. MORIN: Petition of Pittsburgh Tennis Association, Mr. J. E. McLain, president, indorsing the daylight saving bill as a war measure deserving immediate consideration and favorable action; to the Committee on Interstate and Foreign Commerce.

By Mr. NOLAN: Petition of Langley & Michaels, of San Francisco, Cal., against the reenactment of stamp taxes on proprietary articles; to the Committee on Ways and Means.

By Mr. OVERMYER: Petition of 102 qualified electors of the thirteenth Ohio congressional district, favoring legislation to provide for war expenses without resorting to sale of bonds; to the Committee on Ways and Means.

Also, petition of 106 voters and 121 residents of the thirteenth Ohio congressional district, asking that no grain be used for the manufacture of alcoholic beverages; to the Committee on the Judiciary.

Also, memorial of Sandusky (Ohio) Trades and Labor Assembly, asking a full inquiry into the conspiracy alleged in connection with the so-called San Francisco preparedness parade explosion; to the Committee on Labor.

Also, memorial of Fremont (Ohio) Chamber of Commerce, favoring universal military training; to the Committee on Military Affairs.

Also, memorials of public meetings at Gibsonburg, Lindsey, Fremont, and Bowling Green, Ohio, favoring adoption of amendment prohibiting polygamy, etc.; to the Committee on the Judiciary.

By Mr. PRATT: Petition of Methodist Episcopal Church, of 240 members, Trumansburg, N. Y., by Rev. Edward M. Cullinan, pastor, favoring national prohibition as a war measure; to the Committee on the Judiciary.

Also, petition of the Brotherhood Bible Class of the First Methodist Episcopal Church of Groton, N. Y., by Foster T. Van Buskirk, corresponding secretary, favoring national prohibition as a war measure; to the Committee on the Judiciary.

Also, petition of Ernest C. Van Kuren, C. J. Bush, and sundry other citizens of Elmira, N. Y., favoring national prohibition as a war measure; to the Committee on the Judiciary.

Also, petition of Rotary Club, of Elmira, N. Y., by J. Maxwell Beers, president, and W. H. Snyder, secretary, urging national prohibition as a war measure for and during the period of the war; to the Committee on the Judiciary.

Also, petition of Frances Willard Woman's Christian Temperance Union, of Elmira, N. Y., favoring national prohibition; to the Committee on the Judiciary.

By Mr. STRONG: Memorial of congregation of the United Presbyterian Church, Statelick, Pa., favoring national prohibition as a war measure; to the Committee on the Judiciary.

By Mr. TILSON: Memorial of the New Haven County (Conn.) Medical Association urging Congress to abolish the patents on salvarsan and its closely related products; to the Committee on Patents.

By Mr. WARD: Memorial of agricultural mobilization day meeting, held at Milton, Ulster County, N. Y., regarding conservation of grain and exemption of farmers from military service; to the Committee on Military Affairs.

Also, memorial of members of the Zion Lutheran Church, Cobleskill, N. Y., urging that breweries and distilleries be closed by legislative action during the period of the war; to the Committee on the Judiciary.

Also, petition signed by hop growers, farmers, and business men of Schoharie County, N. Y., expressing opposition to the

enactment of any law to prohibit or restrict the manufacture or sale of fermented liquors; to the Committee on the Judiciary.

Also, memorial of the Methodist Church of Monticello, N. Y., urging immediate action upon national prohibition by Congress; to the Committee on the Judiciary.

Also petition signed by George G. Honness and other residents of Kingston, N. Y., in favor of selective conscription and compulsory military training and service; to the Committee on Military Affairs.

Also, memorial of a mass meeting of the people of Kingston, N. Y., presided over by Hon. A. T. Clearwater, president, expressing approval of the action of the President and Congress in declaring war against the Imperial German Government, indorsing the proposal of universal military service, and a selective draft; to the Committee on Military Affairs.

By Mr. ZIHLMAN: Memorial of Middleton (Md.) Valley Grange, No. 331, protesting against use of grain in manufacture of alcoholic beverages; to the Committee on the Judiciary.

SENATE.

SATURDAY, May 5, 1917.

(Legislative day of Wednesday, May 2, 1917.)

The Senate reassembled at 11 o'clock a. m., on the expiration of the recess. •

INTERNATIONAL PARLIAMENTARY CONFERENCE OF COMMERCE (H. DOC. NO. 119).

The VICE PRESIDENT. The Chair lays before the Senate a communication from the Secretary of State, which will be inserted in the Record and referred to the Committee on Foreign Relations.

The communication is as follows:

DEPARTMENT OF STATE,
Washington, May 4, 1917.

The Hon. THOMAS R. MARSHALL,
Vice President of the United States.

SIR: I have the honor to advise you for the information of the Senate that I am in receipt of a cable message from the American ambassador at Paris, dated May 2, 1917, stating that he has received an invitation for the Congress of the United States to participate by a delegation in the International Parliamentary Conference of Commerce, which will meet at Rome on May 17, under the presidency of Mr. Tittoni, former ambassador of Italy at Paris.

The ambassador adds that the conference is to be composed of delegates from both chambers of the legislative bodies of the countries represented and of persons prominent in industrial, commercial, and legal circles, and that the object of the conference is to prepare the way for an economic entente after the war, the governments, or the parliaments participating being, however, in no way officially bound by the action of the conference.

I have had the honor to address a similar communication to the Hon. CHAMP CLARK for the information of the House of Representatives.

I have the honor to be, sir, your obedient servant,
ROBERT LANSING.

ESTIMATE OF APPROPRIATION (S. DOC. NO. 17).

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Auditor for the War Department submitting an urgent estimate of appropriation for additional force in that department, \$136,140, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

INTRACOASTAL WATERWAY (S. DOC. NO. 18).

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of February 19, 1917, certain information relative to the measures taken in the State of New Jersey toward carrying into effect a joint resolution adopted by the legislature of that State pledging itself to acquire and donate to the Federal Government the right of way for an intracoastal waterway across the State, which, with the accompanying paper, was referred to the Committee on Commerce and ordered to be printed.

EXEMPTIONS FROM DRAFT.

The VICE PRESIDENT. The Chair lays before the Senate a letter from Bishop Chartrand, of Indianapolis, Ind., which will be inserted in the Record and referred to the Committee on Military Affairs.

The letter is as follows:

BISHOP'S HOUSE, Indianapolis, May 3, 1917.

To the VICE PRESIDENT OF THE UNITED STATES.

YOUR EXCELLENCY: You will please pardon me for intruding upon you just now, when I know you are much occupied. In explanation of my telegram, please permit me to call your attention to the following:

1. Catholics, as all the wars of our country testify, have, in the highest as well as the lowest places of the Army and Navy, in vast numbers evidenced their intense loyalty and patriotism.