Also, petition of John J. Kelly, of Baltimore, Md., favoring the passage of House bill 8991; to the Committee on Military Affairs.

Also, petition of Thomas Burling Hull and Matilda A. Price, of Baltimore, Md., protesting against the passage of the Kahn-Chamberlain bill; to the Committee on Military Affairs.

By Mr. MANSFIELD: Petition of Robert I. Cohen, Fowler & McVitie, J. M. Radford Grocery Co. (Inc.), F. W. Heitmann Co., S. G. Davis Hat Co. (Inc.), Clarke & Courts, Magnolia Paper Co., Southern Pine Lumber Co., Southern Implement Supply Co. (Inc.), all of the State of Texas, protesting against the repeal of the postal zone law; to the Committee on Ways and Means.

Also, petition of citizens of Alleyton, Tex., and citizens of Schulenburg, Tex., protesting against the Smith-Towner educational bill; to the Committee on Education.

By Mr. O'CONNELL: Petition of Modern Pen Co., and Simon Zinn (Inc.), of New York, favoring the passage of House bills 5011, 5012, and 7010; to the Committee on Patents.

By Mr. OSBORNE: Petition of 158 citizens of Los Angeles, Calif., and vicinity, favoring the Plumb plan for Government ownership of railways; to the Committee on Interstate and Foreign Commerce.

Also, memorial of Los Angeles Chamber of Commerce, expressing approval of the Mondell bill (H. R. 487) and the Smith-Chamberlain bills (H. R. 7634 and S. 2536), relating to reclamation of arid lands; to the Committee on the Public Lands.

By Mr. RAKER: Petition of Wholesale Dry Goods Association of Los Angeles, Calif., urging completion of the San Carlos Reservoir project in Arizona; to the Committee on the Public Lands.

Also, petition of Henry A. Wise Wood, of New York City, in regard to the proposed league of nations; to the Committee on Foreign Affairs.

Also, petition of the Bank of Tehama County, Red Bluff, Calif., indorsing Senate bill 2856; to the Committee on Ways and Means.

Also, letter from the Holt Manufacturing Co., Stockton, Calif., protesting against the Plumb plan for Government ownership of the railroads; to the Committee on Interstate and Foreign Affairs.

By Mr. ROWAN: Petition of the American Legion of New York City, favoring an amendment to House bill 8288 to permit lump payments for term insurance under the war-risk insurance act; to the Committee on Interstate and Foreign Commerce.

Also, petition of Charles B. Carter, of Philadelphia, Pa., protesting against the passage of the Longworth bill, House bill 8078; to the Committee on Ways and Means.

Also, petition of Stern Bros., of New York, protesting against the passage of House bill 8315; to the Committee on Interstate and Foreign Commerce.

Also, petition of Charles Baskerville, Pistonis & Kriezis, C. W. Hardy, C. C. Walker, F. J. Gubelman, Westinghouse Lamp Co., American Enameled Brick & Tile Co., R. P. Lentz, Truman Smith, Ajax Rubber Co. (Inc.), Charles W. Strohbeck, all of New York, favoring the passage of House bills 5011, 5012, and 7010; to the Committee on Patents.

Also, petition of John Gibney, of New York, favoring an increase for the postal employees of 35 per cent for the fiscal year ending June 30, 1920; to the Committee on the Post Office and Post Roads.

By Mr. TOWNER: Petition of 269 citizens of Clarke County, Iowa, asking for the immediate return of American soldiers from Siberia; to the Committee on Military Affairs.

By Mr. WATSON of Pennsylvania: Protest filed by Branch No. 10, of the Glass Bottle Blowers' Association, against the deportation of Hindus and the demand that the persecution of these Hindus cease; to the Committee on Foreign Affairs.

## SENATE.

MONDAY, *September 22, 1919.*

The Chaplain, Rev. Forrest J. Prettyman, D. D., offered the following prayer:

Almighty God, from the beginning of our national history we have committed our way to Thee. The voice of prayer has always been heard in our councils of State. In a time of crisis Thou hast been with us. Thy right arm has gotten us the victory. Thou hast brought us through a great conflict to victory. We come to Thee praising Thy name, and recommitting ourselves to Thee, and praying that in the days before us, with the ever-increasing weight of responsibility resting upon us, we may have the guidance of the God of our fathers. For Christ's sake. Amen.

The Secretary proceeded to read the Journal of the proceedings of Friday last, when, on request of Mr. CURTIS and by unanimous consent, the further reading was dispensed with and the Journal was approved.

### LEAGUE OF NATIONS.

Mr. NEW. Mr. President, I have received two or three copies of a telegram which I send to the desk and ask to have read. I wish to say also that I know a number of copies of the same telegram have been received by other Senators.

The PRESIDENT pro tempore. The Secretary will read, without objection.

The Secretary read as follows:

NEW YORK, N. Y., *September 18, 1919.*

JAMES E. LILLY,
*1920 North One hundred and eleventh Street,*
*Indianapolis, Ind.:*

Crisis at hand; will determine whether America joins league of nations or forsakes allies and negotiates separate peace with Germany. Vote for any reservation may require resubmission and endanger treaty. Will you join 95 others in giving $1,000 each to League to Enforce Peace, William Howard Taft, president, for immediate use in arousing country to demand prompt ratification in form that will not send treaty back for urgent negotiation and delay? World pacification matter very urgent.

GEORGE W. WICKERSHAM.
CLEVELAND H. DODGE.
VANCE MCCORMICK.
OSCAR S. STRAUS.
HERBERT S. HOUSTON,
*Treasurer, Bush Terminal Sales Building, New York.*

Mr. NEW. Mr. President, it will be observed that the gentleman to whom this telegram was addressed is asked if he will be one of 99 to subscribe $1,000 each for the purpose of proselyting in favor of the league, and so on. The reply which they got from this particular gentleman was somewhat disconcerting to them, but the point I make is that since the treaty is now before the Senate it would be interesting to know just what particular disposition is proposed to be made of so large a sum as is called for by these telegrams, just what it is that these gentlemen expect to do with so large a fund to be expended in the behalf and in the interest of a proposition that is now before the Senate of the United States.

### DAMAGES BY NAVAL VESSELS (S. DOC. NO. 104).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Acting Secretary of the Navy, submitting a supplemental estimate of appropriation in the sum of $6,289.94 to pay war claims for damages by naval vessels adjusted by the Navy Department, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

### SCHEDULES OF CLAIMS (S. DOC. NO. 94).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting, pursuant to law, schedules of claims amounting to $1,160,332.82 allowed by the several accounting officers of the Treasury Department under appropriations the balances of which have been exhausted, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

### LISTS OF JUDGMENTS.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting a list of judgments rendered against the Government by the district courts of the United States, and requesting an appropriation in the sum of $9,303.95 required to meet payment of these claims (S. Doc. No. 100), which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Treasury, transmitting a list of judgments rendered by the Court of Claims amounting to $116,414.93, which require an appropriation for their payment (S. Doc. No. 102), which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

### ESTIMATES OF APPROPRIATION.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, submitting a supplemental estimate of appropriation in the sum of $40,000 required by the Geological Survey for the collection of statistics of coal and coke production, fiscal year 1920 (S. Doc. No. 103), which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Secretary of Labor, submitting, at the request of the President,

an estimate of appropriation in the sum of $35,000 required for the expenses incident to the approaching industrial conference to be held in the city of Washington, D. C. (S. Doc. No. 101), which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Treasury, transmitting a supplemental estimate of appropriation in the sum of $200,000 required by the Engineer Department of the Army for continuing construction of the bridge across the Potomac River at Georgetown, fiscal year 1920 (S. Doc. No. 98), which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Secretary of War, submitting a deficiency estimate of appropriation in the sum of $550 required by the War Department for expenses of removing partitions in the State, War, and Navy Department (S. Doc. No. 97), which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Secretary of War, submitting a supplemental estimate of appropriation in the sum of $17,500 required by the War Department for salaries of accountants engaged upon the audit of accounts of the American National Red Cross (S. Doc. No. 99), which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

ORIENTAL AND DOMESTIC BEANS (S. DOC. NO. 96).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of Commerce, transmitting, in response to a resolution of the 20th ultimo, statistics showing the imports of beans and lentils into the United States during the fiscal years ending June 30, 1914 to 1919; exports of domestic beans from the United States during the fiscal years ended June 30, 1918, and 1919, etc., which, with the accompanying paper, was referred to the Committee on Agriculture and Forestry and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had passed a bill (H. R. 9205) making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1920, and prior fiscal years, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. 2972) to extend the cancellation-stamp privilege to the Roosevelt Memorial Association, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H. R. 8624) to amend an act entitled "An act to provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of food products and fuel," approved August 10, 1917, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. HAUGEN, Mr. MCLAUGHLIN of Michigan, and Mr. RUBEY managers at the conference on the part of the House.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions, and they were thereupon signed by the President pro tempore:

S. 276. An act to amend sections 4 and 5 of an act entitled "An act to provide for stock-raising homesteads, and for other purposes," approved December 29, 1916;

S. 277. An act to authorize absence by homestead settlers and entrymen, and for other purposes;

S. 2624. An act to provide travel allowances for certain retired enlisted men and Regular Army reservists;

H. R. 6410. An act authorizing the city of Boulder, Colo., to purchase certain public lands;

S. J. Res. 75. Joint resolution authorizing the appointment of an ambassador to Belgium; and

S. J. Res. 95. Joint resolution authorizing the Secretary of War to loan to the city of Atlanta, Ga., tents, cots, horses, and saddle equipments for the use of United Confederate Veterans in their convention from October 7 to 10, 1919.

PETITIONS AND MEMORIALS.

Mr. STERLING presented memorials of sundry citizens of Marion Junction, Dolton, Freeman, and Bridgewater, all in the State of South Dakota, remonstrating against universal military training, which were referred to the Committee on Military Affairs.

Mr. PENROSE presented a memorial of the Board of Trade of Philadelphia, Pa., remonstrating against the adoption of the so-called Plumb plan for control and operation of railroads, which was referred to the Committee on Interstate Commerce.

He also presented a petition of the Board of Trade of Philadelphia, Pa., praying for the enactment of legislation providing for the establishment of a "free port" system for the United States, which was referred to the Committee on Commerce.

He also presented a memorial of the Board of Trade of Philadelphia, Pa., remonstrating against the enactment of legislation to establish an interstate marketing system, which was referred to the Committee on Interstate Commerce.

Mr. KEYES presented petitions of sundry citizens of Colebrook, Pittsfield, Madison, and Grantham, all in the State of New Hampshire, praying for the ratification of the proposed league of nations treaty, which were ordered to lie on the table.

Mr. ELKINS presented a petition of the Ladies' Auxiliary of the Ancient Order of Hibernians of Wheeling, W. Va., praying for the independence of Ireland, which was referred to the Committee on Foreign Relations.

He also presented a petition of sundry citizens of Elkins, W. Va., praying for the establishment of a department of education, etc., which was referred to the Committee on Education and Labor.

Mr. PHIPPS presented a petition of the Retail Grocers and Meat Dealers' Association of Denver, Colo., praying for an investigation into the high cost of living to determine wherein lies the blame for profiteering, which was referred to the Committee on Agriculture and Forestry.

Mr. SMITH of Maryland presented a petition of the Quarterly Meeting of Friends of Baltimore, Md., praying for the ratification of the proposed league of nations treaty, which was ordered to lie on the table.

He also presented a memorial of the Quarterly Meeting of Friends of Baltimore, Md., remonstrating against universal military training, which was referred to the Committee on Military Affairs.

Mr. PAGE presented a petition of Pomona Grange, Patrons of Husbandry, of Shetford Center, Vt., praying for the ratification of the proposed league of nations treaty, which was ordered to lie on the table.

Mr. WALSH of Massachusetts. I have received resolutions adopted at a joint convention of the Lithuanian Roman Catholic Federation on August 18–22, 1919, at Worcester, Mass., explanatory of the little-understood situation in Lithuania. I ask that the resolutions be printed in the RECORD and referred to the Committee on Foreign Relations.

There being no objection, the resolutions were referred to the Committee on Foreign Relations and ordered to be printed in the RECORD, as follows:

"The following resolutions were adopted by the representatives of the Lithuanian National Council, Lithuanian Roman Catholic Federation of America, Lithuanian National Fund, Lithuanian R. C. Association of Labor, Lithuanian Total Abstinence Association, Lithuanian R. C. Women's Association, and Lithuanian Press Association in joint convention with the Lithuanian R. C. Federation on the 18th to 22d of August, 1919, at Worcester, Mass.

"We Americans of Lithuanian descent, having the interest, well-being, and future development of the Lithuanian Republic at heart, believing fully in her aspirations and sympathizing entirely with her suffering, have adopted the following resolutions:

"'Whereas Lithuanians are a distinct and separate race in Europe, neither Slavic nor Teutonic; and

"'Whereas Lithuania has declared her absolute independence and separation from Russia; and

"'Whereas Lithuanians of East Prussia have declared their independence of Germany and they have resolved to become an integral part of the Lithuanian Republic; and

"'Whereas the Lithuanian Republic is and has been administered during the two past years by officials chosen by the people, and the Government is functioning satisfactorily: Therefore be it

"'*Resolved*, That Lithuania be recognized as an independent nation; and be it further

"'*Resolved*, That the present Government of the Lithuanian Republic be recognized by the United States of America; and the president of this convention is directed to send a copy of

this resolution to the President of the United States and the Congress of the United States and to the peace conference in Paris.

"'Whereas Bolshevism is a danger to the democracies of the world; and

"'Whereas this danger can be suppressed or isolated by force and arms; and

"'Whereas Bolshevism uncombated may extend beyond its present limits; and

"'Whereas the armies of the Lithuanian Republic under the leadership and direction of Gen. Zukauskas have successfully maintained an active front against the armies of Lenin and Trotski; and

"'Whereas the Lithuanian Republic is handicapped in its laudable campaign through a shortage of food, clothing, medical, and military supplies; and

"'Whereas the need of military supplies and equipment in particular is imperative and immediate if the defense is to be continued successfully; and

"'Whereas the Lithuanian Republic by opposing Bolshevism is benefiting Europe, the United States, and the whole of mankind: Therefore be it

"'*Resolved*, That the Government of the United States negotiate with and furnish to the Lithuanian Republic necessary food, clothing, medical supplies, and military equipment.

"'Whereas the Lithuanian Republic after her declaration of independence elected a president and proceeded to function as a government, holding the confidence of the citizens of Lithuania and controlling almost all of ethnographic Lithuania, and a commission was sent to the peace conference in Paris to protect the interests of the Lithuanian Republic; and

"'Whereas the presence of this commission in Paris was known to the various representatives at the peace conference through the presentation of various documents supporting Lithuanian claims, and the chairman, Prof. A. Valdemar, of the Lithuanian commission, was received by the official delegates of the different countries represented in Paris, including Mr. Henry White, one of the five representatives of the United States; and

"'Whereas the peace conference made certain decisions seriously affecting the future of the Lithuanian Republic and her territory without considering the opinion of Lithuania's representatives, for example:

"'1. The river Niemen, which flows through purely Lithuanian territory, has been internationalized.

"'2. A temporary line of demarcation has been declared by the peace conference in Paris between the Lithuanian Republic and Poland, and the peace conference directed that hostilities cease in that territory, and this line benefits Poland, because it permits Polish armies to remain on purely Lithuanian territory and it gives Poland a free hand to carry on her propaganda.

"'Whereas making the river Niemen (Memel) free opens up a new object for future international misunderstanding, especially with Poland; and

"'Whereas Lithuanian representatives were not heard nor were their opinions considered in these very vital decisions: Therefore be it

"'*Resolved*, That the representatives of the United States to the peace conference in Paris take notice of the evident injustice done to the Lithuanian Republic and that they try and obtain a hearing before the peace conference for the Lithuanian Republic in these premises; and be it further

"'*Resolved*, That the attention of the Senate of the United States of America is called to the injustice above referred to, especially the internationalization of the river Niemen (Memel), and that they modify the treaty of peace by making the river Niemen purely Lithuanian, subject to the administration and control of the Lithuanian Republic.

"'Whereas the peace conference at Paris has taken cognizance of the existence of the Lithuanian Republic; and

"'Whereas the peace conference through Marshal Foch directed that a temporary neutral line of demarcation be maintained between Lithuanian Republic and Polish Government; and

"'Whereas the Lithuanian Republic has respected the suggestion of the peace conference; and

"'Whereas the Polish Government has ignored the peace conference suggestion; and

"'Whereas the Polish armies instead of fighting Bolshevism are invading the territory of the Lithuanian Republic; and

"'Whereas this invasion has extended far beyond the temporary line of demarcation suggested by the peace conference: Therefore

"'We Americans of Lithuanian descent solemnly protest against the overt acts of hostility by the Polish Government made against the Lithuanian Republic; and

"'We further protest against the presence of Polish troops upon Lithuanian territory: Therefore be it

"'*Resolved*, That the Government of the United States use her influence through Congress and the peace conference in Paris to the purpose of having Poland cease in her acts of hostility in Lithuania: *Further*, That Poland withdraw her forces to the line of demarcation already established; and be it further

"'*Resolved*, That the Government of the United States is represented to convey her disapproval of the above acts to Poland and the peace conference in Paris with the insistence that the wrongs above referred to be remedied at once.'

"B. F. MASTAUSKAS,
"*President Lithuanian National Council.*
"J. J. BILLSKIS,
"*Secretary Lithuanian National Council.*"

Mr. WALSH of Massachusetts. I have also received a communication from the secretary of the National Federation of Religious Liberals relative to the league of nations, which I ask to have printed in the RECORD. Accompanying the communication is a report of the proceedings of the ninth congress of the federation, which I ask may be referred with the communication.

The communication and accompanying report was ordered to lie on the table, and the communication was ordered to be printed in the RECORD, as follows:

NATIONAL FEDERATION OF RELIGIOUS LIBERALS,
*Newton, Mass., September 4, 1919.*

Hon. DAVID I. WALSH,
*Senator from Massachusetts.*

DEAR SIR: I am instructed by the council of this federation, which officially represents the union for common ends of the Societies of Progressive Friends, the Unitarian and Universalist Churches, and congregations of Jewish Reform in the United States, besides many individual religious liberals, to ask your courteous consideration of the action taken by it at its late session at Longwood, Pa., a printed copy of which I herewith transmit to you.

The expression of opinion in favor of an early ratification by the Senate of the treaty of peace with Germany without amendment, save such interpretations as may further explain our American understanding of it, was ardent and unanimous. We trust we may find your senatorial judgment coinciding with this view of our international obligations as a people.

I remain, very truly, yours,

CHARLES W. WENDTE, *Secretary.*

Mr. WALSH of Massachusetts. I present a memorial from the League for the Preservation of American Independence, praying for the adoption of certain reservations in ratifying the treaty of peace with Germany, together with a statement signed by 150 citizens of Massachusetts and other States approving the stand taken by that organization. I ask that the body of the memorial be printed in the RECORD.

There being no objection, the memorial was ordered to lie on the table and to be printed in the RECORD, as follows:

FREEDOM TO DEFEND A RIGHT; FREEDOM TO REFUSE TO FIGHT; FREEDOM TO MIND OUR OWN BUSINESS.

*To the Senators of the United States:*

The League for the Preservation of American Independence respectfully urges the careful and dispassionate consideration of the following:

I.

We affirm:

1. That no treaty obligations should be assumed which impair—

RIGHT OF SELF-DEFENSE.

(1) The right of self-defense and of friendly succor.

RIGHT TO REFUSE TO FIGHT.

(2) The right to refuse to go to war.

RIGHT TO MANAGE DOMESTIC AFFAIRS AND TO MAINTAIN MONROE DOCTRINE.

(3) The right to manage our own domestic affairs and to maintain our traditional policies.

ALL THESE RIGHTS DESTROYED OR IMPERILED BY THE COVENANT.

2. That the right of self-defense and of friendly succor is destroyed by article 15 of the covenant; that the right to refuse to go to war is destroyed by article 10 of the covenant; and that the right to manage our own domestic affairs and to maintain our traditional policies is imperiled by articles 16, 21, and 23.

AMENDMENT NEEDED, NOT INTERPRETATION.

3. That if these provisions of the covenant were good but obscure, they would require interpretation, but that as they are vicious and clear, what they need is amendment.

II.

CONSENT TO BE GIVEN SUBJECT TO SPECIFIC RESERVATIONS.

We therefore submit:

1. That the Senate should refuse to advise and consent to the making of the treaty with Germany unless its advice and consent is expressly made subject to such reservations as the Senate shall specify. According to established international usage, acceptance by the other parties signatory of such reservations can be accomplished by the separate action of the several chancelleries without either reconvening the peace conference or jeopardizing the stability of the peace with Germany.

RECONVENING OF PEACE CONFERENCE NOT NECESSARY.

2. That when consent has thus been given to the treaty the Senate should maintain its reservations even if other powers hesitate or decline to approve them, and should not under any circumstances yield to pressure exerted from abroad.

THE UNITED STATES MUST NOT YIELD TO FOREIGN POWERS.

3. That the reservations to be made by the Senate in giving consent to the treaty should include the following:

THE RIGHT OF SELF-DEFENSE.

First reservation: The United States expressly reserves its right to resort to war in self-defense or for the restoration of order in a neighboring territory or to succor a friendly nation, even if such action is disapproved by the unanimous vote of the council or of the assembly; such an exercise of sovereignty by the United States not to constitute a breach of any covenant or obligation under this treaty and not to subject the United States to any of the consequences prescribed therein in the case of disregard of covenants, anything in the treaty to the contrary notwithstanding.

THE RIGHT TO REFUSE TO FIGHT PRESERVED.

Second reservation: The United States expressly reserves its right to ignore a call to arms from either the council or the assembly and to refuse to adopt any military, naval, financial, or economic measures against any nation or nations except such as its uncontrolled judgment shall approve, anything in the treaty to the contrary notwithstanding.

THE RIGHT TO REGULATE DOMESTIC AFFAIRS AND TO MAINTAIN THE MONROE DOCTRINE PRESERVED.

Third reservation: The United States expressly reserves its right to determine its own domestic policies and to enforce its own regulations for the control of immigration and of its own coastwise trade and to formulate and enforce its own fiscal and tariff policies, and in particular the United States reserves its right to act in accordance with the Monroe doctrine with the same freedom and effect as if this treaty had not been made.

Respectfully submitted.

LEAGUE FOR THE PRESERVATION OF AMERICAN INDEPENDENCE,
By HENRY WATTERSON, *President.*
GEORGE WHARTON PEPPER, *Vice President.*
STUYVESANT FISH, *Treasurer.*
HENRY A. WISE WOOD, *Secretary.*
ALBERT J. BEVERIDGE, *Director.*
LOUIS A. COOLIDGE, *Director.*
THOMAS W. HARDWICK, *Director.*
DAVID JAYNE HILL, *Director.*
E. C. STOKES, *Director.*

I approve the position of the League for the Preservation of American Independence as above stated and request the Senators from my State to act in accordance with it.

(Signed) STANLEY C. ROBBINS,
*Harwich, Mass.*

REPORTS OF COMMITTEES.

Mr. SMITH of Arizona, from the Committee on Public Lands, to which was referred the bill (S. 2610) to provide for the disposal of certain waste and drainage water from the Yuma project, Arizona, reported it without amendment and submitted a report (No. 200) thereon.

Mr. McLEAN, from the Committee on Banking and Currency, to which was referred the bill (S. 2902) to amend section 5182, Revised Statutes of the United States, reported it without amendment and submitted a report (No. 201) thereon.

Mr. KELLOGG, from the Committee on Interstate Commerce, to which was referred the bill (H. R. 9203) to punish the transportation of stolen motor vehicles in interstate or foreign commerce, reported it with an amendment and submitted a report (No. 202) thereon.

Mr. NEWBERRY, from the Committee on Fisheries, to which was referred the bill (S. 2978) to establish additional fish-cultural subsidiary stations in the State of Michigan, reported it without amendment and submitted a report (No. 203) thereon.

Mr. CURTIS, from the Committee on Indian Affairs, to which was referred the bill (S. 287) to authorize mining for metalliferous minerals on Indian reservations, submitted an adverse report (No. 212) thereon, which was agreed to and the bill was postponed indefinitely.

He also, from the same committee, to which was referred the bill (S. 368) to cancel the allotment of Davie Skootah on the Lummi Reservation, Wash., and reallot the lands included therein, submitted an adverse report (No. 213) thereon, which was agreed to and the bill was postponed indefinitely.

He also, from the same committee, to which was referred the bill (S. 806) conferring jurisdiction on the Court of Claims to hear, determine, and render judgment in claims of the Iowa Tribe of Indians against the United States, reported it with an amendment and submitted a report (No. 207) thereon.

He also, from the same committee, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

A bill (S. 193) to cancel the allotment of Little Bear, deceased Indian of the Crow Reservation, Mont. (Rept. No. 206);

A bill (S. 1329) to authorize the Secretary of the Interior to acquire certain Indian lands necessary for reservoir purposes in connection with the Blackfeet Indian reclamation project (Rept. No. 208); and

A bill (H. R. 446) authorizing the Commissioner of Indian Affairs to transfer fractional block 6, of Naylor's addition, Forest Grove, Oreg., to the United States of America, for the use of the Bureau of Entomology, Department of Agriculture (Rept. No. 211).

He also, from the same committee, to which were referred the following bills, reported them severally with amendments and submitted reports thereon:

A bill (S. 126) conferring jurisdiction on the Court of Claims to permit the Yankton and Cuthead Bands of Sioux Indians to intervene in the action of the Sisseton and Wahpeton Bands of Sioux Indians against the United States (Docket No. 33731), and to hear, determine, and render judgment in said action in claims of Yankton and Cuthead Bands of Sioux Indians against the United States (Rept. No. 205);

A bill (S. 2282) canceling Indian trust patents Nos. 307319 and 366449 (Rept. No. 209); and

A bill (S. 2709) authorizing the Secretary of the Interior to issue patent to school district No. 8, Sheridan County, Mont., for block 1, in Wakea town site, Fort Peck Indian Reservation, Mont., and to set aside one block in each township on said reservation for school purposes (Rept. No. 210).

MAJ. GEN. CROWDER.

Mr. KNOX. From the Committee on Military Affairs I report back favorably, without amendment, the bill (S. 2867) to authorize the President, when Maj. Gen. Crowder retires, to place him on the retired list of the Army as a lieutenant general, and I submit a report (No. 204) thereon. To the report is attached a letter from the Secretary of War and a report from The Adjutant General, which I ask to have printed in connection therewith.

The PRESIDENT pro tempore. In the absence of objection it will be so ordered.

GRAZING LANDS IN UTAH.

Mr. SMOOT. From the Committee on Public Lands I report back favorably, without amendment, the bill (S. 3016) to authorize the disposition of certain grazing lands in the State of Utah, and for other purposes, and I submit a report (No. 214) thereon. I present in connection with the bill a favorable report from the department. I ask for the present consideration of the bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

*Be it enacted, etc.*, That so much of the act of Congress approved March 3, 1905 (Public, No. 212), as limited the sale of Indian lands in the former Uintah Indian Reservation, in Utah, remaining undisposed of five years from the taking effect of the act to disposition in tracts of not more than 640 acres to any one person be, and the same is hereby, repealed, and such lands shall remain subject to disposition as provided by law, under rules and regulations to be prescribed by the Secretary of the Interior: *Provided*, That where the validity of purchases heretofore made under the act of March 3, 1905, have been or may hereafter be questioned in any departmental or court proceedings on the ground that a larger area than 640 acres has been, directly or indirectly, acquired by one person or corporation, the Secretary of the Interior is authorized, in his discretion, to accept a reconveyance of the lands involved in such proceeding and to repay to the purchaser or his assigns the purchase money paid therefor, or to validate, ratify, and confirm such sales, or to examine and determine the present value of said lands and upon payment by the patentee or purchaser or his assigns of the difference between the amount heretofore paid and such ascertained value, to validate, ratify, and confirm such sales.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. SMOOT. I ask that the report may be printed in the RECORD.

There being no objection, the report submitted this day by Mr. SMOOT was ordered to be printed in the RECORD, as follows:

Mr. SMOOT, from the Committee on Public Lands, submitted the following report (to accompany S. 3016):

The Committee on Public Lands, to whom was referred the bill (S. 3016) to authorize the disposition of certain grazing lands in the State of Utah and for other purposes, having had the same under consideration report favorably thereon without amendment, with the recommendation that the bill do pass.

This bill proposes to remove the limitation of 640 acres as a maximum purchase on all future sales, leaving the lands to be disposed of as otherwise provided by the act of 1905 (33 Stats. L., 1069), under rules and regulations to be prescribed by the Secretary of the Interior. It would be for the best interest of the Indians to remove this restriction in the interest of obtaining better prices for their lands, because the land is of such character as to be worthless in small tracts, while larger areas will afford an opportunity for use for grazing purposes.

The bill has the approval of the Secretary of the Interior, as will appear by the letter attached, which is made a part of this report.

SEPTEMBER 19, 1919.

MY DEAR SENATOR: I am in receipt of your letter of September 18, 1919, requesting an expression of my views on S. 3016, "A bill to authorize the disposition of certain grazing lands in the State of Utah, and for other purposes."

This bill appears to be a substitute for S. 2769, concerning which I submitted a favorable report on the 21st of last month. The present bill amends S. 2769, to the extent of adding after the word "sales," in the present draft of the bill, line 7, page 2, the following:

"To examine and determine the present value of said lands and upon payment by the patentee or purchaser, or his assignees of the difference

between the amount heretofore paid and such ascertained value, to validate, ratify, and confirm such sales."

I see no objection to the amendment, and recommend that Senate No. 3016 receive the favorable consideration of your committee.

Cordially, yours,

F. K. LANE, *Secretary.*

Hon. REED SMOOT,
*Chairman Committee on Public Lands,*
*United States Senate.*

BILLS AND JOINT RESOLUTIONS INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. STERLING:

A bill (S. 3036) granting a pension to Amos T. Duggan (with accompanying papers); to the Committee on Pensions.

By Mr. WADSWORTH:

A bill (S. 3037) to authorize the Secretary of War to transfer free of charge certain surplus motor-propelled vehicles and motor equipment to the Department of Agriculture, Post Office Department, Navy Department, and the Treasury Department for the use of the Public Health Service, and certain other surplus property to the Department of Agriculture, and for other purposes; to the Committee on Military Affairs.

By Mr. MYERS:

A bill (S. 3038) granting to the trustees of the Congregational Church of Bowdoin, Mont., for the benefit of the Congregational Church at Bowdoin, Mont., lots 4 and 5, in block 12, town site of Bowdoin, State of Montana; to the Committee on Public Lands.

A bill (S. 3039) granting a pension to Jesse E. Ballinger; to the Committee on Pensions.

By Mr. CAPPER:

A bill (S. 3040) donating captured cannon and cannon balls to the city of Fredonia, Kans.; to the Committee on Military Affairs.

A bill (S. 3041) for the relief of Mrs. Silas Cooper (with accompanying papers); and

A bill (S. 3042) for the relief of James Walters (with accompanying papers); to the Committee on Claims.

By Mr. MOSES:

A bill (S. 3043) granting an increase of pension to Alonzo Knox (with accompanying papers); to the Committee on Pensions.

By Mr. KEYES:

A bill (S. 3044) granting an increase of pension to Hiram A. Campbell; to the Committee on Pensions.

By Mr. STANLEY:

A bill (S. 3045) to increase the limit of cost of the public building to be erected at Shelbyville, Ky.; to the Committee on Public Buildings and Grounds.

By Mr. HALE:

A bill (S. 3046) granting an increase of pension to Hiram B. Orff (with accompanying papers); to the Committee on Pensions.

By Mr. ELKINS:

A bill (S. 3047) to authorize the retirement of enlisted men of the Army, Navy, and Marine Corps for disability; to the Committee on Military Affairs.

A bill (S. 3048) granting an increase of pension to James H. Osburn; to the Committee on Pensions.

By Mr. PENROSE:

A bill (S. 3049) for the relief of Samuel Wilson; to the Committee on Military Affairs.

A bill (S. 3050) for the relief of the Sanitary Co. of America (with accompanying papers); to the Committee on Claims.

A bill (S. 3051) granting an increase of pension to Charles F. Doepel;

A bill (S. 3052) granting an increase of pension to Washington B. Coder (with accompanying papers);

A bill (S. 3053) granting an increase of pension to John Klingler (with accompanying papers);

A bill (S. 3054) granting an increase of pension to John Fildes, jr. (with accompanying papers);

A bill (S. 3055) granting an increase of pension to Lewis A. Uhl (with accompanying papers);

A bill (S. 3056) granting a pension to Margaret Mars (with accompanying papers);

A bill (S. 3057) granting an increase of pension to Leroy Loveland (with accompanying papers); and

A bill (S. 3058) granting a pension to George McCaughin; to the Committee on Pensions.

By Mr. UNDERWOOD (for Mr. MARTIN):

A bill (S. 3059) granting a pension to Belle Carmody (with accompanying papers); to the Committee on Pensions.

By Mr. UNDERWOOD:

A joint resolution (S. J. Res. 110) authorizing the Secretary of the Interior to issue patent to Alice Q. Lovell and W. S. Lovell; to the Committee on Public Lands.

AMENDMENT TO FIRST DEFICIENCY APPROPRIATION BILL.

Mr. CURTIS submitted an amendment proposing to appropriate $35,000 for the purchase of a bridge across Missouri River connecting the two portions of the United States Military Reservation at Fort Leavenworth, Kans., intended to be proposed by him to the first deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

STRIKE OF STEEL MILL EMPLOYEES.

Mr. CURTIS. On behalf of the junior Senator from Iowa [Mr. KENYON] I offer a resolution, which I ask may go over under the rule.

The resolution (S. Res. 188) was read, as follows:

Whereas a strike of the employees of the steel mills of the United States has been called; and

Whereas such strike adds to the troublesome conditions already existing and becoming a question of great public moment; and

Whereas it is the duty of Congress to investigate the causes and purposes of said strike and see if the situation can in any way be relieved by Federal action: Now, therefore, be it

*Resolved*, That the Committee on Education and Labor of the United States Senate is hereby instructed to immediately investigate said strike and report to the Senate within the shortest possible time the causes and reasons therefor.

Mr. CURTIS. Mr. President, I give notice that the Senator from Iowa [Mr. KENYON] will call up the resolution to-morrow morning.

The PRESIDENT pro tempore. The resolution will go over under the rule and be printed.

RACE RIOTS AND LYNCHINGS.

Mr. CURTIS submitted the following resolution (S. Res. 189), which was read and referred to the Committee on the Judiciary:

*Resolved*, That the Committee on the Judiciary of the United States Senate be, and it is hereby, authorized and directed at as early a date as possible, by subcommittee, to investigate the race riots in the city of Washington, D. C., and other cities in the United States, and to investigate lynchings which have occurred in different parts of the United States, and to ascertain as far as possible the causes for such race riots and lynchings and report what remedy or remedies should be employed to prevent the recurrence of the same. Said subcommittee shall have power to have meetings in any part of the United States, to call and examine witnesses, to examine papers and to take such action as may be necessary to secure the facts.

PRICE OF WOOL.

Mr. PHIPPS. Mr. President, I send to the desk a telegram which I have received from Mr. W. A. Snyder, of Denver, Colo., representing the woolgrowers of the Western States, which I ask to have read and referred to the Committee on Agriculture and Forestry.

There being no objection, the telegram was ordered to be read and referred to the Committee on Agriculture and Forestry, as follows:

DENVER, COLO., *September 21, 1919.*

LAWRENCE C. PHIPPS,
*United States Senate, Washington, D. C.:*

We have advices from London that the British Government is going to ship 50,000,000 pounds of their wool to Boston and sell same at public auction in November. If England is allowed to do this, it is going to demoralize prices on wool, not only for present clip which is stored in Boston but also next year's clip. I have taken this matter up with all our western growers, and they are unanimous in the opinion that England should not be allowed to use United States as dumping ground for her wool, and it will be appreciated by every grower in this western country if you will use your best efforts to block England's game. The high cost of living agitation that is going on in the country has been directed principally at the meat industry, and prices have declined on both cattle and sheep to such an extent that every grower that is marketing his stuff at the present time is losing money; and we feel we are entitled to some protection on our wool for at least one year to come. United States has 684,000,000 pounds of wool on hand, which is ample for all requirements. The producer of live stock is entitled to reasonable protection, and if it is not given production is going to be curtailed—the very thing nobody wants to see.

W. A. SNYDER.

ARTICLE BY M. F. O'DONOGHUE ON STRIKES.

Mr. MYERS. Mr. President, I have a short article from The Chief, a civil-service employees' weekly publication. It is written by Mr. M. F. O'Donoghue, a respected and faithful employee of the Government Patent Office. It relates to the subject of strikes by Government employees and others, and it contains so much good sense and patriotism in this day of strikes and threatened strikes that I ask for its publication in the RECORD.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

"STRIKES" OF ALL KINDS MUST GO AND AMERICANISM RULE AGAIN.
[By M. F. O'Donoghue.]

"'Coming events cast their shadows before' is a line from one of Walter Scott's poems. I have foreshadowed some events in The Chief that have come to pass. I make another prophecy. Put down upon the tablets of your memory, 'The strike must go.' Not the policeman's strike alone; not the civil servants' strike alone; but every and any form of 'strike.' The 'strike' will follow the saloon. It was the offspring of the saloon. The men who backed the 'saloon' went with it. The men whose strength is in the 'strike' will go out of existence with the 'strike.' Why will the 'strike go?' Because it's wrong! Because it's inhuman! Because it's selfishness personified! Because it's un-American! Everything that is un-American will go, or will be eliminated from American soil. The danger of the 'strike' came to a climax in Washington when the commissioners were told that only privates of the force would be permitted to become members of the union. The members of the committee were then catechised about this rule, why it had been adopted, and if it would not be changed to allow the officials and higher officers of the department to become members of the union. They were informed that the rule would not be amended.

"Now, you have the whole thing in a nutshell. There had been a policemen's association. The chief of police had joined it. Then there was a 'union' affiliated with the American Federation of Labor, but he would not be permitted to join that. Here was the quintessence of Bolshevism: 'Only privates of the force would be permitted to become members of the union.' Are we in Petrograd or in Washington, D. C.? Is this a dream or a figment of the imagination? No! My friends, it is a stern reality. It is a deliberate attempt to substitute the Bolshevism of Trotski and Lenin for the Americanism of Washington and Lincoln. The members of the union had their opportunity when Police Commissioner Brownlow ordered them to resign from the union. Those who delayed a moment branded themselves as disloyalists. The officers of the American Federation of Labor had the same opportunity. They should at once have insisted that the police association dissever itself from the American Federation of Labor as reliable guardians of the law and loyal Americans.

"We must and we will perpetuate the American system of order regulated by law. Those who are not prepared to adhere to that program must go out of the United States of America or they will be driven out or incarcerated. Every man, woman, and child will have his or her day in court, and they must abide in the consequences.

"Retirement is in abeyance. Now that the N. A. L. C. has reelected its former officers, there may be something doing. These men are experienced, able, and discreet. They are above all things conservative, which goes a long way in these times. The radicalism that was tolerated during the war has run its course. It is on the down grade. The common horse sense of the average American is manifesting itself."

TREATY OF PEACE WITH GERMANY.

Mr. THOMAS. Mr. President, during the last three weeks I have received a large number of copies of resolutions emanating from the various Democratic county organizations in my State, including also the State executive committee of the Democratic committee of Colorado, requesting me to vote for the treaty including the league of nations in its present form. I replied at length to the communication received from the State executive committee, but the others have become somewhat numerous, too numerous, in fact, to admit of the time necessary to make a similar communication to each. I therefore ask unanimous consent to have inserted in the RECORD a copy of my letter of September 4 to Hon. Philip Hornbein, chairman of the Democratic State executive committee, of Denver, Colo., which will enable me to answer in this manner all the correspondence I have on the subject.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 4, 1919.

To the Hons. PHILIP HORNBEIN (chairman), GERTRUDE A. LEE (vice chairman), G. B. MCFALL (secretary), JOHN H. MITCHELL, WATT G. SHELDON, JOHN W. MALONEY, W. H. GATES, and A. W. GRANT,
*Members of the Democratic State Executive Committee,*
*Denver, Colo.*

GENTLEMEN: I am in receipt of your resolutions indorsing the covenant of the league of nations, deploring efforts made by the opposition to belittle and embarrass the President, and requesting me "to exert every effort to bring about the immediate ratification of the league of nations without reservation or amendment," which I have read with due appreciation of its recitals.

In replying to this resolution I shall assume, and I hope with your approval, that it is not partisan, although emanating from a party committee. The proportions of the subject are international in their scope and operation; their stupendous importance to us, to posterity, and to the world lift it far above the limitations of party organisms. Efforts have been made to confine it to that narrow and sordid plane, and many hope that it may become an issue of the next national election. I trust not, but if it should become such an issue, popular sentiment will destroy existing party lines and create new political divisions, charged with possibilities of danger to our institutions and ill equipped for the formidable tasks now within the horizon of our future.

The covenant of the league of nations consists of 2 of 15 parts and 67 of 441 articles of the treaty negotiated at Versailles on June 28 last between 27 allied and associated powers, including the United States and the new Government of Germany. Three of these powers were born of the travail of the war just ended. The operation of the covenants of this treaty upon us will be neither individual nor partisan, but national. Our attitude toward the treaty should be national also. It is an old, and I trust a true, saying that we are partisan within our geographical boundaries and are Americans beyond them. The truth of this aphorism now approaches the supreme test, and it will be a sad hour for our country if it does not survive the ordeal.

I am fully aware that some eminent Republicans, of whom Senator BORAH is an example, insist that the covenant of the league not only should be, but is in fact, a party issue. I know, too, that much of the opposition to it is inspired by partisan motives, and Republicans have no monopoly of this attitude, for many Democrats are similarly disposed in the other direction. But the wisdom of the mass, too obviously resentful of this tendency, will effectually check its general acceptance.

Since I entered public life I have affiliated with and recognized the obligations of the Democracy, but I have never for a moment permitted any party consideration to influence my judgment in the exercise of the treaty-making power, and so long as I remain in the Senate I never will.

Lest I have misapprehended the character of your resolution, however, I must add just here that while I concede the right of your committee to officially advise me as to all matters of a party nature, I am unable to acknowledge its extension into other domains of public duty. Hence I shall treat your communication as embodying the view of eight of my esteemed friends and fellow citizens and reply to it in similar fashion.

I do not know how many of you have read the treaty nor how familiar you may be with its terms. Several times I have read and pondered over its many and complicated covenants, and my task is still incomplete. Indeed I have done this so long and so anxiously that some of my constituents reproach me with being unable or unwilling to reach definite conclusions through timidity, vacillation, or some equally ignoble impulse. But I have been actuated at all times by the very earnest desire to support the treaty by squaring its provisions, if possible, with the dictates of duty and of conscience. This task I have been unable to accomplish.

If the league, when established, would function as so confidently asserted by its supporters, many of whom are not familiar with its provisions, I would accept it. But if it does not, and I fear it will not so function, the reaction among these very supporters will justly make us the first objects of their condemnation, since ours was the responsibility of final action.

The President in his New York address last March declared that the league would be so woven into the general fabric of the treaty that it would be very difficult to separate it therefrom. That has been done. Hence one must familiarize himself with the entire document or he can not intelligently comprehend the nature and probable operation of the league. My opinion is that this is a victor's treaty, a treaty of force, a treaty of punishments, a treaty of partition, a treaty burdened with conditions accepted by the vanquished only at the point of the sword. Doubtless Germany deserves its punishments and much more, but the treaty is nevertheless freighted with a ghastly cargo of future wars, only awaiting opportunity for their bloody development. Germany, like France before her, will submit to her burdens only so long as she must. Both herself and Russia are excluded from the league. It now seems probably that she can and will control that great but suffering nation in the near future, and operate within her vast dominions unhindered by any treaty limitations. Russian Bolshevism means, and has always meant, German activity in Russia.

Through Lenin she has acquired ownership of a majority of Russian manufacturing equipment. The population of the two countries is fully 250,000,000, more than twice that of Great Britain, France, and Italy, and equal to the combined population of these three countries and the United States. And we have antagonized all elements in Russia by a hesitant and ineffective policy, obnoxious to the present dominant class, and deservedly unsatisfactory to the rest of the Russian people. Poland, Czechoslovakia, and the Balkan States are bitterly resentful of the boundaries prescribed for them, some of which must be hereafter defined by plebiscites. Moreover, they are populated by composite but conflicting races, whose bloody collisions have been occasionally avoided in the past by a dominating authority now wholly removed. Italy has no intention of abandoning her demand for Fiume, nor is Jugo-Slavia less determined to retain it. Italy clashes with Greece in Albania and Asia Minor, while France and England even now look askance at each other from their vantage points in Syria and Palestine. Across the Pacific the Shantung problem looms large and sinister. All these situations with others of minor import lurk in the treaty; their outlines scarcely concealed by the elaborate phraseology of its ponderous recitals. Roumania has just defied the authority of the allied and associated powers, overrun Hungary, and arrogantly refuses to surrender a foot of its occupied territory. Hungary must be protected by the Allies if protected at all, and that seems impossible, except by armed intervention.

Do you see any prospect of restoring normal conditions here by merely settling the international problem of the league? Or that when one of these storms breaks from three to five thousand miles distant from America, the burden of their suppression under the league must fall upon us because ours is the only great power still possessed of the financial and military sinews of war? And do you believe the public sentiment of our countrymen will approve our entry into any such war waged upon other continents than ours, to settle differences wholly alien to our hemisphere? Speaking solely for myself, I can not perceive the wisdom of ratifying a treaty pregnant with strife and conflict, and hoping to avoid them by intertwining its articles with covenants for a league of nations. This is possible only to an alliance offensive and defensive, equipped actually and potentially with power to enforce its mandates. I know, of course, that the new and the Balkan nations, save Bulgaria, are to be members of the league, yet Italy, Roumania, and Bulgaria are approaching an entente, sure to be countered by similar action between Greece and the Serbian confederation. Europe can not change the habits nor control the propensities born of experiences centuries old. Her ways are not our ways, nor her purposes our purposes. Peace has been an interlude with her. With us it is a normal state. Her memories are of war and the punishments they have inflicted, of wrongs endured, of hates engendered, of reprisals hoped for. Ours have not yet been darkened by shadows such as these. Her exaltation upon the close of the war and after years of awful sacrifice, with the menace of Germany behind her, was spiritual and supreme. But it was only transient. That has gone. It subsided months ago and her ancient attitude has emerged from its effacement. It is reflected in every line of the treaty, save the covenant of the league, and the President secured that upon terms which must have been abhorrent to his ideals as they are repugnant to his sense of justice.

I can not review specific objections to the plan of the league without expanding this reply to tedious proportions. But I will send to each of you the speech I delivered in the Senate on August 22 upon the provisions of part 13, which I trust you will do me the honor of reading. Some of my friends have advised me that it was not a good party speech. It is not a party speech at all, nor one involving a party or even a strictly national problem. If my construction of part 13 is wrong, I feel sure some of the advocates or opponents of the league will say so to the country and establish the fact by cogent and conclusive arguments. No man will be more greatly relieved than myself should this be done.

Part 1 has been materially changed since it was first given to the public. These changes have greatly improved it, but others are still essential. Even Mr. Taft, its foremost unofficial advocate, now concedes the fact. Those which I shall advocate relate to articles 1, 10, 11, and 21, and to part 13, the reasons for which have been discussed so much and so frequently that I am sure you are already familiar with them.

The league in one or two very important particulars fails to measure up to the President's requirements for a successful covenant. For example, Mr. Wilson said, on January 22, 1917, that—

> mere agreements may not make peace secure. It will be absolutely necessary that a force be created as a guarantor of the permanency of the settlement so much greater than the force of any nation now engaged, or any alliance hitherto formed or projected, that no nation nor probable combination of nations could face or withstand it. If the peace presently to be made is to endure it must be a peace made secure by the organized major force of mankind.

No such organized force stands behind this league. It does not embrace half the world's population.

On September 27, 1918, the President said:

> Economic rivalries * * * have been the prolific source in the modern world of the plans and passions that make for war. It would be an insincere as well as an insecure peace that did not exclude them in definite and binding terms.

May I say that the proposed league does not exclude them in definite and binding terms, or at all? The sole reference to the subject is found in article 23, clause (e), which is confined to the congress of members of the league. The President recently told the Senate Committee on Foreign Relations that this clause did not conflict with the control of members of the league over their economic legislation.

In the same address the President said:

> That price [of a secure and lasting peace] is impartial justice in every item of settlement, no matter whose interest is crossed; and not only impartial justice, but also the satisfaction of the several peoples whose fortunes are dealt with. That indispensable instrumentality is a league of nations formed under covenants that will be efficacious.

Need I here do more than mention Shantung, whose disposition can not be reconciled with this indispensable requirement?

On January 22, 1917, the President said:

> A victor's terms impressed upon the vanquished * * * would be accepted in humiliation, under duress, at an intolerable sacrifice, and would leave a sting, a resentment, a bitter memory upon which terms of peace would rest, not permanently but upon a quicksand.

This is the eloquent expression of an eternal truth.

The President has also said that a league of nations must be a league of democracies and devoted to the principle of popular government; that it could not admit of association with autocracy, which could not be relied upon to keep faith with its associates, and which would become a nest of intrigue, eating away the very heart of the league. But Japan, the one surviving autocracy of the world, is to be a member and one of the most important members of this league, and with a controlling vote in the proceedings of the executive council. I indorse all these utterances of the President as he gave them to the people, and I am more than ever convinced of their soundness; yet the league as outlined in the treaty conforms to none of those fundamental conditions. And I am surely justified in testing it by the rigid standards of one of its greatest authors in my effort to analyze its covenants and forecast its consequences.

You very properly "deplore the efforts made by the opposition to belittle and embarrass the President," and so do I. They are unworthy alike of their authors and of the mighty problem confronting them. I have had naught but admiration for the President and sympathy with his ideals and purposes. I have never failed to say so. I have denounced these miserable naggings and reflections upon the President's motives, his abilities, and his judgment more than once upon the floor of the Senate and elsewhere. I know the difficulties besetting him in Paris and the beasts with which he fought there, as did Paul at Ephesus. I know he performed his great task as well as any man similarly circumstanced could have done. It is with sorrow that I find myself compelled to differ from him upon a great question of international concern lying so near to his heart. But on occasions like these my first duty is to my country and myself as I am given to perceive and understand that duty. Therefore, after months of vigil and anxious thought, after viewing this treaty from every standpoint, historical, political, economical, and practical, I can not under my oath of office cast my vote for the ratification of this treaty in its present form.

Let me add in conclusion that ample provision is made by the treaty for ending war in advance of its final ratification. In a speech in the Senate on August 28 last Senator KNOX thus disposed of the subject: "In the last article, the fourth and third clauses preceding the testimonial clause read as follows:

> A first procès-verbal of the deposit of ratification will be drawn up as soon as the treaty has been ratified by Germany, on the one hand, and by three of the principal allied and associated powers on the other hand. From the date of this first procès-verbal the treaty will come into force between the high contracting parties who have ratified it. For the determination of all periods of time provided for in the present treaty this date will be the date of the coming into force of this treaty.
>
> Germany and Great Britain have already ratified the treaty. So soon therefore as the treaty has been ratified by any two of the remaining allied and associated powers, the remaining powers being the United States, France, Italy, and Japan, and when the procè verbal of such deposit of ratifications has been drawn up "the state of war will terminate," as a reading of the many treaty clauses coming into force at that time and making the further conduct of the war impossible will clearly show.

The events here outlined would not establish the league, but they would end the state of war now theoretically existing.

It pains me deeply to differ from friends like yourselves upon a subject of such vital concern to our country and to the world. But it is for that supreme reason that I have studied the problem from the records of the past, the conditions of the present, and the welfare of the future. These guides point to the only path I can follow, and whatever the results, I shall have the consolation of my judgment and my conscience.

Very sincerely, yours,

C. S. THOMAS.

LEAGUE OF NATIONS.

Mr. SMITH of Arizona. I present a resolution adopted by Miami Miners' Union No. 70, of Arizona, favoring the ratification of the covenant of the league of nations. It is very short, and I ask without a violation of the rule that I have laid down for myself that it be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

Whereas the covenant of the league of nations recognizes labor as a sensate force of human attributes; has the right to be considered when its voice is raised in conclaves of men deliberating on the affairs of humanity; and whose destiny is also involved in whatever fortunes is meted to the peoples of the world; and

Whereas the recognition of these several attributes, human and social, by the covenant, stabilizes the economic relations between the various nations of the world and therefor promotes peace endeavors: Be it

*Resolved*, That Miami Miners' Union No. 70, International Union of Mine, Mill, and Smelter Workers, as an integral part of the forces of labor, align itself with the spirit of the covenant that raises labor from a mechanical device to a living and vocative expression of men whose collective genius is the foundation upon which the structure of civilization rests; and further

*Resolved*, That the Union through these resolutions invoke the Congress of the United States to ratify the covenant of the league of nations and thus be a party to the upholding of a new thought, a new order for good, that arose out of the ashes of a devastating war.

Adopted by Miami Miners' Union in regular meeting September 10, 1919.

[SEAL.] F. H. COLLINS, *President*.
KENNETH CLAYTON, *Secretary*.

ADDRESS BY HON. CHARLES H. RUTHERFORD.

Mr. ASHURST. Mr. President, I ask unanimous consent to have inserted in the RECORD a copy of an address delivered by Hon. Charles H. Rutherford, vice president for Arizona of the American Bar Association, who ably discusses the proposed league of nations.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

LEAGUE OF NATIONS.

[Address delivered by Hon. Charles H. Rutherford, vice president of the American Bar Association for Arizona, before the Verde District Bar Association, at Clarkdale, Ariz., July 18, 1919.]

"Mr. President and gentlemen of the Verde District Bar Association, while I feel greatly honored by being privileged to address you on the momentous question of the league of nations—a question that I conceive to be the greatest that has been before the American people since the drafting of the Declaration of Independence, I feel also that it is a question so many-sided that it would be impossible in the time at my disposal to cover more than a single phase of the subject. I will therefore attempt to consider it only from the purely legal side, as providing for the first time in the history of civilization a real court of last resort for the settlement of international differences.

"We have a great corpus of what we call international law. We all burned in our day more or less midnight oil in striving to master its intricacies, and as soon as we were admitted to practice we forgot what little we ever knew about it. And why? Because it was—and is—but a pure abstraction.

"This statement may be questioned, but I submit that it is the plain, unvarnished truth. What really constitutes a body of practical working law?

"In the first place, we must have either the statute or the customary law as a foundation—international law has no such basis, except it be the mass of treaties, agreements, balances of power, and other tools of the diplomats, and we have reason to know by the bitter experience of the past four years that these are, after all, but 'scraps of paper' to be obeyed or to be torn up as the whim of any nation may dictate. I maintain that any working law must have a surer foundation than this, else, as a corpus juris, it does not exist.

"We hear and read much of justiciable and nonjusticiable matters and the text writers are able to draw lines of the utmost fineness and delicacy between the two. What, may I ask, becomes of these fine-spun distinctions when one nation throws down the gage of battle and another picks it up? Read the answer in the crimes committed by the Germans in France, in Belgium, in Serbia, and in Russia. How many of the so-called Hague conventions governing the conduct of civilized war did they observe or respect? Not one. For them international law was nonexistent and The Hague conventions but another 'scrap of paper' to be disregarded whenever their interest seemed to indicate such course as tending to possible victory.

"I repeat that for the Germans there was no such thing as law, whether of God or of man.

"In the next place, in order that we may have laws that are effective we must have courts to construe them.

"I need not say to this body of practicing attorneys that even the finest and most perfect statutes that the wit of man could devise would be but so much waste paper unless we had courts to adjudicate and determine the rights of the people under those statutes, to construe them, and, most important of all, to enforce them.

"And in order that the decree of the court may be translated into action the court must have its officers authorized and qualified to execute the decrees, its sheriffs and bailiffs to enforce the writs of judgment, its jails to hold the recalcitrant, aye, and its hangman to execute those condemned to the halter by its due processes.

"Eliminate any of these prerequisites and your system of law and law enforcement falls like a child's house of cards.

"Herein, as I see it, lies the everlasting weakness of international law. In the first place, it is a vague and utterly uncodified system, largely dependent upon text writers, diplomats, and treaty makers, and without any substantial basis on which all peoples are agreed. It is well nigh pure theory and is subject to infinite change with every trifling variation in the affairs of nations. No man can truthfully say that he knows much about it, and, as Germany has shown us, it has no basis in solid fact.

"In the next place, there is not now nor ever has been any court to determine the rights of litigants or to adjudicate disputed questions. We have had treaties by the thousand, some open and some signed in secret and preserved with every care from the knowledge of the world. We have had triple alliances, quadruple alliances, balances of power, balances of armies and navies, Hague conventions, peace palaces, peace commissioners, peace promises, disarmament agreements, arbitration treaties, and all other makeshifts and expedients that diplomats could invent, and what have they or any one of them amounted to when submitted to the acid test of practice? The answer is simple—less than nothing.

"I defy any man to cite to me a single treaty that was not just exactly what the Germans declared it to be, 'a scrap of paper' that might be disregarded at any time that it became to the interest of either party to so treat it.

"The treaty between nations is no whit different from the contract between individuals—it is absolutely worthless without a court to construe it and with power to enforce its findings.

"You may say that the treaty becomes binding by virtue of the mutual pledges of good faith and by the solemn covenants that it contains, and you may add that the nation that breaks a treaty incurs thereby everlasting shame and disgrace. I submit that no such fate has befallen any one of the nations that has broken treaties ever since the first one was drawn. In the late war Italy was bound to the German-Austrian alliance by treaties as solemn as could be made. Is she eternally disgraced because she failed to live up to her contract? Germany was pledged to respect the integrity of Belgium. Did she do so?

"I maintain that before we can have treaties that are not 'scraps of paper' we must have a tribunal of some sort that has the right to adjudicate between nations, and when we have that tribunal we shall need no more treaties.

"This tribunal can be erected only by the common agreement of the nations, and this agreement, this necessary contact of minds, we have for the first time in the history of mankind in the league of nations.

"My third point was that a court was not a court in the true sense of the term unless it has the power to enforce its decrees to the uttermost. Our civil and criminal courts all have such power, and therefore they are working, practical, potent institutions. Take away that power of enforcement and you have, ipso facto, done away with your court.

"Where do you find such a court in the realm of international law? Nowhere until now, but you do find it in the league of nations, which is equipped with all the machinery necessary to make its decrees effective.

"This league or tribunal has every necessary function and appurtenance of a working court. It has a body of codified law under which it acts; it is constituted for the express purpose of construing that law, and it has the 'teeth' to render its constructions effective.

"I maintain that this breaks new ground in international history and in international law, and to the great man whose fertile brain conceived the splendid idea I render my homage, careless of what political party he espouses or of what his other qualifications may be. It is not necessary that I should be of his particular opinion on matters of American politics, to his surpassing political genius I render my respect and my admiration, and, gentlemen, I feel that I am well within the truth when I say that President Woodrow Wilson will be remembered with affection and gratitude as long as the history of the race is written by reason of this magnificent achievement in political and diplomatic affairs by which, for the first time since the dawn of history, there seems a possibility of the final and complete elimination of the greatest curse of humanity—war.

"There are not wanting those who would take from President Wilson much of the credit for this stupendous idea, this magnificent conception. It is doubtless true that the adumbration of the idea has possessed the minds and hearts of men ever since the dawn of civilization, but it remained for him and his genius to crystallize the theory into practice and to present a working and workable plan for the solution of world difficulties and international disputes.

"Let us not hesitate, whether we be Republicans, Democrats, or what not, to give credit where credit is due, and I might submit that when all is said and done it is to Woodrow Wilson and to no one else that we must credit the conception of the league of nations as a workable, practical entity.

"And I am convinced that the common consent of all the peoples of the world is with him and is backing up the idea. In it they can see at least a hope of relief from their heaviest burdens, for let us not forget that we alone of the nations of the world have been free from the horrid necessity of maintaining great armies and navies. Every nation of Europe has been held back for centuries by the financial and physical burden of military and naval preparedness. We have often read of Europe as 'an armed camp,' and we know that the phrase was but a literal statement of the truth. Had a tithe of the cost of armaments been devoted to education or to the alleviation of social conditions Europe would be to-day a paradise instead of a hell.

"It may well be that the covenant of the league is not precisely as he first conceived it—it would be simply miraculous if it should be, as miraculous as was alleged to be the Septuagint translation of the Bible, in which, according to tradition, 70 individual men made a translation of the original text and each one of those translations was the same as the others, word for word and letter for letter.

"The covenant of the league was, after all, but a human document and therefore subject to human error. So was our Constitution, admittedly one of the greatest efforts of the human brain. But we have found it necessary to amend the Constitution—not once or twice, but repeatedly—and we shall, in the years to come, find it necessary to make still further changes for 'tempora mutantur et nos mutamur in illos.'

"So, I apprehend, shall we find it neccessary to amend and change the covenant of the league of nations to keep it abreast of the advances of civilization and in harmony with the times and with the varying needs of its signers. But this does not detract from the majesty of the original conception nor from the genius of its original framer. Let the carpers and critics jeer and jibe as they will, the fact remains that to Woodrow Wilson every fair-minded man must give the credit for enunciating in concrete form the yearnings and desires of centuries for a world to which war shall be a stranger and over which the white dove of peace shall spread her snowy wings.

"I am willing to go a step further and to admit, for the sake of argument, that the league may prove a complete and utter failure. I still maintain that, if such shall prove the lamentable fact, every credit is due its framer as having suggested the first remedy, the first real remedy, that has ever been suggested. I do not for a moment believe that the league is destined to fail—and this for the great reason that the world wants it. The peoples of the five continents and of the islands of the seven seas cry for peace, assured peace, and for relief from the constant soul-shrivelling fear of war. And what the whole world wants with single-hearted zeal, that it is sure to receive. I believe as surely as I believe that the sun will rise to-morrow morning that the covenant of the league will be accepted by the great common sense of the world, and that it can and will be made effective, because it is so designed that its decrees will not be 'scraps of paper' but decrees that can and will be enforced.

"We have seen the sorry spectacle of certain people attempting to make of this great achievement a partisan matter. We have heard the league ridiculed, cursed, and declared but the product of a visionary, impracticable and bound to become the very mother of new wards. I can but sympathize with those who elevate party above country and that will oppose so monumental a project simply because the man who conceived it happens to be of the opposite political stripe.

"I am proud to be able to say that this is not invariably the case, but that, on the contrary, no small section of the Republican Senators and leaders are in most hearty sympathy with the idea, and, what is more to the point at this moment, will support it with their votes. I maintain that this is no more a party question than was the winning of the war, and I brand as traitor to the best interests of his country the alleged statesman who will oppose it solely and simply on party grounds.

"I venture the assertion with every boldness that 80 per cent of the men and women voters of America are in favor of the plan, and I believe that if it were or could be submitted to a vote of the entire electorate of the United States the vote against it would be so insignificant as to be not worth mentioning. I will go a step further and say that if a plebiscite of the entire world could be taken there would not be a handful of votes cast against it—and these would be cast in Germany and Russia.

"And here in Arizona we have another matter on which we may congratulate ourselves—the fact that our Senators and Congressmen are supporting the league with every power at their command. I do not think there is one of us who does not know what the answer will be when the Secretary of the Senate calls the names of HENRY ASHURST and MARK SMITH, or what the responses would be were the question put in the House of Representatives when the Clerk came to the name CARL HAYDEN.

"These three statesmen have been true to the interests of America throughout the war, and their votes have been cast ever on the side of right. They voted as they did, not because they were Democrats, but because they are patriots; and as they voted throughout the dark and bitter days of the war so they will vote for the acceptance of the plan that we hope will, in God's good providence, put an end to war.

"The opponents of the league tell us that we shall sacrifice our national independence, that the league means internationalism, and that it is but a first step to world socialism. Were I addressing an audience of men untrained and unskilled in the law, I might consider such arguments worth refuting—to an audience like this such action is not necessary. I defy any man to put his finger on one single clause in the covenant that any court of law would construe as an abandonment of one American right.

"Rather than a loss of rights, the covenant means an increase of rights. It means a close partnership of the civilized nations of the world, each retaining its individual sovereignty unimpaired and intact, but all united in what even the league's bitterest opponents must confess is an attempt to solve the world's greatest problem.

"The fantastic visionary, the dreamer, may see a world confederation as an outcome of the league. The man of clearer and saner vision can see in it but a court armed with the powers that are essential to any court—that is, to function adequately and properly. It is often said that courts can punish but not reward, and this is true of the league of nations. Its sole function is to preserve world peace and world order. To that end it is clothed with the necessary powers, just as is any other court, and, I may say in passing, that even the power of guardianship over weak and unadvanced peoples is included. It stands on all fours, with every law court of which we have knowledge, in its organization, its equipment, its power to make decisions, and its power to enforce them when made.

"Before the tribunal of the league, the nations, great and small, must come with their disputes, their differences, their interfering ambitions, and the great supreme council of the one and only international court will do as courts of justice have always done.

"Poise the cause in justice's equal scales,
Whose beam stands sure, whose rightful cause prevails."

## TREATY WITH FRANCE.

Mr. WALSH of Montana. Mr. President, on the 7th of August last the Senate adopted a resolution as follows:

Whereas doubts have been expressed as to the authority of the treaty-making power under the Constitution to enter into the treaty with France, submitted to the Senate for ratification on the 29th day of July, 1919: Therefore be it

*Resolved*, That the Committee on the Judiciary be, and it hereby is, requested to inquire and advise the Senate as to whether there are any constitutional obstacles to the making of the said treaty.

I have the honor by direction of the subcommittee of the Committee on the Judiciary to submit its report.

Mr. ASHURST. I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[Senate Report No. 215, Sixty-sixth Congress, first session.]

CONSTITUTIONALITY OF THE TREATY BETWEEN THE UNITED STATES AND FRANCE.

September 22, 1919—Ordered to be printed.

Mr. WALSH of Montana, from the subcommittee of the Committee on the Judiciary, submitted the following report:

The subcommittee of the Committee on the Judiciary, which was directed by a Senate resolution of August 7, 1919, to advise the Senate as to whether there are any constitutional obstacles to the making of the treaty between the United States and France, signed at Versailles, June 28, 1919, have considered the question and beg to report as follows:

The text of the resolution is as follows:

"Whereas doubts have been expressed as to the authority of the treaty-making power under the Constitution to enter into the treaty with France, submitted to the Senate for ratification the 29th day of July, 1919: Therefore be it

"*Resolved*, That the Committee on the Judiciary be, and it hereby is, requested to inquire and advise the Senate as to whether there are any constitutional obstacles to the making of said treaty."

The treaty referred to in the resolution is as follows:

"AGREEMENT BETWEEN THE UNITED STATES AND FRANCE, SIGNED AT VERSAILLES JUNE 28, 1919.

"Whereas the United States of America and the French Republic are equally animated by the desire to maintain the peace of the world so happily restored by the treaty of peace signed at Versailles on the 28th day of June, 1919, putting an end to the war begun by the aggression of the German Empire and ended by the defeat of that power; and

"Whereas the United States of America and the French Republic are fully persuaded that an unprovoked movement of aggression by Germany against France would not only violate both the letter and the spirit of the treaty of Versailles to which the United States of America and the French Republic are parties, thus exposing France anew to the intolerable burdens of an unprovoked war, but that such aggression on the part of Germany would be and is so regarded by the treaty of Versailles as a hostile act against all the powers signatory to that treaty and as calculated to disturb the peace of the world by involving inevitably and directly the States of Europe and indirectly, as experience has amply and unfortunately demonstrated, the world at large; and

"Whereas the United States of America and the French Republic fear that the stipulations relating to the left bank of the Rhine contained in said treaty of Versailles may not at first provide adequate security and protection to France, on the one hand, and the United States of America as one of the signatories of the treaty of Versailles, on the other;

"Therefore the United States of America and the French Republic having decided to conclude a treaty to effect these necessary purposes, Woodrow Wilson, President of the United States of America, and Robert Lansing, Secretary of State of the United States, specially authorized thereto by the President of the United States, and Georges Clemenceau, president of the council, minister of war, and Stéphen Pichon, minister of foreign affairs, specially authorized thereto by Raymond Poincaré, President of the French Republic, have agreed upon the following articles:

*"Article I.*

"In case the following stipulations relating to the left bank of the Rhine contained in the treaty of peace with Germany signed at Versailles the 28th day of June, 1919, by the United States of America, the French Republic, and the British Empire among other powers:

"'ART. 42. Germany is forbidden to maintain or construct any fortifications either on the left bank of the Rhine or on the right bank to the west of a line drawn 50 kilometers to the east of the Rhine.

"'ART. 43. In the area defined above the maintenance and assembly of armed forces, either permanently or temporarily, and military maneuvres of any kind, as well as the upkeep of all permanent works for mobilization are in the same way forbidden.

"'ART. 44. In case Germany violates in any manner whatever the provisions of articles 42 and 43, she shall be regarded as committing a hostile act against the powers signatory of the present treaty and as calculated to disturb the peace of the world,'

may not at first provide adequate security and protection to France, the United States of America shall be bound to come immediately to her assistance in the event of any unprovoked movement of aggression against her being made by Germany.

*"Article II.*

"The present treaty, in similar terms with the treaty of even date for the same purpose concluded between Great Britain and the French Republic, a copy of which treaty is annexed hereto, will only come into force when the latter is ratified.

*"Article III.*

"The present treaty must be submitted to the council of the league of nations, and must be recognized by the council, acting, if need be, by a majority, as an engagement which is consistent with the covenant of the league. It will continue in force until on the application of one of the parties to it the council, acting, if need be, by a majority, agrees that the league itself affords sufficient protection.

*"Article IV.*

"The present treaty will be submitted to the Senate of the United States at the same time as the treaty at Versailles is submitted to the Senate for its advice and consent to ratification. It will be submitted before ratification to the French Chambers of Deputies for approval. The ratifications thereof will be exchanged on the deposit of ratifications of the treaty of Versailles at Paris or as soon thereafter as shall be possible.

"In faith whereof the respective plenipotentiaries, to wit: On the part of the United States of America, Woodrow Wilson, President, and Robert Lansing, Secretary of State, of the United States; and on the part of the French Republic, Georges Clemenceau, president of the council of ministers, minister of war, and Stéphen Pichon, minister of foreign affairs, have signed the above articles both in the English and French languages, and they have hereunto affixed their seals.

"Done in duplicate at the city of Versailles, on the 28th day of June, in the year of our Lord 1919, and the one hundred and forty-third of the Independence of the United States of America.

"[SEAL.] WOODROW WILSON.
"[SEAL.] ROBERT LANSING.
"[SEAL.] G. CLEMENCEAU.
"[SEAL.] S. PICHON."

The treaty-making power is withheld from the States and is conferred upon the President and the Senate in the following paragraph of the Constitution:

"He [the President] shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur." * * * (Art. II, sec. 2, cl. 2.)

The Constitution fortifies this power in the following terms:

"The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority * * *. (Art. III, sec. 2, cl. 1.)

"This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding." (Art. VI, cl. 2.)

There is in the Constitution no express limitation or qualification upon this power. The evident purpose was to vest in the President and the Senate that full treaty-making power which by international law and usage belongs to every sovereign and independent nation. The only restrictions are such as relate to the integrity and rights of the States and to the structure, operation, and integrity of the Federal Government.

The treaty-making power can not do what the Government in its entirity is prohibited from doing. Justice Field, in the case of Geofroy *v.* Riggs (133 U. S., 267), has clearly and fully outlined the scope of the treaty-making power in the following terms:

"The treaty power, as expressed in the Constitution, is in terms unlimited except by those restraints which are found in that instrument against the action of the Government or of its departments, and those arising from the nature of the Government itself and of that of the States. It would not be contended that it extends so far as to authorize what the Constitution forbids, or a change in the character of the Government or in that of one of the States, or a cession of any portion of the territory of the latter, without its consent. (Fort Leavenworth Railroad Co. *v.* Lowe, 114 U. S., 525, 541.) But with these exceptions, it is not perceived that there is any limit to the questions which can be adjusted touching any matter which is properly the subject of negotiation with a foreign country." (Ware *v.* Hylton, 3 Dall., 199; Chirac *v.* Chirac, 2 Wheat., 259; Hauenstein *v.* Lynham, 100 U. S., 483; 8 Opinions Attys. Gen., 417; The People *v.* Gerke, 5 California, 381.)

There are a number of older cases to the same effect which we deem it unnecessary to cite. The late case of O'Reilly de Camara *v.* Brooke (209 U. S., 45) is an illustration of the ratification of a tort treaty.

Willoughby on the Constitution (vol. 1, sec. 190) states the powers of the Federal Government in the following terms:

"SEC. 190. The Federal power all-comprehensive: The control of international relations vested in the General Government is not only exclusive, but all-comprehensive. That is to say, the authority of the United States in its dealings with foreign powers includes not only those powers which the Constitution specifically grants it, but all those powers which sovereign states in general possess with regard to matters of international concern."

And Hall (English) in his work on international law, in the first paragraph of Chapter X, describes the power in the following terms:

"It follows from the position of a state as a moral being, at liberty to be guided by the dictates of its own will, that it has the power of contracting with another state to do any acts which are not forbidden, or to refrain from any acts which are not enjoined by the law which governs its international relations, and this power being recognized by international law, contracts made in virtue of it, when duly concluded, become legally obligatory."

From various sources of information it appears that such doubt as exists concerning the authority of the treaty-making power constitutionally to enter into the treaty in question arises by reason of the provision of section 8 of Article I of the Constitution, which provides that the "Congress shall have power to declare * * * war."

But the subject of making war is not without the field which the treaty-making power may occupy, because Congress is empowered to legislate with reference to it. Congress is by the same article authorized to legislate with reference to a great number of subjects, interstate and foreign commerce, for instance, in respect to which innumerable treaties have been entered into, as is shown in addresses made by two members of your committee, copies of so much of which address as are pertinent to the present inquiry are appended to this report. They were made in vindication of the constitutionality of the covenant for the league of nations, and particularly article 10 thereof, but seems to the committee equally applicable to the question concerning which its views have been solicited.

Is the treaty in question of a character that the President and the Senate are authorized to make? To answer this question, without any purpose to justify the wisdom of the treaty, a brief statement of facts is necessary. It is evident that Germany in the recent war aimed at the crippling and destruction of France—our ally in the Revolutionary War. Our country entered into the war on the primary and technical ground that Germany had invaded, attacked, and in part destroyed our commerce on the high seas, and had sought to sever our commercial intercourse with both France and England, as well as with other portions of Europe. The menace came from Germany, and it was a continuing menace. To remove that menace, both for the present and the future, it became necessary for our country to cooperate with France, as well as with England, in the great struggle. Without their aid we could not by ourselves have vanquished Germany. It was, moreover, evident that if France and England were destroyed or seriously crippled, Germany would have a free hand against our country and our commerce, and we would be to a greater or less extent at her mercy.

While Germany has been vanquished, she is still, by reason of her great resources, her large population, and her military and imperialistic spirit, liable to be a menace in the future, for nothing but force is likely to restrain her from seeking world dominion at the earliest opportunity. Compared with France, her losses in the war were moderate. France, with a population of a little more than half of Germany, lost in killed over 1,200,000 of her population and in crippled and wounded more than twice that number. One-fifth of her territory, and

that the most valuable part, was devastated and reduced to a wilderness by the German armies. And she incurred a debt so large as to strain her credit to the utmost and to make it a most serious problem to liquidate the same. In resources and in man power Germany is nearly double that of France, and if left free and untrammeled—in the unrepentant mood she seems to be in—she could, in the near future, easily overrun and cripple, if not destroy, France. It is for the interest of our country that France should be allowed to recuperate and recover her old-time vigor, for she will then be a great shield and protection to us against the German menace in the future, and, besides, she will be a great source of profitable commercial intercourse.

Aside from England, no country under present conditions is more vitally interested in preserving the integrity of France than is our own country. And what we promise to do for France by the proposed treaty England is also ready to undertake.

The material covenant of the treaty is found in the following words:

"The United States of America shall be bound to come immediately to her [France] assistance in the event of any unprovoked movement of aggression against her [France] being made by Germany."

It will be seen that this covenant only aims at protection against Germany, and that it is of a temporary character, to be merged in and substituted by the authority of the league of nations when that is established and put into operation. As the armistice covers the ground between the end of the war and the ratification of the treaty of peace, so the treaty in question aims to cover the ground from the time of the adoption of the treaty until the league of nations, provided for in the treaty, can take its place. In other words, the treaty in question is of a temporary character, to be merged in the final treaty of peace.

Such a treaty is clearly warranted by international law and usage, and is, therefore, within the scope of the treaty-making power of the United States.

Vattel, in his Law of Nations, lays down the doctrine and rule of international law in the following terms:

"But as the weaker party ought, in his necessity, to accept with gratitude the assistance of the more powerful, and not to refuse him such honors and respect as are flattering to the person who receives them, without degrading him by whom they are rendered, so, on the other hand, nothing is more conformable to the law of nature than a generous grant of assistance from the more powerful State, unaccompanied by any demand of a return or, at least, of an equivalent. And in this instance, also, there exists an inseparable connection between interest and duty. Sound policy holds out a caution to a powerful nation not to suffer the lesser States in her neighborhood to be oppressed. If she abandon them to the ambition of a conqueror, he will soon become formidable to herself. Accordingly, sovereigns who are in general sufficiently attentive to their own interests seldom fail to reduce this maxim to practice." (Sec. 179, ch. 12, book 2.)

Wheaton, in his Elements of International Law, states:

"The convention of guaranty (or guarantee) is one of the most usual international contracts. It is an engagement by which one State promises to aid another where it is interrupted, or threatened to be disturbed, in the peaceable enjoyment of its rights by a third power. * * * The guaranty may also be contained in a distinct and separate convention or included among the stipulations annexed to the principal treaty intended to be guaranteed." (Pp. 378, 379 (1916).)

We deem it unnecessary to cite further authority on this point.

Without intending to indorse all that is said in the addresses hereto appended, the committee adopts the general argument thereof as in entire accord with its views.

It is advanced that though an ordinary treaty of alliance is not beyond the power of our Government, this particular treaty offends against the Constitution because, by article 3, there is an unlawful delegation of the power conferred by the Constitution, or that by it there is introduced an agency in the treaty-making power not recognized by the Constitution.

That article reads as follows:

"The present treaty must be submitted to the council of the league of nations and must be recognized by the council, acting, if need be, by a majority, as an engagement which is consistent with the covenant of the league. It will continue in force until on the application of one of the parties to it the council, acting, if need be, by a majority, agrees that the league itself affords sufficient protection."

But in the view of the committee that article merely expresses a condition upon which the treaty becomes effective in the first place and another condition upon the occurrence of which the treaty is terminated. It is scarcely open to controversy at this day that a statute is not invalid because of a condition that it is to go into effect upon a certain contingency, as, for instance, on its approval by the electorate of a State. Similarly, it may pass out of existence upon the happening of some other event in the statute prescribed. The principle involved had the express approval of the Supreme Court in Field *v.* Clark (143 U. S., 649) and more recent cases. There seems to be no reason to doubt that the principle is equally applicable to treaties.

No attempt is made in the treaty, it will be noted, to invest the council with power to add to or subtract from its provisions or to modify them in any way.

The treaty under consideration is clearly warranted by international law, and as such is within the scope of the treaty-making power; and there is nothing in the Constitution which can be construed to prohibit it.

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EXCERPTS FROM THE SPEECH OF SENATOR THOMAS J. WALSH OF MONTANA IN THE SENATE ON JUNE 11, 1919.

THE COVENANT AND THE CONSTITUTION.

Mr. WALSH of Montana. Mr. President, in the general assault upon the plan devised by the statesmen assembled at the peace conference at Versailles for a league of nations to insure the future peace of the world it is insisted that the covenant submitted is in contravention of the Constitution of the United States, and ought for that reason to be rejected by the Senate.

* * * * * * *

This view has not only been advanced in speeches on the floor but there was introduced into the RECORD a contribution to the press by an eminent jurist of the District of Columbia, and wide circulation has been given to addresses of a former ambassador, a professor of law, in which it is elaborately supported.

More recently an address by a Federal judge, asserting that the covenant contravenes the Constitution, was made a part of the RECORD, and on yesterday a resolution was presented by the junior Senator from Pennsylvania, formerly Attorney General of the United States and later Secretary of State, in which the league is denounced and the demand is made that the covenant be separated from the other provisions of the treaty, one paragraph of the resolution, evidently aimed at the covenant, being as follows:

"That since the people of the United States have themselves determined and provided in their Constitution the only ways in which the Constitution may be amended, and since amendment by treaty stipulation is not one of the methods which the people have so prescribed, the treaty-making power of the United States has no authority to make a treaty which in effect amends the Constitution of the United States, and the Senate of the United States can not advise and consent to any treaty provision which would have such effect if enforced."

The basis of the recital from this high authority that the treaty of which the covenant forms a part is inconsistent with the Constitution will be referred to later.

Journals of wide circulation and more or less influence, antagonistic to the league, have assumed, without any attempt at demonstration, that the contention so made is confessedly sound, and that, as one such at least has expressed it, radical amendments of our organic law will be necessary before the United States can enter into the league. The eminent Senator from Massachusetts in the debate with President Lowell, of Harvard, which attracted wide notice, pursued this easy method of disputation, and having assumed the antagonism to be indisputable, added: "No doubt we could amend our Constitution to fit the league, but it would take some time."

The comment just made is offered lest, in view of the history of our country, to which reference will be made, this effort to refute the contention thus advanced might be deemed a work of pedantic supererogation.

BASIS OF CLAIM.

In the main it is founded upon the claim that by the treaty, of which the league is a constituent feature, in the making of which the House of Representatives has no part, our country becomes obligated in a way in which it can be bound, or becomes committed to a course or policy upon which it can enter only through the action of Congress—that is to say, the concurrent action of both Houses of the national legislature. It is particularly urged that the covenant obligates us to wage war in certain contingencies, while the Constitution (Art. I, sec. 8) declares that "Congress shall have power to declare war." The proposition is extravagantly expressed by some as an attempt to transfer the power to declare war from Congress to the league.

In an address delivered in the Senate on December 18 last by the junior Senator from Pennsylvania the question was raised by the following inquiry and comment:

"Suppose that it were proposed that the United States should bind itself in advance by treaty to go to war in given circumstances. Under the Constitution war can be declared only by the Congress. How could the President, by negotiating a treaty, and the Senate, by consenting to its ratification, bind this country to declare war? A declaration of war is, under the Constitution, a prerogative of the Congress. The appropriations to initiate or to conduct war are in the discretion of the Congress."

It will be noted that the Senator, whose acknowledged ability as well as his experience as Attorney General and Secretary of State give to his utterances on the subject he was discussing unusual weight, did not unequivocally commit himself to the view that the treaty-making power is not sufficiently broad to warrant a convention obligating the Nation to make war, either presently or upon a future contingency, yet the casual reader, and especially one disinclined, for any reason, to give the league his support, would unquestionably receive the impression from the language quoted that the Senator subscribed to and had announced that doctrine.

SUCH A TREATY NOT UNIQUE.

In this connection an incident in our diplomatic history, presently to be referred to, is illuminating. The covenant does undoubtedly, should the treaty be signed, obligate this country to make war. Article 10, frequently referred to, reads as follows:

"The members of the league undertake to respect and preserve, as against external aggression, the territorial integrity and existing political independence of all members of the league. In case of any such aggression, or in case of any threat or danger of such aggression, the council shall advise upon the means by which this obligation shall be fulfilled."

That plainly means that if the territory of any member is invaded or threatened by the military forces of any other nation within or without the league, all other members thereof will come to its assistance to repel the aggressor and coerce him into keeping the peace. It may be that commercial pressure and isolation contemplated by other provisions of the covenant may be found effective to restrain a threatened or anticipated military movement directed at a member of the league, but all efforts less drastic failing, the obligation can be honorably discharged only by joining our forces with those of the threatened or invaded country and of the other nations obligated with us and making war upon the disturber of the general peace.

Much eloquence has been expended in denunciation of this feature of the league, but it is the soul and spirit of the covenant. Cut it out, and the heart is cut out of the only plan the statesmanship of the world has been able to devise or has ever been able to offer for the preservation of the peace of the world as a substitute for the system which has again exhibited itself to an agonized world as a colossal and yet miserable failure, but to which some Senators still exhibit a fatuous attachment. It is true, beyond doubt, that that article obligates us to make war. But we have not hesitated heretofore to assume a like obligation. We entered into a treaty with the Republic of Panama, the first article of which is as follows:

"ART. 1. The United States guarantees and will maintain the independence of the Republic of Panama."

No one can doubt the significance of that undertaking. We go to war with any country that attempts to reduce the Republic through whose concession we built the Panama Canal. That treaty was entered into in the year 1904, the late Theodore Roosevelt being President of the United States and PHILANDER C. KNOX, now a Senator from the State of Pennsylvania, his Attorney General and official legal adviser. Whatever view may now be entertained by the latter, it is quite evident that in 1904, at least, he harbored no serious doubt of the binding character of a treaty under which the United States became obligated to resort to the dread arbitrament of war. It would be doing him, as well as the President of the United States who negotiated the treaty, a gross injustice to imagine that they accepted the grant of the Canal Zone upon the considerations named in the treaty, the first in importance to the feeble young Republic of Panama being the guaranty of its independence, if either of them at the time conceived that there was any doubt of the authority of the President and the Senate in the

exercise of the treaty-making power so to bind the Nation. The comment of the Senator above quoted may well arouse apprehensions on the part of the Government and people of Panama which, in view of his relation to the treaty, he will doubtless hasten to still, if his further study of the subject will permit, by the assurance that whatever doubts he may have entertained in the month of December last concerning the binding character of article 1 of the treaty of 1904, they have, on further reflection, been resolved in favor of the view that it is a solemn obligation of the United States entered into in conformity with the Constitution.

It is persuasive that though the treaty referred to was, at the time it was negotiated, the subject of heated controversy, the right of the President and the Senate under the Constitution to obligate the Nation, as recited in article 1, was questioned by no one, so far as the report of the public debates in relation to the treaty discloses, though there were then in the Senate many profound lawyers, life-long students of the Constitution, including Senators Bacon, Hoar, and Spooner.

Among those voting to ratify it were the following, still Members of the Senate: Senators LODGE, MCCUMBER, NELSON, PENROSE, SIMMONS, SMOOT, and WARREN. It was not without precedent in assuming that there was no transgression of the Constitution in the treaty. In the year 1846 a treaty was concluded with the Republic of New Granada, in which, mention having been made of means of transportation across the Isthmus of Panama and certain concessions in relation thereto granted to the United States, our Government subscribed to the undertaking, evidenced by the following clause thereof:

"And in order to secure to themselves the tranquil and constant enjoyment of these advantages, and as an especial compensation for the said advantages and for the favors they have acquired by the fourth, fifth, and sixth articles of this treaty, the United States guarantee, positively and efficaciously, to New Granada, by the present stipulation, the perfect neutrality of the before-mentioned Isthmus, with the view that the free transit from the one to the other sea may not be interrupted or embarrassed in any future time while this treaty exists; and, in consequence, the United States also guarantee in the same manner the rights of sovereignty and property which New Granada has and possesses over the said territory."

At the time of the ratification of that treaty Webster, Benton, Calhoun, and Clayton were Members of the Senate. None of them, so far as history discloses, had any misgivings concerning the power of the President and the Senate thus to agree for the Nation.

Webster had only recently returned after quitting the post of Secretary of State. Shortly thereafter, in the course of a speech delivered in the Senate, he referred to the provision of the treaty above quoted and alluded to it as a binding obligation of the Government, saying:

"This Government, looking upon this stipulation as a benefit obtained, a boon conceded by the Government of New Granada, as an equivalent for this consideration, entered on its part into an engagement to protect and guarantee and defend the neutrality of this whole Isthmus. This will be seen by reference to the thirty-fifth article of the treaty, which will be found in the volume of the laws of the last session. It is there very distinctly stated. There is no question about it. We are under treaty obligations to maintain the neutrality of this Isthmus and the authority of the Government of New Granada over it."

Senators who insistently protest against the league because the covenant under which it is to operate obligates each member to come to the aid of any that may be attacked by another nation—an obligation which contemplates the waging of war—but into which, it is asserted, this Government can not consistently with the Constitution enter, constitute themselves the special champions of the Monroe doctrine, the maintenance of which they aver to be essential to the preservation of the national integrity. With repeated professions of their devotion to America and her institutions, carrying faintly the suggestion that it is of a quality superior to that of those who differ with them concerning the wisdom of entering into the league, they proclaim that the Monroe doctrine must be upheld at all cost. But what is the Monroe doctrine but a voluntary obligation assumed by the United States to "respect and preserve as against external aggression"—external in this case signifying transoceanic—the Republics of South and Central America? It may be more, but it is at least that. If we were to enter into a treaty with Brazil, say these expounders of the Constitution, by which, upon some consideration moving to us, we undertook to "preserve as against external aggression" her "territorial integrity and existing political independence," it would be a void act, but we are even now bound to do so without a treaty under peril of national obliteration.

HISTORY OF THE CONTENTION.

The controversy over the limitations of the treaty-making power of the Government or of the Executive and the Senate, now renewed, is as old, almost, as the Constitution. It was precipitated by the famous Jay treaty, negotiated in 1794, during the administration of President Washington, and was then disposed of in a way that ought to have been regarded as a final interment of the contention that is the subject of this discussion. Like Banquo's ghost, however, it will not down. It has again and again been urged that in all cases in which, by the Constitution, the action of Congress is necessary—that is to say, participation by the House of Representatives is essential in order that the treaty may be carried out and its obligations discharged—the Executive and the Senate are without authority to enter into the treaty, wanting the concurrence of the House, or the subject altogether transcends the treaty-making power of the Government. The contention has been uniformly rejected, but it renews its youthful vigor from time to time and is urged with all the ardor that ordinarily attends a first presentation, and without the slightest reference to or regard for its unfortunate history. * * *

The Jay treaty gave rise to much acrimonious discussion in the country while it was before the Senate; feeling in respect to it, more or less partisan in character, ran high, but it was eventually ratified by a bare two-thirds vote. It provided for the appointment of various commissions to adjust boundary disputes and to report on claims growing out of the War for Independence. In due course, on the exchange of ratifications, bills were introduced in the House of Representatives making appropriations to meet the salaries of the commissioners so appointed and the other expenses attendant on their labors. Thereupon the contention heretofore adverted to was made, that inasmuch as the treaty could not be carried out without action by the House, it remained in the stage of negotiation until the approval of that body was accorded it, that any nation dealing with ours was bound to take notice of the limitation on the treaty-making power thus asserted, so that no breach of national faith could be charged if the House withheld its approval, and that the duty devolved upon that body to enter into an inquiry as to the wisdom of the still imperfect treaty submitted to it. This view secured the adherence of a majority of the House, which adopted a resolution calling upon the President for the correspondence and documents relating or leading to the treaty. President Washington declined to submit the papers, saying in a dignified reply made to the request of the House, "It is perfectly clear to my understanding that the assent of the House of Representatives is not necessary to the validity of a treaty." Among other reasons advanced by him impelling his mind to that conclusion, he observed:

"Having been a member of the general convention and knowing the principles on which the Constitution was formed, I have ever entertained but one opinion on this subject; and from the first establishment of the Government to this moment my conduct has exemplified that opinion—that the power of making treaties is exclusively vested in the President, by and with the advice and consent of the Senate, provided two-thirds of the Senators present concur; and that every treaty so made and promulgated thenceforward became the law of the land. It is thus that the treaty-making power has been understood by foreign nations, and in all the treaties made with them we have declared and they have believed that when ratified by the President, with the advice and consent of the Senate, they became obligatory. In this construction of the Constitution every House of Representatives has heretofore acquiesced, and until the present time not a doubt or suspicion has appeared, to my knowledge, that this construction was not the true one. Nay, they have more than acquiesced; for till now, without controverting the obligation of such treaties, they have made all the requisite provisions for carrying them into effect."

The debate on the bills was renewed on the receipt of the President's reply, his position being eloquently championed by Fisher Ames, of Massachusetts. A resolution that the legislation ought to be enacted was carried by a close vote, and the bills were duly passed.

The baselessness of the contention appeared so obvious to Chancellor Kent that, referring to the resolution of April 7, 1796, heretofore adverted to, in his commentaries he said:

"It can not be mentioned at this day without equal regret and astonishment that such a resolution passed the House of Representatives."

The discussion of the subject was renewed over the Louisiana Purchase treaty. A like resolution was introduced in the House, which was called upon to make provision for the payment of the purchase price of the vast domain ceded by France—$15,000,000—but it was defeated, the Federalists leading in the contention that it was the right and the duty of the House to inquire into the merits of the treaty, as the Republicans, by which name the party of Jefferson was then known, had led in opposition to the Jay treaty. The historian does not hesitate to assign partisan bias as the moving influence in each instance for the attitude of those who insisted that the treaty was void or inchoate, wanting the approval of the House of Representatives, and the circumstance that the leaders of each of the parties of that day took a position in 1803 the very reverse of that they assumed in 1796 leaves little doubt of the justice of the judgment thus passed upon the official acts.

The chronicler of the events of our fateful day will not fail to note how statesmen who, scarcely more than three years ago, when the hope was reasonably indulged by them that the treaty of peace presently to be submitted to us would be negotiated during a Republican administration, extolled the plan of a league of nations to preserve the peace of the world, then contemplated as an integral part of the treaty, as worthy of all praise, a consummation most devoutly to be wished, now that it comes as the result of the labors of a Democratic President, denounce it as an abomination.

The resolution looking to an inquiry by the House of Representatives into the course of the negotiations resulting in the treaty with France having been disposed of, it quickly recognized the binding force thereof, the obligation which, through it, had been incurred by the Nation, and passed the necessary legislation for the liquidation of the debt.

The controversy was renewed, however, in 1816 over the commercial treaty with Great Britain; in 1834 in connection with a later treaty with France; in 1867 after the treaty with Russia ceding Alaska; in 1887 while the Hawaiian treaty was before the Senate; in 1899 over the treaty with Spain, by which the Philippines were acquired; and, in a mild way, in 1904, when the treaty with Panama was being considered.

SUBJECT NOT EXCLUDED FROM TREATY-MAKING POWER BECAUSE CONGRESS EMPOWERED TO LEGISLATE CONCERNING IT.

A number of the treaties referred to called for large appropriations to pay for territory acquired; others required legislation modifying our tariff and tonnage laws; others, as heretofore pointed out, bound us in defensive alliances, contemplating in each case war against the enemy of the other party to the treaty. In no case has Congress ever declined to pass the necessary legislation to make effective or to carry into execution the treaty.

It is of no consequence that the treaty deals with a subject with reference to which Congress is given power to legislate. The President, by and with the advice and consent of the Senate, is, by the Constitution, given power to make treaties which, with the Constitution and laws of the United States made in pursuance of it, are the supreme law of the land, as the Constitution declares.

It has been held by the Supreme Court so often that reference to specific cases is unnecessary, that a treaty in conflict with a prior act of Congress repeals it, and e converso that a later act of Congress inconsistent with a treaty renders it nugatory, the later law prevailing. There could, of course, be no conflict if the two did not occupy the same field.

"By the Constitution a treaty is placed on the same footing and made of like obligation with an act of legislation. Both are declared by that instrument to be the supreme law of the land, and no superior efficacy is given to either over the other." (Whitney *v.* Robertson, 124 U. S., 190.)

The theory that the treaty-making power does not extend to any subject with reference to which power is vested in Congress, if it ever was seriously maintained, was long ago exploded. I can not hope to expose its utter weakness with anything like the eloquence or lucidity with which the task was discharged by Hon. James Barbour, a Senator from Virginia, in the great debate on the commercial treaty with Great Britain in 1816. I submit, however, a few observations in that connection.

The Constitution gives to Congress power to legislate with reference to foreign commerce, but this does not mean that the President may not, by and with the advice and consent of the Senate, enter into commercial treaties. The constitutional convention clearly contemplated that such treaties would come within the power it proposed to confer upon the President and the Senate, since it rejected a proposition to require the assent of two-thirds of all the Members of the Senate for the ratification of commercial treaties, though the concurrence of two-thirds of those present would suffice in the case of other treaties. Commercial

treaties have been negotiated with nearly every civilized country, dealing with a multiplicity of questions affecting transactions in foreign commerce, in most instances either requiring action by Congress or stipulating against its action or constraining it to action along prescribed lines.

So Congress is given power by the first clause of section 8 of Article I of the Constitution to lay and collect duties, which further provides that all bills for raising revenue shall originate in the House of Representatives. Yet by the Louisiana Purchase treaty it was stipulated that for 12 years the ships of France or Spain entering any of the ports of the ceded territory shall be required to pay only such tonnage charges and duties upon their cargoes as should be exacted of the ships and citizens of the United States, and that such privileges should be extended to no other nation.

By article 1 of the treaty with Cuba, proclaimed December 17, 1903, it is provided that all products of that country then admitted to the United States free of duty should thereafter, so long as the treaty stood, be so admitted without payment of any duty, and by article 2 of the same treaty the United States bound itself to admit all other products of the young Republic with a differential in its favor of 20 per cent. An examination of the record discloses that among those voting to ratify that treaty was the senior Senator from Massachusetts, who in the debate with President Lowell, told his auditors that the treaty embracing the league covenant, "because the tariff is involved in the article for the boycott," and because it allows other nations to "meddle with our tariff," "runs up against a provision of the Constitution," which "provides that all revenue bills shall originate in the House of Representatives." The covenant contemplates that instead of resorting to war to coerce a recalcitrant nation commercial pressure or commercial isolation may be resolved upon by the league. If it recommends that course, the Nation binds itself to lay an embargo, a procedure expressly held by the Supreme Court more than a hundred years ago to be within the power of Congress to direct. The tariff is only remotely involved, if involved at all. By what provision of the covenant do we permit foreign nations to "meddle" with our tariff? It is difficult to conceive how our tariff could come before the league for consideration. It is a domestic question, expressly excluded from those with which the league deals, distinctively a matter of domestic policy which each nation has heretofore solved without question as to its right under international law to do so, in accordance with its own views of its interest. Our tariff has never yet brought us to the threshold of war with any country. If we do not discriminate against any particular nation—and our commercial treaties forbid us to do so; even if our settled policy did not—how can any complain? We have, as stated, repeatedly made treaties by which we, in consideration of reciprocal advantages they respectively accorded us, bound ourselves that Congress would not exercise its full powers with reference to the tariff, so extensive as to permit our Government to reward its friends and punish its enemies through discriminatory duties. In that sense we have permitted foreign nations in the past to "meddle" with our tariff * * *.

Again, the Constitution invests Congress with the power to "raise and support armies" and to "provide and maintain a navy," but it does not preclude the President and the Senate, in the exercise of the treaty-making power, from entering into a treaty limiting the size or nature of our Military Establishment or the number of ships we shall maintain as a part of our Navy, or the particular waters in which they may be stationed. We have, in fact, entered into a treaty with Great Britain, scrupulously observed for over a century, not to keep on the Great Lakes more than a limited number of armed vessels, fitted only for police and like duties appertaining to the collection of revenue, a reciprocal agreement having been entered into by the British Government on behalf of Canada. Despite repeated assaults upon that convention, it remains a solemn obligation of this Government, as was conclusively demonstrated a few days ago by the eloquent junior Senator from Arizona. There would seem to be no reason why we might not enter into a reciprocal treaty, under which both countries interested would undertake not to maintain military posts along the great international boundary line between this country and Canada, a policy that has been pursued by each since early in the last century without a treaty.

Congress is empowered to make laws in relation to the naturalization of aliens, but in perhaps every treaty through which any addition was made to our territory stipulations are found through which the subjects or citizens of the State making the cession, residing in the newly acquired territory, were admitted to citizenship. Such wholesale citizenship was conferred upon the inhabitants of Florida by the treaty of cession with Spain ratified in 1821. The United States even obligated itself by that treaty to admit Florida into the Union as one of the States.

Congress is authorized to make all needful rules and regulations concerning the territory and other property of the United States. We negotiated a treaty with Japan, Russia, and Great Britain by which the United States, in order to conserve the fur-seal herd, whose breeding grounds are on the Pribilof Islands, from extinction through pelagic sealing carried on by the citizens or subjects of those countries, agreed to kill annually the mature bachelor seals resorting to the islands and to divide the skins in proportions specified in the treaty between the nations named and our own, they and we agreeing to make pelagic sealing criminal. It may be that the seals in the sea are ferae natura, belonging to no one, but we have all the incidents of ownership in them while they are on the breeding grounds, the property of the United States.

Is there any doubt that a treaty could be made with Great Britain by which this country should make an island in Lake Superior a bird refuge, if she should devote an adjacent island on her side to the same purpose, or with Mexico to the effect that if she would establish a refuge for migratory birds wintering in her territory we would set apart certain territory in Alaska for their protection on which they make their summer home?

Note that the provision of the Constitution gives to Congress power not only to make all needful laws respecting the territory, but as well respecting other property of the United States. We have a treaty with Great Britain concerning the use of the Sault Ste. Marie Canal and another concerning the use of the Panama Canal. In all the heated controversy over the subject of the tolls, participated in by the ablest lawyers in America, no one ventured to contend that the treaty is void because dealing with a subject with reference to which Congress is given power to legislate.

The position that a subject is beyond the treaty-making power because within the powers granted to Congress is utterly indefensible and need be no longer noticed.

Heretofore one of the most distinguished expositors of this theory of our Constitution, now so eagerly embraced by the opponents of the league, was a German jurist—Dr. Ernest Meier, a professor in one of the universities of his country, who in a volume of his lectures commented as follows:

"Congress has, under the Constitution, the right to lay taxes and imposts, as well as to regulate foreign trade, but the President and the Senate, if the 'treaty-making power' be regarded as absolute, would be able to evade this limitation by adopting treaties which would compel Congress to destroy its whole tariff system. According to the Constitution, Congress has the right to determine questions of naturalization, of patents, and of copyright. Yet, according to the view here contested, the President and Senate, by a treaty, could on these important questions utterly destroy the legislative capacity of the House of Representatives. The Constitution gives Congress the control of the Army. Participation in this control would be snatched from the House of Representatives by a treaty with a foreign power by which the United States would bind itself to keep in the field an army of a particular size. The Constitution gives Congress the right of declaring war; this right would be illusory if the President and Senate could by a treaty launch the country into a foreign war. The power of borrowing money on the credit of the United States resides in Congress; this power would cease to exist if the President and Senate could by treaty bind the country to the borrowing of foreign funds. By the Constitution 'no money shall be drawn from the Treasury but in consequence of appropriations made by law'; but this limitation would cease to exist if by a treaty the United States could be bound to pay money to a foreign power. * * * Congress would cease to be the lawmaking power as is prescribed by the Constitution; the lawmaking power would be the President and the Senate. Such a condition would become the more dangerous from the fact that treaties so adopted, being on this particular hypothesis superior to legislation, would continue in force until superseded by other treaties. Not only, therefore, would a Congress consisting of two Houses be made to give way to an oligarchy of President and Senate, but the decrees of this oligarchy, when once made, could only be changed by concurrence of President and of senatorial majority of two-thirds."

The war has demonstrated how feebly the German mind has been able to comprehend the American character or the American system. The evils he foresees may, indeed, ensue, but none of them ever have befallen us, and the probability of our experiencing them is too remote to prompt us to revise our Constitution because of the defects and dangers he so generously points out. His apprehensions are quite like those that the opponents of the Constitution sought to arouse when it was before the people for ratification. The dangers inherent in the treaty-making power were a fruitful theme in those days. Indeed, the Constitutional Convention was not without a keen sense of the tremendous nature of the authority it was extending to the Executive and the Senate through the few brief words in which it is conveyed. But it rightly concluded that a compact with a foreign Government which commanded the support of the President and two-thirds of the Senate could scarcely be inimical to the welfare of the Union, so far as enlightened public opinion could discern the national interest, and that it was scarcely conceivable that such concert could be secured for a policy that was violative or destructive to American ideals.

LIMITATIONS ON TREATY-MAKING POWER CONSIDERED.

But it is asserted that though the treaty-making power may be vast, it is not unlimited. Undoubtedly so. It is said to be impossible to frame a power of attorney in terms so general as not to be subject to implied limitations. Whatever the limitations on the treaty-making power, they are implied; none whatever are expressed. "He [the President] shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators concur," is the simple language of the Constitution. Nothing is excluded in express terms. No particular kind of treaties is specified, so that all kinds are included—treaties of alliance, offensive and defensive, commercial treaties, extradition treaties, arbitration treaties.

In the opinion of the Supreme Court of the United States (Hauenstein v. Lynham, 100 U. S., 483) the following is quoted with approval from a speech delivered in the House of Representatives by William Pinkney, of Maryland:

"The word 'treaties' is nomen generalissimum and will comprehend commercial treaties, unless there be a limit upon it by which they are executed. It is the appellative, which will take in the whole species, if there be nothing to limit its scope. There is no such limit. There is not a syllable in the context of the clause to restrict the natural import of its phraseology. The power is left to the force of the generic term and is therefore as wide as a treaty-making power can be. It embraces all the varieties of treaties which it could be supposed this Government could find it necessary or proper to make, or it embraces none. It covers the whole treaty-making ground which this Government could be expected to occupy, or not an inch of it.

"It is a just presumption that it was designed to be coextensive, with all the exigencies of our affairs. Usage sanctions that presumption—expediency does the same. The omission of any exception to the power, the omission of the designation of a mode by which a treaty not intended to be included within it might otherwise be made, confirms it."

Reliance is placed upon the language of Justice Field in Geofroy v. Riggs (133 U. S., 258–267), as follows:

"The treaty power, as expressed in the Constitution, is in terms unlimited except by those restraints which are found in that instrument against the action of the Government or of its departments, and those arising from the nature of the Government itself and of that of the States. It would not be contended that it extends so far as to authorize what the Constitution forbids, or a change in the character of the Government or in that of one of the States, or a cession of any portion of the territory of the latter, without its consent."

Which is followed by this sentence:

"But with these exceptions it is not perceived that there is any limit to the questions which can be adjusted touching any matter which is properly the subject of negotiation with a foreign country."

With much diffidence, but with the utmost confidence, I venture to assert that the territory of a State may either in whole or in part be ceded under the treaty power without its consent, though the dictum of the learned justice is supported by the authority of other great names. Had Mexico listened to the lure of the Zimmermann-Eckhardt note, joined her fortunes with those of Germany in an effort to regain the "lost provinces," and under the stern compulsion of a dictated peace following a decisive victory of Wilhelm and his allies, a treaty was signed by the President and ratified by the Senate ceding to Mexico Texas, New Mexico, and Arizona, can anyone doubt the efficacy of the act to transfer the sovereignty over that imperial domain to our prudent neighbor to the south which wisely ignored the invitation? Would it be asserted, for instance, that thereafter a Federal court could continue to function within the region affected; that United States revenue officers could

continue to discharge their duties therein as theretofore; and that their acts would be recognized by our courts as valid because the treaty was without constitutional warrant? Could the Secretary of the Interior be mandamused to issue a patent to lands therein to one otherwise becoming entitled to it? To my mind, it is of no consequence that the President and the Senate may have yielded their assent in order to save from subjection the remainder of the country or to preserve it from desolation. Manifestly an overweening necessity must be assumed to imagine such an exercise of the treaty-making power, but who is to judge of the necessity; who shall say when conditions are sufficiently grave to justify such a treaty? Obviously not the courts, and equally obvious is it that the determination rests with the President and the Senate.

What good reason is there to doubt that an exchange might be effected by treaty of islands lying off our coast, one being within the jurisdiction of one of the States of the Union, but devoted wholly to national uses, the other more suitable to our purposes belonging to the other party to the treaty? Assume the case of two islands in Puget Sound or the Strait of San Juan de Fuca, both uninhabited, the one a part of the State of Washington, and consequently of the United States, and the other within the jurisdiction of British Columbia. She is willing to exchange, and the National Government is desirous of acquiring her island with a view to devoting it to the better protection of that coast against an enemy or some purpose connected with the safer navigation of those waters. Can the State of Washington veto the transfer? It is unreasonable that she should; but is the rest of the country at the mercy of her whim? If the island were densely populated and the inhabitants adverse to going under foreign dominion, in all reasonable probability the President and the Senate would yield unhesitatingly to their desires. But that aspect of the case presents the question of the wisdom or justice of making and not to the power to make the treaty.

Without attempting to specify, I may say that considerations similar to those here advanced have led statesmen and jurists of no less eminence than those announcing a contrary view to the conclusion that under the treaty-making power even the territory of one of the States of the Union may be transferred to a foreign power.

In the adjustment of the northeast boundary dispute the formal assent of Maine and Massachusetts was secured, not because of the surrender of territory over which they asserted jurisdiction, for Massachusetts could claim none, but because they owned in common lands within the region which under the Webster-Ashburton treaty went to New Brunswick, as will appear from the speech of Mr. Webster in justification of the compromise made on his reentry into the Senate.

This particular inquiry is in the nature of a digression from the general subject. It has been followed to perhaps unpardonable length only to make more clear the very comprehensive character of the treaty-making power conferred by the Constitution.

But, whatever the limitations on the treaty-making power may be, they obviously do not embrace undertakings such as article 10 of the covenant, in effect, as pointed out, a treaty of alliance under which the United States is obligated to go to the aid of any member of the league attacked by another nation contrary to the covenant. Alliances were, and for centuries had been, common among the nations of the earth at the time the Constitution was adopted. The right to enter into such inheres in a sovereign independent State. The Representatives of the United States in Congress assembled having proclaimed, in the Declaration of Independence, that the Colonies are, and of right ought to be, free and independent States, continued, that as such "they have full power to levy war, conclude peace, contract alliances," and "do all other acts and things which independent States may of right do."

An alliance in international law is—

"A union or association of two or more States or nations, formed by league or treaty, for the joint prosecution of a war or for their mutual protection in repelling hostile attacks." (Black's Law Dictionary.)

Bouvier has the following definition of the term and comment thereon:

"In international law: A contract, treaty, or league between two or more sovereigns or States made for purposes of aggression or defense.

"Defensive alliances are those in which a nation agrees to defend her ally in case the latter is attacked. Offensive alliances are those in which nations unite for the purpose of making an attack or jointly waging war against another nation."

A modern writer on international law says:

"Alliances in the strict sense of the term are treaties of union between two or more States for the purpose of defending each other against an attack in war or jointly attacking third States or for both purposes."—Oppenheim.

It is inconceivable that the founders of our Government should, at its birth, specifically assert the right of the United States as an independent Nation to contract alliances and that they then contrived a Constitution which disabled the Nation from so contracting. As is well known, having declared their right so to do, they proceeded without delay to enter into a treaty of alliance with France. Some provisions of this treaty are interesting in this connection. Article 1 is as follows:

"If war should break out between France and Great Britain during the continuance of the present war between the United States and England, His Majesty and the said United States shall make it a common cause and aid each other mutually with their good offices, their counsels, and their forces, according to the exigence of conjunctures, as becomes good and faithful allies."

Article 8 as follows:

"Neither of the two parties shall conclude either truce or peace with Great Britain without the formal consent of the other first obtained; and they mutually engage not to lay down their arms until the independence of the United States shall have been formally or tacitly assured by the treaty or treaties that shall terminate the war."

Article 11, in part, as follows:

"The two parties guarantee mutually from the present time and forever against all powers, to wit: The United States to His Most Christian Majesty, the present possessions of the Crown of France in America, as well as those which it may acquire by the future treaty of peace. And His Most Christian Majesty guarantees on his part to the United States their liberty, sovereignty, and independence." (I Treaties and Conventions, pp. 480–481.)

This treaty was in full force and vigor at the time the Constitution was drafted and adopted. It gave rise to universal rejoicing at the time it was effected and retained, when the convention was engaged in its labors and throughout the stormy period that preceded the adoption of the Constitution, a high place in popular favor. The excesses of the French Revolution which followed speedily were largely responsible for the determination later arrived at and concurred in by nearly all our leading statesmen, to disregard some of its obligations, speedily condoned by France, which in a spirit of continued amity and with a quickened sense of a common interest ceded Louisiana to our country under Napoleon. There is no doubt that it was the distressing experience we had had with this treaty with France that led Washington to warn his countrymen in his Farewell Address against "entangling alliances." It will be remembered that in the same connection he descanted upon the unwisdom of entertaining either excessive love or excessive hatred toward any nation, having in mind the prevailing intensity of feeling with regard to France on the one hand and Great Britain on the other growing out of the War for Independence.

It is unnecessary to say that if in the opinion of Washington, and Hamilton, it might be added, for the latter undoubtedly collaborated in the preparation of the address, the treaty-making power did not, under the Constitution, extend to alliances, offensive or defensive, or both, there would have been no occasion to give the warning of which so much has been heard in this debate. The revered statesman, who was president of the convention which framed the Constitution, would have contented himself with an admonition to observe scrupulously the fundamental law, and a reminder to his readers that it forbade treaties of alliance.

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Article 10 is unassailable on constitutional grounds. In its substantive part it is to all intents and purposes a treaty of alliance. It concludes, "In case of any threat or danger of such aggression the council shall advise upon the means by which this obligation shall be fulfilled." The purpose of this clause is obviously to secure concert of action, but it is left to each nation to determine for itself, the recommendation of the council notwithstanding, whether the occasion calls for action in fulfillment of its obligation and how that obligation ought to be discharged.

Under article 16 each member undertakes that it will, should any other resort to war in disregard of articles 12, 13, or 14, immediately interdict all trade or financial relations with the nationals of the covenant-breaking State—that is, institute a complete embargo against the offending State. In such a case it becomes the duty of the council to "recommend to the several Governments concerned what effective military and naval forces the members of the league shall severally contribute to the armaments or forces to be used to protect the covenants of the league," the obligation to make war in such case arising, if at all, by virtue of the covenant of article 10. Again, the only power the council has in the premises is to recommend what contribution each nation should make, that a recalcitrant may be reduced should a resort to arms be necessary.

NO DELEGATION OF AUTHORITY TO DECLARE WAR.

A careful study of the covenant will reveal that neither the council nor the assembly has any power to declare war or even to call upon the members to make war, unless the authority to issue such a call and the obligation to respond is implied in the first section of article 11, as follows:

"Any war or threat of war, whether immediately affecting any of the members of the league or not, is hereby declared a matter of concern to the whole league, and the league shall take any action that may be deemed wise and effectual to safeguard the peace of nations."

At most the language quoted can not be construed to grant any more extensive authority than is reposed in the council under article 10 should a war of aggression be prosecuted by any member of the league, namely, to advise upon the means by which it is to be suppressed. Even if authority were reposed in either assemblage of league representatives to determine whether the obligation of article 10 had become active, and that it must be discharged by war against the offending State, there could be no valid objection to the covenant on constitutional grounds, for the various clauses through which such power would be granted would amount only to a covenant to make war whenever the league should determine as a fact that through external aggression the territorial integrity or political independence of a member was threatened. In any case there is no delegation of authority to the league to declare war or to make any order or proclamation as a result of which a state of war with all its consequences, like the suspension of all commercial intercourse, with which we have become familiar, immediately follows. A declaration of war by Congress is indispensable to put this country in a state of war unless actually attacked. The league covenant is a treaty by which our country binds itself at most to take the necessary steps to engage in war when the league determines that the occasion has arisen when, under the treaty, it should do so. This was recognized by the junior Senator from Washington in that part of one of his forceful addresses in which he assailed the league as being violative of the Constitution. But, he asserted, the action of Congress in such case would be perfunctory, there would be no escape from the obligation of the treaty "but in repudiation and dishonor." He is quite right. When by the treaty with France our country agreed to pay $15,000,000 for Louisiana, Congress was called upon perfunctorily to make the necessary appropriation. It could not in honor canvass the wisdom or the unwisdom of the purchase. The treaty obligated us to enact the necessary legislation. There was no escape from that obligation but in repudiation and dishonor. Similarly when by treaty we acquired Florida, Congress was called upon perfunctorily to make the necessary appropriation. And so with each successive acquisition of territory by treaty involving the payment of money—the purchase of Alaska and the Philippines, by way of illustration.

The Senator is right that there would be no escape from the obligation of the treaty but in repudiation and dishonor. But if he is correct in the view for which he contends, that the whole plan is violative of the Constitution, or is so violative in the particular feature involved in any transaction, there would be neither repudiation nor dishonor in declining to observe its terms. There is neither dishonor nor discredit in a man's declining to pay a promissory note executed in his name by one who never was authorized by him to make such an instrument.

FURTHER GROUNDS OF ATTACK CONSIDERED.

It would be gathered from much that has been said upon this subject that the league was to assume control of the whole subject (of armaments), increasing or authorizing an increase in the case of any nation at will, reducing or prescribing a reduction at its pleasure. Before attempting to consider how grievously the Constitution is disregarded in this particular it will be well to have in mind what authority is conferred.

The league is authorized to propose a plan for the reduction of armaments, which becomes operative when approved by the nations affected. They all agree, assuming all approve the plan, to reduce accordingly.

This is the voluntary act of each government. Then each agrees not to increase so as to exceed the limit agreed upon without the permission of the league; that is, beyond a further limit to be fixed by the council. The only reason urged against the constitutionality of these provisions is that as Congress is given power to "raise and support armies" and "to provide and maintain a navy," the stipulation is an invasion of the exclusive power of Congress. But if it has not been demonstrated beyond cavil or controversy that it is no valid objection to a treaty that it deals with a subject as to which Congress is given power to legislate this feeble effort has been all in vain.

Some suggestion has been made to the effect that the mandatory provisions run counter to the Constitution, but in what particular is left vague. There is no longer any doubt of the right of our Government to acquire new territory and to govern it. If we can exercise complete sovereignty over new lands for all time, it will be difficult to establish that we can not exercise a limited sovereignty for a limited time. Then it is offered that article 20, by which each signatory stipulates that it will not enter into a treaty inconsistent with the covenant, is void, because otherwise the treaty-making power would be limited. That condition arises in the case of every treaty made with two or more powers. In the case of every such treaty no new compact could be made with either or any of the other signatory powers inconsistent with the general treaty without violating it as to the party not participating in the later treaty. In effect the contention is that the United States may not enter into a treaty with two or more States.

Finally, referring to the dictum of Mr. Justice Field, quoted above, to the effect that the treaty-making power is not so extensive as to justify a treaty which makes a change in the character of the Government, it is urged that by reason of the large powers with which the league is invested the United States is transformed from an independent nation into a constituent subject member of a "supersovereignty" or "superstate." This is mere declamation. It may be said in passing that this particular limitation, pointed out by the learned justice, does not arise by reason of any peculiarity of the Constitution of this country. Such a limitation is implied in the case of the representatives of every nation to whom is intrusted the treaty-making power. Clemenceau could no more, through a treaty with some other power, transform France from a Republic into a monarchy than Wilson and the Senate could accomplish a like result as to the United States.

What are these "vast powers" that are conferred upon the league? I shall omit those which are arbitral in character, assuming that no one in this day will assert that the United States may not, consistently with the Constitution, enter into treaties of arbitration or that, in setting up a tribunal of arbitration, it surrenders any part of its sovereignty, or that it is in any sense violative of the Constitution to agree, on its part, faithfully to carry out the judgment and order of the arbitrators in the matter submitted.

By article 4 it is provided:

"The council may deal at its meetings with any matter within the sphere of action or affecting the peace of the world."

But it is given no power to do anything. Obviously this clause merely charges the league with the duty of considering, advising, and recommending. To a certainty, our Government has not bound itself by that clause to do anything as it has, for instance, by article 10. That clause is clearly intended to make the league a forum in which the representatives of the various powers would be brought together to adjust differences that might result in war.

By article 8 the league is authorized to formulate plans for a reduction of armaments, the only power given to it, as heretofore pointed out, being to grant to any country after the plan has been adopted, authority to exceed the limit thereby fixed, a unanimous vote being required for the authorization.

By article 10 the league, through the council, "shall advise upon the means by which the obligation" into which the members enter shall fulfill the obligation thereby undertaken, namely, "to respect and preserve as against external aggression the territorial integrity and political independence of all members of the league."

Article 11 provides:

"Any war or threat of war, whether immediately affecting any of the members of the league or not, is hereby declared a matter of concern to the whole league, and the league shall take any action that may be deemed wise and effectual to safeguard the peace of nations."

But what action can it take other than to endeavor to compose, to advise, or recommend? The league has no army to make war; it has no treasury to meet the expenses of war. It can not initiate a blockade, nor even lay an embargo. No nation has bound itself by any provision of the covenant to observe any directions that may be given it in the premises by the league or to follow any recommendations it may make. The same article provides:

"It is also declared to be the fundamental right of each member of the league to bring to the attention of the assembly or of the council any circumstance whatever affecting international relations which threaten to disturb either the peace or the good understanding between nations upon which peace depends."

The observations made apply equally to these provisions.

By article 13 the members agree to submit international controversies to arbitration. "In the event of failure" on the part of any nation which has thus submitted a controversy in which it is interested to carry out the award made, "the council shall propose what steps should be taken to give effect thereto." As no nation has ever declined or omitted to comply with an award, this duty is not likely to be burdensome, but all the league can do in the premises is to "propose" the steps to be taken in order to give effect to the award. The very term used implies that the nations affected may or may not take the steps proposed. None of them agree to do so or to take any steps at all.

Article 14 authorizes the league to set up a permanent court of international justice, which may or may not be resorted to by any of the powers and which may be called upon for an opinion by the league.

By article 16 the council is authorized to recommend to the several governments concerned what effective military or naval forces the members of the league shall severally contribute to the armaments of forces to protect the covenants of the league should any member make war in disregard thereof. It may do likewise under article 17 should a nonmember resort to war against a member, the latter declining to accept special membership in the league for the consideration of the controversy, or, having done so, making war in violation of the covenant.

By article 22 the league assumes a supervisory control over new governments brought into being by the treaty and over the German colonies and other regions similarly situated, incapable of governing themselves, and undertakes to govern them, respectively, through members willing to undertake the task.

If full governmental authority may be exercised for all time over newly acquired territory consistently with the Constitution, how can it be doubted that a limited authority may be exercised for a limited time over regions not now a part of our possessions.

Article 23 speaks for itself, as follows:

"ART. 23. Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the members of the league (a) will endeavor to secure and maintain fair and humane conditions of labor for men, women, and children both in their own countries and in all countries to which their commercial and industrial relations extend, and for that purpose will establish and maintain the necessary international organizations; (b) undertake to secure just treatment of the native inhabitants of territories under their control; (c) will intrust the league with the general supervision over the execution of agreements with regard to the traffic in women and children and the traffic in opium and other dangerous drugs; (d) will intrust the league with the general supervision of the trade in arms and ammunitions with the countries in which the control of this traffic is necessary in the common interest; (e) will make provision to secure and maintain freedom of communication and of transit and equitable treatment for the commerce of all members of the league. In this connection the special necessities of the regions devastated during the war of 1914–1918 shall be in mind; (f) will endeavor to take steps in matters of international concern for the prevention and control of disease."

It is idle to assert that an organization thus equipped is a government at all. It has no army and no treasury, and no means of securing either. It is not even invested with authority to appoint a commander in chief, should the nation members, in accordance with the terms of the covenant take the field to force observance by a recalcitrant or to repel an attack made in violation of article 10. Though it may render decisions, it can not make laws, neither can it levy taxes. It deals with States as entities—not with individuals—negativing the idea that it is a government, according to Alexander Hamilton, who said, in urging the adoption of our Constitution:

"We must resolve to incorporate into our plan those ingredients which may be considered as forming the characteristic difference between a league and a government; we must extend the authority of the Union to the persons of our citizens—the only proper objects of government." (Federalist, No. 15.)

It may pass in this Chamber or on the hustings, but it is ventured that there is not a lawyer among us who would have the hardihood to contend before the Supreme Court of the United States in a proceeding to enjoin the expenditure of public funds to pay the salaries of our league representatives, or in some other cause in which the question might properly be raised, that the covenant is void because, in the language of Justice Field, it effects "a change in the character of the Government." Incidentally it may be remarked that no treaty has ever been held by the Supreme Court to be violative of the Constitution, either in whole or in part. * * *

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EXCERPTS FROM THE SPEECH OF SENATOR FRANK B. KELLOGG, OF MINNESOTA, IN THE SENATE ON AUGUST 7, 1919.

TREATY-MAKING POWER AND THE LEAGUE OF NATIONS.

Mr. KELLOGG. Mr. President, it is my intention at this time to address myself, at least partially, to the resolution heretofore submitted by the Senator from Montana [Mr. WALSH] calling upon the Judiciary Committee of the Senate for an expression of opinion as to the constitutionality of the proposed treaty of alliance with France; and as that treaty embraces in principle the same questions as are involved in the league of nations, I beg leave of the Senate to submit some observations upon that question.

I shall at this time discuss two propositions: First, whether the league of nations is within the treaty-making power of the President and the Senate under the Constitution of the United States; and, second, whether reservations in and amendments of the covenant are necessary to protect the United States.

As an appendix to my remarks I ask to have printed in the RECORD some reservations which have been prepared by certain Senators as suggestions in relation to the pending treaty.

The VICE PRESIDENT. In the absence of objection, it is so ordered.

[The matter referred to will be found in Appendix A at the conclusion of Mr. KELLOGG'S speech.]

Mr. KELLOGG. Mr. President, the covenant of the league of nations has been before the people of the United States for practically six months. It has probably been discussed in the Senate, in the forum of the people, and in the press of the country more than any instrument ever submitted since the Jay treaty. I believe every Senator has made up his mind how he intends to vote.

The peace treaty, the most momentous document ever submitted to any body, has been before the Committee on Foreign Relations nearly a month; and, while I am making no criticism of that committee, I am stating what I believe to be the public sentiment of this country when I say that there is a strong desire that this treaty and the league of nations covenant, bringing an end of this war, shall be disposed of at the earliest possible moment. The Nation has made great sacrifices; its sons have given their lives upon the fields of France; industry and commerce have been disarranged; the people wish this issue settled and that our attention be turned to the economic problems which always follow a great world convulsion such as we have passed through.

I should not take the time of the Senate to discuss even these questions were it not for the fact that the peace treaty is still before the Foreign Relations Committee, and there is no legislation immediately pending before the Senate, since it is now being considered in the committees of Congress.

I am aware that the discussion of a constitutional question is a very dry subject and interests very few people, but I take it that no Senator desires or would for one moment think of voting for a treaty that he believes to be beyond the constitutional power of the Government simply because it would do no harm.

From an examination of the speeches made by certain Senators and from declarations in the press I assume that the provisions of the covenant which are declared to be in violation of the Constitution are:

Article 8, providing for the reduction of national armaments, and stipulating that the manufacture by private enterprise of munitions and implements of war is open to grave objection;

Article 10, providing that members of the league agree to respect and preserve as against external aggression the territorial integrity and existing political independence of all members of the league;

Article 11, providing that any war or threat of war shall be a matter of concern to the whole league, and that the league shall take any action that may be deemed wise and effectual to safeguard the peace of nations;

Article 16, providing that any member of the league resorting to war in disregard of its covenants under certain articles shall suffer the sever-

ance of all trade or financial relations and the prohibition of all intercourse by its nationals; and

Other provisions of the covenant providing for mandates in relation to the freedom in transit and equitable treatment of commerce.

I shall not now discuss the wisdom of these provisions—whether they should be amended or whether, if the treaty is ratified, certain reservations should be made which we believe will protect this country, although, perhaps, I ought to say that one of those questions I shall later consider in the course of my remarks. The immediate question, however, to which I now invite attention is the constitutional power of this Government to agree to respect or to guarantee the independence of any country or agree to the limitation of armament or make a treaty containing provisions which may affect our trade and commerce.

SOURCE AND SCOPE OF TREATY-MAKING POWER.

When the Constitution of the United States was adopted the treaty-making power was conferred upon the President and the Senate. The provisions of the Constitution are as follows:

"No State shall enter into any treaty, alliance, or confederation. * * * (Art. I, sec. 10, cl. 1.)

"No State shall, without the consent of Congress, * * * enter into any agreement or compact with another State or with a foreign power. * * * (Art. I, sec. 10, cl. 2.)

"He (the President) shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur. * * * (Art. II, sec. 2, cl. 2.)

"The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority. * * * (Art. III, sec. 2, cl. 1.)

"This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding." (Art. VI, cl. 2.)

In this broad grant of power there is embodied no definition of the subjects embraced within the treaty-making power. It may, therefore, be accepted that the people of the United States intended to confer upon the Federal Government no less power than was at the time exercised and enjoyed by other nations. In fact, not only by practice, but by authority, the treaty-making power has been held to embrace all those subjects which it has been the practice and custom of nations to exercise. These include treaties of alliance, both offensive and defensive; guaranties of political independence and territorial integrity; agreements as to colonies; agreements to neutralize territories and nations; treaties affecting the status of foreign citizens in this country, their right to engage in business, to own, transfer, and inherit property; questions of customs and duties, navigation of rivers, lakes, and internal waterways; the limitation of armament; the acquisition of territoy; the settlement and payment of damages; and other subjects too numerous here to mention.

The men who framed the Constitution were versed in the history and practice of nations and in international law. They were students of government. Had it been intended to limit the sovereign power of the United States in the exercise of the usual treaty-making rights such restrictions would have been stated in the Constitution. In fact, in limiting the States it was provided that they should not enter into any treaty, alliance, or confederation, but no limitation was placed in the Federal Constitution. It is impossible for me to recite to the Senate the declarations of the statesmen of that time in the formation of the Constitution and its adoption by the several States or the discussions which early in the history of this Government dwelt upon the treaty-making power. But those discussions make it perfectly clear that the Constitution was intended to confer upon the Federal Government the same general treaty-making power exercised by other nations, limited only by the express provisions of our Constitution. Furthermore, from the very inception of our Government to the present time we have placed a practical construction upon this power, and the Supreme Court of the United States has held that where there exists ambiguity or doubt, or where two views may well be entertained, contemporaneous and practical construction of constitutional powers are entitled to the greatest weight. (McPherson v. Blacker, 146 U. S., 1; Knowlton v. Moore, 178 U. S., 41.)

"TREATY OF ALLIANCE WITH FRANCE, 1778."

At the time the Constitution was adopted it was the practice of nations to enter into treaties of alliance, offensive and defensive; guarantee countries against internal aggression; enter into treaties of commerce affecting duties on exports as well as imports and regulating other phases of commerce; fixing the status of foreign citizens and defining their property rights; acquire territory or colonies; and exercise various other treaty-making powers. In fact, before our Constitution was adopted and during the struggle for independence the Confederation of States entered into a treaty with France for an offensive and defensive alliance. Article 1 of this treaty provided as follows:

"If war should break out between France and Great Britain during the continuance of the present war between the United States and England, His Majesty and the said United States shall make it a common cause and aid each other mutually with their good offices, their counsels, and their forces, according to the exigence of conjunctures, as becomes good and faithful allies."

Article 8 provides as follows:

"Neither of the two parties shall conclude either truce or peace with Great Britain without the formal consent of the other first obtained; and they mutually engage not to lay down their arms until the independence of the United States shall have been formally or tacitly assured by the treaty or treaties that shall terminate the war."

Article 11, in part, provides as follows:

"The two parties guarantee mutually from the present time and forever against all powers, to wit, the United States to His Most Christian Majesty, the present possessions of the Crown of France in America as well as those which it may acquire in the future treaty of peace. And His Most Christian Majesty guarantees on his part to the United States their liberty, sovereignty, and independence."

This treaty was in existence until 1798 and subsisted after the adoption of the Constitution. Hamilton, in his letters discussing the treaty-making power under the Federation and under the Constitution, referred to this treaty as an evidence of the power granted by the Constitution of the United States to enter into a treaty of alliance. Among other things, he said:

"The manner of exercising a similar power under the confederation shall now be examined.

"To judge of the similarity of the power it will be useful to quote the terms in which it was granted. They are these: 'The United States in Congress assembled shall have the sole and exclusive right and power of entering into treaties and alliances: *Provided*, That no treaty of commerce shall be made whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners as their own people are subject to, or from prohibiting the importation or exportation of any species of commodities whatsoever.'

"It will not be disputed that the words 'treaties and alliances' are of equivalent import and of no greater force than the single word 'treaties.' An alliance is only a species of treaty, a particular of a general; and the power of 'entering into treaties,' which terms confer the authority under which the former Government acted, will not be pretended to be stronger than the power 'to make treaties,' which are the terms constituting the authority under which the present Government acts; it follows that the power respecting treaties under the former and that under the present Government are similar.

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"Under this power thus granted and defined the alliance with France was contracted, guaranteeing, in the case of a defensive war, her West India possessions, and when the casus fœderis occurs obliging the United States to make war for the defense of those possessions, and consequently to incur the expenses of war.

"Under the same power treaties of commerce were made with France, the Netherlands, Sweden, and Prussia. Besides that, every treaty of commerce is necessarily a regulation of commerce between the parties, it has been shown, in the antecedent comparison of those treaties with that lately negotiated, that produce the specific effects of restraining the legislative power from imposing higher or other duties on the articles of those nations than on the like articles of other nations, and from extending prohibition to them which shall not equally extend to other nations the most favored; and thus abridge the exercise of the legislative power to tax and the exercise of the legislative power to regulate trade."

JAY TREATY, 1794.

During the time the Constitution was pending before the conventions of the various States for adoption, much of the objection to the Constitution emanated from the extensive treaty-making power conferred upon the President and the Senate. All students of history will recall the storm of opposition and public indignation which swept over the country when the terms of the Jay treaty, proclaimed February 29, 1796, between Great Britain and the United States, were made public. All of the latent opposition to the Constitution was fanned into a flame and public meetings were held all over the country, at which the treaty was denounced. It was assailed in almost every aspect as being beyond the constitutional power of the President and the Senate.

It brought forth from Washington, Hamilton, Ellsworth, and many others who were familiar with the history of the formation of the Constitution and the grant of the treaty-making power the most illuminating and the ablest discussion upon this subject anywhere recorded in history.

Hamilton defended the treaty-making power in a series of letters over the signature of "Camillus," which for historical knowledge and power of logic have never been transcended. They stand as the last great monument to his fame. A brief summary of these objections may be useful.

It was alleged that the Jay treaty restricted the power of Congress to lay taxes or exact higher duties upon commodities; the power to regulate trade; the power to establish uniform naturalization; to define and punish piracies and felonies; that is violated the provision of the Constitution which declares that "no money shall be drawn from the Treasury but in consequence of appropriations made by law"; that it violated the constitutional power of Congress to dispose of and make uniform rules and regulations respecting territory and other property of the United States; that it violated that provision of the Constitution relating to the judicial department, and in many other respects.

In discussing these objections, Hamilton said:

"The power of treaty could not but be supposed commensurate with all these objects to which the legislative power of the Union extended, which are the proper subjects of compacts with foreign nations."

In discussing the understanding of the treaty-making power by the convention, Hamilton said:

"The manner in which the power of treaty, as it exists in the Constitution, was understood by the convention in framing it and by the people in adopting it is the point next to be considered.

"As to the sense of the convention, the secrecy with which their deliberations were conducted does not permit any formal proof of the opinions and views which prevailed in digesting the power of the treaty, but from the best opportunity of knowing the fact I aver that it was understood by all to be the intent of the provision to give to that power the most ample latitude—to render it competent to all the stipulations which the exigencies of national affairs might require; competent to the making of treaties of alliance, treaties of commerce, treaties of peace, and every other species of convention usual among nations; and competent in the course of its exercise for these purposes, to control and bind the legislative power of Congress, and it was emphatically for this reason that it was so carefully guarded, the cooperation of two-thirds of the Senate with the President being required to make any treaty whatever. I appeal for this with confidence to every member of the convention, particularly to those in the two Houses of Congress."

In summarizing the arguments of those who objected to the Jay treaty on constitutional grounds, he enumerated the various treaties which the United States could not enter into if the position of these objectors was correct:

"The absurdity of the alleged interferences will fully appear by showing how they would operate upon the several kinds of treaties usual among nations. These may be classed under three principal heads: (1) Treaties of commerce, (2) treaties of alliance, (3) treaties of peace.

"Treaties of commerce are, of course, excluded, for every treaty of commerce is a system of rules devised to regulate and govern the trade between contracting nations, invading directly the exclusive power of regulating trade which is attributed to Congress.

"Treaties of alliance, whether defensive or offensive, are equally excluded, and this on two grounds:

"1. Because it is their immediate object to define a case or cases in which one nation shall take part with another in war, contrary, in the sense of the objection, to that clause of the Constitution which gives to Congress the power of declaring war; and (2) because the succors stipulated, in whatever shape they may be, must involve an expenditure of money—not to say that it is common to stipulate succors in money, either in the first instance or by way of alternative. It will be pertinent to observe, incidentally, in this place that even the humane

and laudable provision in the seventeenth article, which all have approved, is within the spirit of the objection, for the effect of this is to restrain the power and discretion of Congress to grant reprisals till there has been an unsuccessful demand of justice. Nothing can better illustrate the unreasonable tendency of the principle.

"Treaties of peace are also excluded, or, at least, are so narrowed as to be in the greatest number of cases impracticable. The most common conditions of these treaties are restitutions or cessions of territory, on one side or on the other, frequently on both sides—regulations of boundary, restitutions and confirmations of property, pecuniary indemnifications for injuries or expenses. It will probably not be easy to find a precedent of a treaty of peace which does not contain one or more of these provisions as the basis of the cessation of hostilities, and they are all of them naturally to be looked for in an agreement which is to put an end to the state of war between conflicting nations.

"Yet they are all precluded by the objections which have been enumerated: Pecuniary indemnifications, by that which respects the appropriations of money; restitutions or cessions of territory or property, regulations of boundary, by that which respects the right of Congress to dispose of and make all needful rules and regulations concerning the territory and property of the United States. It is to be observed likewise that cessions of territory are almost always accompanied with stipulations in favor of those who inhabit the ceded territory, securing personal privileges and private rights of property, neither of which could be acceded to on the principles of that objection, which relates to the power of naturalization, for this power has reference to two species of rights, those of privilege and those of property. An act allowing a foreigner to hold real estate is so far an act of naturalization, since it is one of the consequences of alienism not to be able to hold real estate.

"It follows that if the objections which are taken to the treaty on the point of constitutionality are valid, the President, with the advice and consent of the Senate, can make neither a treaty of commerce nor alliance, and rarely, if at all, a treaty of peace. It is probable that on a minute analysis there is scarcely any species of treaty which would not clash in some particular with the principle of those objections, and thus, as was before observed, the power to make treaties granted in such comprehensive and indefinite terms and guarded with so much precaution would become esentially nugatory.

* * * * * * *

"But the construction which is combated would cause the legislative power to destroy the power of making treaties. Moreover, if the power of the executive department be inadequate to the making of the several kinds of treaties which have been mentioned, there is then no power in the Government to make them, for there is not a syllable in the Constitution which authorizes either the legislative or judiciary departments to make a treaty with a foreign nation. And our Constitution would then exhibit the ridiculous spectacle of a Government without a power to make treaties with foreign nations, a result as inadmissible as it is absurd, since, in fact, our Constitution grants the power of making treaties in the most explicit and ample terms to the President, with the advice and consent of the Senate. On the contrary, all difficulty is avoided by distinguishing the province of the two powers according to ideas which have been always familiar to us, and which were never exposed to any questions till the treaty with Great Britain gave exercise to subtleties of party spirit."

Chief Justice Ellsworth, who had been a member of the Federal convention and whose appointment to the Supreme Bench bears date of March 4, 1796, in a carefully prepared letter on the subject, under date of March 13, 1796, expressed similar views. He said:

"The grant of the treaty-making power is in these words: 'The President, with the advice and consent of the Senate, shall make treaties.' The power goes to all kinds of treaties, because no exception is expressed, and also because no treaty-making power is elsewhere granted to others, and it is not to be supposed that the Constitution has omitted to vest sufficient power to make all kinds of treaties which have been usually made or which the existence or interests of the Nation may require."

PRECEDENTS AND AUTHORITIES RESPECTING TREATY-MAKING POWER AND SUBJECTS.

We will thus see that the understanding of those who framed and were instrumental in adopting the Constitution was that this country had power to enter into the usual treaties negotiated by sovereign powers, including treaties of alliance, treaties guaranteeing the political independence and integrity of foreign nations; in fact, this country had entered into such a treaty, which was in force before the Constitution was adopted and for years thereafter; that from that day to the present time no question has been raised respecting the power of this country to negotiate such a treaty. Not only is this supported by the best writers on constitutional law, but by the decisions of the Supreme Court and the practice of this country during the entire life of the Republic.

Willoughby, recognized as one of the best of the modern authorities on constitutional law, makes the following statement concerning the treaty-making power of the Federal Government:

"The control of international relations vested in the General Government is not only exclusive but all-comprehensive. That is to say, the authority of the United States in its dealings with the foreign powers includes not only those powers which the Constitution specifically grants it, but all those powers which sovereign States in general possess with regard to matters of international concern. This general authority in the United States is fairly deducible from the fact that in its dealings with other States the United States appear as the sole representative of the American people; that upon it rests, therefore, the obligation to perform all the duties which international law imposed upon a sovereign State; and that, therefore, having these duties to perform it is to be presumed to have commensurate powers. (Sec. 190.)

"The power being expressly conferred by the Constitution on the President and Senate to make treaties, and there being no bounds set to their power, they are without limitation, except that they can not violate other provisions of the Constitution or invade the other departments of the Government."

In the case of Ferrioa dos Santos (2 Brock., 493), cited in Second Watson, on the Constitution, page 955, it is said:

"The treaty power, as expressed in the Constitution, is in terms unlimited, except by those restraints which are found in that instrument against the action of the Government or of its departments and those arising from the nature of the Government itself and of that of the States. It would not be contended that it extends so far as to authorize what the Constitution forbids, or a change in the character of the Government or in that of one of the States, or a cession of any portion of the territory of the latter without its consent. (Fort Leavenworth Railroad Co. *v.* Lowe, 114 U. S., 525, 541.) But with these exceptions it is not perceived that there is any limit to the questions which can be adjusted touching any matter which is properly the subject of negotiation with a foreign country." (Per Field, J., in Geofroy *v.* Riggs, 133 U. S., 258, 266.)

In the same opinion it is said:

"That the treaty power of the United States extends to all proper subjects of negotiation between our Government and the Governments of other nations is clear."

In Holmes *v.* Jennison (14 Pet. U. S., 540) Chief Justice Taney, writing the opinion of the court, said:

"The power to make treaties is given by the Constitution in general terms, without any description of the objects intended to be embraced by it, and consequently it was designated to include all those subjects which in the ordinary intercourse of nations had usually been made subjects of negotiation and treaty and which are consistent with the nature of our institutions and the distribution of powers between the General and State Governments. And without attempting to define the exact limits of this treaty-making power or to enumerate the subjects intended to be included in it, it may safely be assumed that the recognition and enforcement of the principles of public law being one of the ordinary subjects of treaties, were necessarily included in the power conferred on the General Government. * * * Indeed, the whole frame of the Constitution supports this construction" (pp. 569–570).

In the case of The Cherokee Tobacco (11 Wall., 616) Judge Swayne said, at page 620:

"It need hardly be said that a treaty can not change the Constitution or be held valid if it be in violation of that instrument. This results from the nature and fundamental principles of our Government. The effect of treaties and acts of Congress, when in conflict, is not settled by the Constitution. But the question is not involved in any doubt as to its proper solution. A treaty may supersede a prior act of Congress (Foster *v.* Neilson, 2 Pet., 314) and an act of Congress may supersede a prior treaty (Taylor *v.* Morton, 2 Curtis, 454; The Clinton Bridge, 1 Walworth, 155)."

In Holden *v.* Joy (17 Wall., 243) Clifford, J., said:

"Under the powers given to the President and Senate to make treaties, it must be assumed that the framers of the Constitution intended that the power should extend to all those objects which in the intercourse of nations had usually been regarded as the proper subjects of negotiation and treaty, if not inconsistent with the nature of our Government and the relations between the States and the United States."

In Holmes *v.* Jennison (14 Pet., 569) it was said:

"The Constitution does not descend to details on the subject of treaties. It confers the power upon the President and Senate to make treaties, and this power is conferred in general and not specific terms. The power therefore includes all those matters which were the subjects of treaty at the time the Constitution was formed, providing they are consistent with the nature and provisions of the Constitution. The recognition and enforcement of the principles of public law being among the ordinary subjects of treaties were of necessity included in the power conferred upon the President and Senate to make treaties." (Cited in 2 Watson on the Constitution, p. 956.)

It is hardly necessary to enumerate the treaties involving such general provisions which have been entered into by the United States during its existence under the Constitution. Familiar examples are the Rush-Bagot agreement of 1817—made by the exchange of notes—whereby the United States and Great Britain agreed to limit their naval armament upon the Lakes forming the boundaries between the United States and Canada.

The Webster-Ashburton treaty of 1842, whereby Great Britain and the United States agreed to maintain a naval force on the coast of Africa for the suppression of the slave trade, the forces of the two nations to act in concert and cooperation.

The Clayton-Bulwer treaty of 1850, between Great Britain and the United States, relating to the subject of a ship canal between the Atlantic and Pacific Oceans, the two nations guaranteeing the neutrality of the canal and undertaking to protect it against unjust confiscation, seizure, or violence, and so forth.

The treaty of 1846 with Colombia, whereby the United States guaranteed "positively and efficaciously * * * to perfect neutrality" of the Isthmus of Panama, the treaty with Cuba, and the treaty by which we guaranteed the independence of Panama.

The treaty of 1889 with Germany and Great Britain respecting the Samoan Islands, and many others.

The treaties of arbitration are so well known that no reference is necessary. The two Hague conventions, the Hay treaties made following the first convention, and the Root treaties following the second, and, finally, the Bryan treaties of 1913, dealt so comprehensively with the whole subject of arbitration as to leave no doubt whatever concerning the uniform recognition of the ability of the treaty-making power to bind the United States to any form of agreement for the peaceful settlement of international disputes, with a corresponding covenant not to go to war over the subject of dispute until after the processes of arbitration or inquiry have been exhausted, so that, upon precedent, upon the testimony of the statesmen who framed the Constitution, and in practice there can be no doubt as to the power of this Nation to execute such guaranties, whatever may be its wisdom. In principle there is no difference between guaranteeing the independence of Panama and guaranteeing the independence of Great Britain or France. It is said that we have a proprietary interest in Panama on account of the construction of the canal. We have a proprietary interest in the canal, and it is to our benefit to have stable government on either side of the canal, and so it is to our interest to have stable governments in any country contiguous to the United States or in any part of the world which might otherwise threaten our peace. For that reason we practically guaranteed the independence of Cuba.

If this country had the power to negotiate a treaty of alliance with France—and that power has not been questioned for more than a hundred years—the power still subsists.

If we had power to enter into a treaty with Great Britain to limit armament upon the Great Lakes—the treaty with Great Britain, 1817, which power has not been questioned for more than a hundred years—we have the same power to agree with all nations at this time to limit our armament.

Another objection to the treaty is that Congress alone can declare war and establish an army and navy; that therefore it is within the sole

province of Congress to decide whether we will declare war to protect a foreign country or whether we will enlist a certain number of men and provide a certain army; that, as the legislative power is alone vested in Congress, only Congress can enter into such an agreement; and that any agreement the violation of which might cause war, or any agreement to limit armament which Congress might violate, is unconstitutional. This, as Hamilton says, would practically destroy the treaty-making power of the United States.

The argument is as old as the history of treaties in this country. It was presented with great ability by the opponents of the Jay treaty and overcome by the able statesmen of that time, foremost among whom was Alexander Hamilton. From that day to the present time the question has been frequently raised in connection with treaties for the payment of money, regulating commerce, fixing import duties, regulating rights of trade with foreign countries, fixing boundaries, and various other subjects; the objection being that as the power to legislate in relation to these matters was in the entire Congress, any treaty made by the President and the Senate was therefore void. But these objections have proved unavailing and a large number of treaties have been made and ratified by the Senate where legislation was necessary to carry them into operation. For those who desire a more detailed examination of these treaties they will be found stated and analyzed in Crandall on Treaties, their making and enforcement, chapters 12 to 17, inclusive.

I can not review them all, but let me discuss a few of them:

The Jay treaty provided for the payment of money, regulated commerce, and fixed the status of foreign citizens, their right to hold and inherit property in the States, and other like provisions. President Washington took the advice of the heads of his administration—of Hamilton and others—and declined to submit the treaty to the House of Representatives.

On March 30, 1796, in his reply to a resolution from the House, President Washington said:

"As, therefore, it is perfectly clear to my understanding that the assent of the House of Representatives is not necessary to the validity of a treaty, as the treaty with Great Britain exhibits in itself all the objects requiring legislative provisions, and on these, the papers called for can throw no light, and as it is essential to the due administration of the Government that the boundaries fixed by the Constitution between different departments should be preserved, a just regard to the Constitution and to the duty of my office, under all the circumstances of this case, forbids a compliance with your request."

The treaty with France for the purchase of land at the mouth of the Mississippi, approved May 3, 1802, required an appropriation of $2,000,000. President Jefferson submitted the treaty to the Senate alone, and after its ratification asked Congress to make the appropriation. A resolution requesting the President to submit the papers to the House of Representatives was defeated.

In the French treaty of July 4, 1831, it was agreed to pay to the United States 25,000,000 francs in settlement of certain claims. The treaty was signed by the French Government and the representatives of the United States and ratified by the Senate. The Chamber of Deputies of France refused to make the appropriation. The House of Representatives unanimously adopted a resolution declaring that in the opinion of the House the convention should be maintained and its execution insisted upon.

So that we ourselves have not only insisted that we have the right to make a treaty which is said to circumscribe the legislative or sovereign power of the Government, but we have invoked the same rule against others.

There are a number of these treaties entered into with the United States requiring the payment of money which have never been submitted to the Congress and which have been negotiated by the President and confirmed by the Senate. A list of these may be found on page 179, Crandall on Treaties, extending from 1796 to 1903.

In treaties involving the modification of revenue laws it has been the universal custom for the President and the Senate to negotiate such treaties, although the power to raise revenue is alone vested in the Congress, and such bills must originate in the House. This question was also determined as an incident to the Jay treaty. The discussion is very illuminating. John Forsyth, who was afterwards Secretary of State, instituted the contention in the House that legislation to administer the treaty was necessary, but he made no claim that the treaty itself was invalid. His statement is so clear on this question that I beg leave to quote therefrom:

"The basis of the bill is not the principle stated, that legislative aid is necessary to the validity of treaties. Gentlemen have exhausted their ingenuity, their time, and their eloquence in the discussion of a doctrine utterly denied by the bill and those who advocate it. The doctrine contended for is that in certain cases specified by the Constitution legislative aid is necessary to the execution of treaties. Is there no difference between the two propositions? * * * The distinction between the validity of an instrument and the execution of its provisions, between the obligation of contract and the performance of that obligation? * * * We insist not that it is the figment or shadow of a treaty but that it shall be neither more nor less than a treaty valid and obligatory as such as a contract, but not having the force of law in its operation upon the municipal concerns of this people without legislative enactment."

He makes a distinction between the carrying out of a treaty and the making of a treaty which is morally binding upon the Congress.

Heretofore there has been no tribunal in which such treaties could be judged, except the tribunal of public opinion.

The treaties with France in 1822 and 1831 providing for duties on French goods admitted into the United States were ratified and then submitted to Congress for legislation. But the Senate refused to ratify the treaty with the States of the German Zollverein, which changed the duties laid by law. Since 1854 many of the treaties affecting import duties contained a proviso that the treaty should take effect as soon as laws required to carry them into operation should be passed. For instance, in convention with Hawaiian Islands of 1875, the Senate advised ratification, "but not until a law to carry it into operation shall be passed by the Congress of the United States." A similar reservation was made in the reciprocity convention with Mexico of 1883 and various other reciprocity conventions subsequently negotiated.

In the tariff act of October 3, 1913, the President was "authorized and empowered to negotiate trade agreements with foreign nations wherein mutual concessions are made looking toward freer trade relations and further reciprocal expansion of trade and commerce: *Provided, however*, That said trade agreements before becoming operative shall be submitted to the Congress of the United States for ratification or rejection."

Whatever may be said respecting the propriety of the negotiation of a treaty by the President and the Senate which interferes with the tariff acts enacted by Congress, the power to negotiate such treaties is settled beyond question. My own opinion is that the wisdom of it is doubtful, and as the duty is placed upon Congress to raise revenue to support the Government, the treaty-making power should not be exercised in such a way as to infringe upon this authority. But it has been the practice of this Nation from the inauguration of its Government under the Constitution to negotiate such treaties and to simply ask Congress to pass the necessary legislation to carry them into operation.

The Supreme Court, in the so-called Insular cases, settled this question. In the case of De Lima *v.* Bidwell (182 U. S., 1) recovery was sought for duties paid under protest on goods brought into New York from the island of Porto Rico in 1899, after the exchange of ratification of the treaty but prior to any legislation by Congress. The court held that upon the exchange of ratification of the treaty of April 11, 1899, Porto Rico ceased to be a foreign country within the meaning of the tariff laws then existing, and that the duties were not legally exacted. That, in effect, was a repeal of the tariff laws by this treaty.

In the Fourteen Diamond Ring case (173 U. S., 176) the same decision was reached as to the Philippine Islands. It is true, however, that in the De Lima case there was the dissenting opinion of four judges, written by Mr. Justice White, to the contrary. But the De Lima case has been reaffirmed and must now be considered as the settled law of this country. This case was cited and approved in Dorr *v.* United States (195 U. S., 138), and has been cited with approval by the Supreme Court since that time.

Chief Justice White based his dissent upon the ground that it was not good policy for the Government to execute a treaty affecting duties, because the responsibility for raising revenue to support the Government was placed upon the Congress. But the court held the question of propriety was for the Senate and the President to determine when they made the treaty, Congress clearly reserving the right to refuse to carry it out or to repeal the treaty if it saw fit.

In the latter case, Mr. Justice Day, who delivered the opinion of the court, said:

"It may be regarded as settled that the Constitution of the United States is the only source of power authorizing action by any branch of the Federal Government. 'The Government of the United States was born of the Constitution, and all powers which it enjoys or may exercise must be either derived expressly or by implication from that instrument.' (Downes *v.* Bidwell (182 U. S., 244, 288) and cases cited.) It is equally well settled that the United States may acquire territory in the exercise of the treaty-making power by direct cession as the result of war and in making effectual the terms of peace, and for that purpose has the powers of other sovereign nations. This principle has been recognized by this court from its earliest decisions. The convention which framed the Constitution of the United States, in view of the territory already possessed and the possibility of acquiring more, inserted in that instrument, in Article IV, section 3, a grant of express power to Congress 'to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.'"

There is no question that the power to acquire territory, to fix boundaries and the status of the inhabitants, and to cede territory has not only been exercised many times by this Government but has been sustained as a part of the treaty-making power by the Supreme Court of the United States.

The Senator from Pennsylvania, in his speech of March 1, objects to certain articles of the treaty relating to finance and economy because the power to legislate upon interstate commerce is vested in Congress. This same objection was made to the Jay treaty and was met by the President and by many of the proponents of the treaty, conspicuous among whom was Alexander Hamilton. Hamilton said:

"This will the better appear from the entire clause. 'The Congress shall have power to regulate commerce with foreign nations and among the several States and with the Indian tribes,' which is the same as if it had been said: The whole powers of regulating trade by law shall reside in Congress, except as to the trade within a State, the power to regulate which shall remain with such State. But it is clearly foreign to that mutual regulation of trade between the United States and other nations, which, from the necessity of mutual consent, can only be performed by treaty. It is, indeed, an absurdity to say that the power of regulating trade by law is incompatible with the power of regulating it by treaty, since the former can by no means do what the latter alone can accomplish; consequently it is an absurdity to say that the legislative power of regulating trade is an exception to the power of making treaties.

"Laws are the acts of legislation of a particular nation for itself. Treaties are the acts of the legislation of several nations for themselves jointly and reciprocally. The legislative powers of one State can not reach the cases which depend on the joint legislation of two or more States. For this resort must be had to the pactitious power, or the power of treaty. This is another attitude of the subject, displaying the fallacy of the proposition that the legislative powers of Congress are exceptions to or limitations of the power of the President, with the aid of the Senate, to make treaties."

SUPERIORITY OF TREATIES OVER STATE LAWS.

There is no doubt that in the absence of a treaty or legislation by Congress the States have power to establish the status of foreign citizens as to their rights to hold and inherit property and to engage in business within their several borders. And Congress undoubtedly has the power to provide for the naturalization of foreign subjects and prescribe conditions under which they shall become citizens of the United States. Notwithstanding this, it is settled beyond dispute that the Federal Government may by treaty define the status of a foreign subject residing within the States, and indicate the plans where he may travel, the business in which he may engage, the property he may own, both real and personal, and the disposition of such property upon his death; that such a treaty constitutes the supreme law of the land; that a State law contravening such a treaty is invalid and will be so declared by the courts in a suitable action. Certain it is that Congress may pass a law setting aside such a treaty, and that a treaty may be negotiated which shall supersede a law of Congress.

These propositions have been established by the laws of all civilized nations, by the history of all eras, by the opinion of statesmen who framed our Constitution, by the provisions of the Constitution, by the universal practice of negotiating such treaties, and, finally, by repeated decisions of the Supreme Court of the United States and many of the State courts during a period exceeding 100 years.

If the President and the Senate can make a treaty providing for the disposition of land in a State, they may make a treaty affecting foreign commerce, continually conceding the power of Congress to denounce the treaty.

Under the Articles of Confederation the Congress entered into treaties with foreign Governments defining the status of foreign citizens

within the several States, and their right to engage in business, and to own, dispose of, and inherit property, both real and personal. Such treaties were made with France, the Netherlands, Sweden, Great Britain, Morocco, and Prussia. (Treaty with France, Feb. 6, 1778, 8 U. S. Stat. L., 12; treaty with the State's General of United Netherlands, Oct. 28, 1782, 8 U. S. Stat. L., 32; treaty of peace with Great Britain, Nov. 30, 1782, 8 U. S. Stat. L., 54; treaty with Sweden, Apr. 3, 1783, 8 U. S. Stat. L., 60; treaty with Prussia, Sept., 1785, 8 U. S. Stat. L., 84; treaty with Morocco, Jan. 7, 1787, 8 U. S. Stat. L., 100.)

Since the adoption of the Constitution many treaties of this character have been made, such as the treaty with the Republic of Salvador in 1870 (Treaties and Conventions, p. 1537); the treaty with Peru, 1871 (Treaties and Conventions, p. 1431). In fact, nearly every one of our treaties contain provisions, varying in form, regulating some matter which is ordinarily within the jurisdiction of the State, and which, by the Constitution, is not committed to Congress other than by the treaty-making power.

That such treaties are valid and superior to the laws of the States is demonstrated by the discussions which occurred at the time the Constitution was adopted.

Time does not permit me to cite the expressions of the public men of that time, of Washington, Jefferson, Hamilton, Madison, Randolph, Pinckney, Adams, Wilson, together with the remarkable discussion of the Constitution by Hamilton, Madison, and Jay in the Federalist—a discussion which excited the admiration of statesmen the world over and compares favorably with the writings of such great students of government as Vattel, Montesquieu, Burke, Machiavelli, and Rousseau.

It is only necessary for me to cite to the Senate the various decisions of the Supreme Court of the United States, holding that these treaties were not only within the treaty-making power of the Senate and the President, but were superior to the laws of the various States.

Many of these decisions were rendered in the early days of the Republic, were participated in by men who were members of the Constitutional Convention and familiar with the history of the times and the objects to be attained by its adoption. I shall simply give the Senate a list of the leading cases, as follows: Elizabeth Rutgers *v.* Joshua Waddington, in the Mayor's Court of New York, 1784; Ware *v.* Hylton (3 Dall., 199); Chirac *v.* Chirac (2 Wheat., 259); Orr *v.* Hodgson (4 Wheat., 453); Fairfax's Devisee *v.* Hunter's Lessee (7 Cr., 603); Hughes *v.* Edwards (9 Wheat., 489); Hauenstein *v.* Lynham (100 U. S., 483); Geofroy *v.* Riggs (133 U. S., 263).

There have also been adjudicated cases to the same effect in the United States circuit and district courts, and a large number of cases in the State courts. In fact, every State which has passed on the question has followed the decision of the Supreme Court of the United States.

This is also the opinion of substantially all of the writers upon the treaty-making power, with one exception—Henry St. George Tucker, of Virginia—and he bases his opinion very largely upon certain expressions contained in certain decisions of the Supreme Court of the United States, notably in opinions rendered by Chief Justice Taney, in 1840, in Homes *v.* Jennison (14 Pet., 540); of Justice Daniel, shortly after, in the License cases (5 How., 504); and Chief Justice Taney and Justice Grier in the Passenger cases (7 How., 283), tending to support the theory that the treaty-making power does not extend to the subjects which by the Constitution are ordinarily committed to the relative jurisdiction of the States. In all of these cases there were opinions by several of the justices of the court, and it does not appear that the language used was approved by the majority. In fact, in the Passenger cases the language of Chief Justice Taney was used in a dissenting opinion. These decisions, however, do not purport to overrule the earlier decisions of the court to the contrary, and have never been followed by the court since that time. They were rendered at a time, now happily past, when the country was divided by an overwhelming issue which darkened the political sky and clouded the judgment of men. This undoubtedly had its effect upon the decisions of that great court, but the later decisions have dispelled whatever doubt may have existed.

CONSTITUTIONAL EXCEPTIONS TO TREATY-MAKING POWER.

It may be said, however, that if there are no implied limitations to the treaty-making power, the President, by and with the consent of the Senate, might dismember the Union, abolish the structure of government guaranteed by the Constitution, or convey away the territory of the States. In fact, the Senator from Pennsylvania, in his speech on June 17, said that under the treaty-making power King George of England could not be made President of the United States, nor could the House of Lords be substituted for and perform the functions of the Senate of the United States, nor could the House of Commons be made to take the place of the House of Representatives.

But these arguments are not new. They were advanced time and time again in the Constitutional Convention and in the convention of the various States called to consider the adoption of the Constitution.

The same argument was advanced against the Jay treaty. In reply, Hamilton said:

"The only constitutional exception to the power of making treaties is that it shall not change the Constitution; which results from this fundamental maxim, that a delegated authority can not alter the constituting act unless so expressly authorized by the constituting power. An agent can not new model his own commission. A treaty, for example, can not transfer the legislative power to the executive department nor the power of this last department to the judiciary; in other words, it can not stipulate that the President, and not Congress, shall make laws for the United States; that the judges, and not the President, shall command the national forces."

Undoubtedly the treaty-making power does not comprehend that the President and the Senate shall change the form of government or stipulate to destroy any of the fundamental powers of the Federal Government which are guaranteed by provisions of the Federal Constitution coordinately with the treaty clause.

A treaty abrogating the functions of the Supreme Court of the United States or of the legislative or executive bodies would undoubtedly be declared unconstitutional, because the provisions of the Constitution creating the departments of Government are of equal force and effect with those conferring the treaty-making power.

These questions, if not settled by ballot, can only be settled by the arbitrament of war.

This question has been settled and these limitations carefully defined by the Supreme Court of the United States in the case of Geofroy *v.* Riggs (133 U. S., 258).

But because a treaty limits sovereign power—I speak of sovereign power as the power to make laws—it is not thereby invalid. The treaty-making power as between nations embraces many of the subjects which are within the legislative power of the Nation. Every treaty we negotiate to a certain extent destroys certain freedom of sovereign action. A treaty, of which we have many, conferring certain privileges of trade is binding, and if we perform our agreement it limits legislative action. Treaties fixing duties and providing for imports; navigation treaties; treaties defining the status of foreign subjects, their right to own and hold property; in fact, there is not a treaty which does not to some extent limit the power of the Federal Government. Of course, it is conceded that Congress has the power to violate a treaty, and we have denounced some of our treaties. And the Supreme Court has decided that a treaty can not alter the Constitution and is void if it is in violation of that instrument. (Thomas *v.* Gay, 169 U. S., 264.)

But it is an entirely different proposition when Congress agrees to a treaty that may cause war. The violation of many of our treaties might cause war if the other party to the treaty so desired. Congress has no power, of course, to create a supergovernment and confer upon that government the right, without an act of Congress, to declare war.

But it is an entirely different proposition when Congress agrees to a treaty the violation of which may lead to war. By the guaranty of the political integrity of Panama, if we perform that guaranty, it may become necessary to render military service. The treaty itself, however, is valid. We can not, of course, confer upon Panama the power to declare war for the United States, but we can agree with Panama to perform acts which may involve us in war.

It is claimed that we can not enter into a treaty limiting armament, because Congress alone can raise and support armies and provide for a navy. By a treaty with Great Britain, negotiated in 1817, we agreed to limit armament on the Great Lakes. This treaty has been in existence more than 100 years, and no question has ever arisen as to its validity. If we may limit armament in a certain section we may limit it entirely. Whether it is advisable to do so is another question. It must also be remembered that we have negotiated a large number of treaties within the last 10 years, by which we agree to arbitration and to forego hostilities for periods of from three to six months. These are agreements not to make war. If the contention of certain Senators is correct that a treaty in which it is agreed to forego hostilities is void because the Congress has absolute power to declare war at any time, we have for many years been performing unconstitutional acts. In fact, any treaty would be void which Congress may violate by legislative act or which requires a legislative act before it becomes operative. * * *

REPORT ON BALTIC PROVINCES (S. DOC. NO. 105).

Mr. LODGE. Mr. President, I have here the official report on the Baltic Provinces by Robert Hale, who was the legal adviser of the Paris peace commission on those provinces and who visited them. It is a very valuable document and I should like to have it printed as a Senate document.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

"WHY AMERICA IS FREE."

Mr. BORAH. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the New York Times under date of September 21, 1919, entitled "Why America is Free."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sunday, Sept. 21, 1919.]

"WHY AMERICA IS FREE.

"Would it not be a good idea to reprint The Federalist and invite the attention of reviewers and the public in general to it as a new and remarkable work, shedding some light on American institutions? Might it not be well to do the same with Elliot's Debates and the correspondence of Thomas Jefferson? These questions are not asked ironically. The astonishing and humiliating fact has been forced upon the attention of Americans that the foundation principles of our Nation are unknown to or scoffed at by a large number of people who call themselves by the American name, but apparently have no idea of the theory of the Government under which they live.

"It may be that it was a hundred years or more ago that Percy Bysshe Shelley described this country:

> "'That land is like an eagle, whose young gaze
> Feeds on the noontide beam, whose golden plume
> Floats moveless on the storm, and in the blaze
> Of sunrise gleams when earth is wrapped in gloom;
> An epitaph of glory for the tomb
> Of murdered Europe may thy fame be made.
> Great people! as the sands shalt thou become;
> Thy growth is swift as morn when night must fade;
> The multitudinous earth shall sleep beneath thy shade.
> Yea, in the desert there is built a home
> For freedom. Genius is made strong to rear
> The monuments of man beneath the dome
> Of a new heaven; myriads assemble there,
> Whom the proud lords of man, in rage or fear,
> Drive from their wasted homes.
> * * * * * * *
> Nay, start not at the name—America!'

"If Shelley's mournful ghost could see the use which has been made of the opportunities which, as he thus glowingly told, the New World held out to the refugees of the old, what would he say? It would have been the puncturing of another of those dreams for the future of humanity which were so close to his heart. The United States was all that he said of it. There was, however, no magic in it. It was indeed a home of freedom and a city of refuge for the oppressed of all the world, but it was by no accident. It was because Americans every-

where understood the foundations on which their liberties rested and expected newcomers to learn what they themselves knew.

"The theory of our liberty, under which we have lived for a century and a quarter, was not that liberty meant anarchy or the rule of a class. It definitely excluded both. It limited the power of government and delegated to government only certain powers. It made such keen and careful provision that by no means could any group or faction obtain control of government. It was a theory which did not merely ignore classes, but took care that they should not exist, or, if they did, that no class could gain the reins of rulership. This it did by separating the powers of government. It balanced one power against another—a system of 'checks and balances,' to use the old phrase.

"It went further. It placed the legislative power in the hands of representatives of no class, men chosen for the purpose from all ranks of life by the people themselves. It provided, when it came down from theory to actual solidified enactment, that the representatives of the people should never take away from the people certain individual and personal rights, which the Constitution named in the most definite way. It provided that these principles should never be infringed either by the States or the Nation, and it created a judiciary to guard that provision.

"So there was nothing nebulous, vague, or intangible about American freedom. The Constitution, whose birthday the Nation celebrated a few days ago, was no glorious spree of words like the French declaration of the rights of man. It was made up of hard and practical declarations, and we have lived by them ever since. Now we are told suddenly that a new charter of human liberty has been discovered, and are invited to take it as our guide and sail unknown seas uttering invocations in its name. The old Constitution served us well. It served well the men who came here from other countries. Now that it is suddenly assailed by some among them who have been at no pains to learn what the instrument means, what the principles of our Government are, and by their intellectual blood relatives of American descent, the men and women who love it and believe in it should awake and stand by it."

COMMERCE AND FINANCES OF ENGLAND, FRANCE, AND ITALY.

Mr. OWEN. I have in my hand items showing the steps which are being taken by England, France, and Italy to rehabilitate and reconstruct their commerce and finances, including a short compilation by the National City Bank, which I ask to have printed in the RECORD without reading.

It will be seen that the inflated currency of Italy will be retired by a loan, in the nature of a legal tax, and the currency brought back to normal. A great advance forward in the resumption of specie payment. These 2½ per cent bonds can thus absorb the redundant currency of Italy. Doubtless the other nations will follow the example of Italy and the great mischief of inflation ended in France, Belgium, and the other nations of Europe.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"FRANCE'S BUDGET SHOWS ECONOMY—GERMANY'S NEEDS ARE LARGE—ITALY FLOATS COMPULSORY LOAN—OTHER NEWS.

[From a compilation by the National City Bank of New York.]

"M. Klotz, French minister of finance, has introduced into the chamber a proposal for a provisional vote of credit to cover the cost of civil services for the fourth quarter of the year.

"The amount involved is 5,767,000,000 francs ($1,113,031,000), a reduction of 1,200,000,000 francs ($231,600,000), as compared with the third quarter. Military credits for the same period will amount to 2,984,000,000 francs ($575,912,000), a reduction of 842,000,000 francs ($162,506,000), on the last quarter. The reductions are principally on account of pay and maintenance of the troops and material and are due to demobilization.

"The aggregate total for the whole year asked for in votes on account under the heading of exceptional expenditure is lower by 12,597,000,000 francs ($2,431,221,000) than the figure of the votes on account of last year.

"GERMANY'S NEEDS LARGE.

"According to a memorandum issued by Herr Erzberger, Germany will require £1,200,000,000 to meet her financial needs for the year. Of this amount £500,000,000 will be for the service of the debt, which is expected to reach £10,000,000,000.

"An illustration of the rates at which loans are now being floated is given by the issue of a 4 per cent Stuttgart municipal loan for 10,000,000 marks, irredeemable before 1926, after which it is to be paid off during a period of 45 years, at 95.80 per cent. A 4 per cent communal loan for the districts of Saxony, Thuringia, and Anhalt, amounting to 50,000,000 marks, is issued at 94.50 per cent. Redemption will be by drawings, beginning in 1921, amounting to 1 per cent of the total paid.

"ITALY'S COMPULSORY LOAN.

"The progressive tax upon capital which Signor Nitti announced in his program has taken the shape of a compulsory long-dated loan at low interest. The commission for the preparation of this loan, presided over by Signor Tedesco, secretary to the treasury, has already fulfilled the preliminary work, and Italy will be the first nation in resolutely applying the tax, while a similar scheme appears to have been dismissed in France and to be in a nebulous stage in the German and Austrian countries.

"Giving to the progressive tax this appearance of a loan, the Government trusts to take away from it the character of confiscation, and to succeed in simplifying the method of assessment. In a few weeks the scheme, completed in every particular, will be presented to the cabinet. The contributions from the great fortunes amassed during the war will be collected directly as extraordinary supertaxes.

"FRENCH AFTER EXPORT BUSINESS.

"The 'Banque Nationale Francaise du Commerce Exteriour,' or French National Bank for Foreign Trade, which the Clemenceau Government is anxious to bring into a corporate existence as quickly as possible, is intended to be a semiofficial institution. As a matter of fact, the bank has already been constituted, and the bill now before the French Parliament is intended to confirm and ratify the agreement arrived at with the founders of the new bank by Messrs. Klotz, minister of finance, and Clementel, minister of commerce.

"To aid in the establishment of the bank the State will advance sums which are to be returned to the State treasury when the special reserve fund exceeds 25,000,000 francs.

"The capital of the new bank is to be 100,000,000 francs, with power to increase shortly to 200,000,000 francs. The capital has already been underwritten by syndicates of French export merchants, manufacturers, and banks.

"The State is to take 30 per cent of the net profits after the shareholders shall have received a cumulative dividend of 6 per cent. The State's profits are to be reduced to 20 per cent when the 25,000,000 francs advanced by the State shall have been repaid.

"The Government is to have a controlling voice in the management of the bank by the appointment of two official actuaries, who are to check the accounts and books and who will have the right to assist at all board meetings.

"The services the bank will render to French trade are of two kinds. In France itself the bank will mobilize all long-term credits that French export houses are obliged to grant to foreign buyers of French goods. In its foreign branches the bank's agents and correspondents will keep themselves well informed as to the commercial standing and credit of local firms. At the same time they will collect moneys and undertake the reception and dispatch of goods to or from France.

"IN FAIR WAY TO WIN.

"The plans of Premier Nitti for economic reconstruction met with universal approval in Paris, in London, and in this country, and above all, Nitti's scheme of calling in all the excessive circulation of paper currency and of reducing it to normal by means of a loan of 2½ per cent, to which every citizen would be compelled to subscribe, according to the measure of his resources, has excited the good will of all financial experts. It means nothing more nor less than a saving to the treasury of 20,000,000,000 lire, through the giving up of the fictitious value of the paper currency in Italy in order to establish a real one.

"Moreover, Premier Nitti and his equally Americanophile foreign minister, Senator Tittoni, had by means of their conciliatory manner and transparent sincerity—so different from the aggressive trickiness of Baron Sonnino—won to such an extent the sympathy, the good will, and the confidence of France, Great Britain, and above all, of the United States, that Italy was in a fair way to obtain eventual possession of Fiume, the compromise negotiated being of a nature to bring about that object."

"ENGLAND ARRANGES EXPORT CREDITS—ADVANCES UP TO 80 PER CENT OF COST OF GOODS—TO ENCOURAGE TRADE WITH NEW EUROPEAN STATES—CONDITIONS ANNOUNCED BY THE BRITISH BOARD OF TRADE.

"LONDON, *September 4*.

"The board of trade announce that the Government is prepared, through their export credits department, at 10 Basinghall Street, to consider applications for advances up to 80 per cent of the cost of the goods, plus freight and insurance, for goods sold to Finland, the Baltic Provinces—Latvia, Esthonia, and Lithuania—Poland, Czechoslovakia, Jugo-Slavia, and the

areas in Russia to which the scheme for insurance against abnormal commercial risks applies, subject to the following conditions:

"1. Documents are to be surrendered to the buyers against their acceptance of a bill in sterling drawn by the sellers for the full amount of the invoices, together with security (see the next paragraph). The Government will release the drawers from any recourse against them for the amount of the advances made.

"2. The purchasers must agree to take up such documents against a deposit of currency calculated on the basis of the market exchanges, such deposit to be made with an approved bank in the country of purchase and to be held as security for the due payment of the bills.

"3. When the advance is needed, the relative documents will have to be accompanied by a letter of guaranty from an approved bank of the country of purchase stating that the documents will be promptly taken up against such deposit of currency and undertaking that the amount of such currency shall always be maintained at a figure sufficient to give a margin of 15 per cent over the value of sterling as based upon the exchanges (not upon the official exchanges, if any). All applications accompanied by a banker's guaranty of sterling payment at maturity of the bill will receive preferential consideration.

"4. * * * of the advance made to the cost (plus proposals for a deposit of produce or securties instead of currency).

"5. The advances made by the department will be a first charge upon the proceeds of the bills and securities, but if such proceeds are less than the cost, plus freight and insurance, the loss represented by the difference will be divided between the department and the drawer of the bill in the proportion of the advance made to the cost (plus freight and insurance).

"6. The credits are to outstand only for such periods as the department may determine in each case at the time of application for the advances.

"7. The Government will settle from time to time the countries and goods to which the scheme relates, but advances will not be made for the export of raw materials and preference will be given to the finance of goods where the larger part of the cost is due to manufacture in this country.

"8. All applications must be passed to the department by the bankers of the sellers, whose recommendation must be attached.

"9. After satisfaction of the advance the bill and securities will be handed to the seller if payment of the full amount of the bill has not been made.

"10. At any time after maturity of the bill or after any default the department will be entitled to close a transaction and hand over the security held, the seller bearing his proportion, as indicated above, of any loss incurred.

"11. The conditions set out above may be modified at any time or in special cases.

"With the consent of Barclays Bank (Ltd.), L. A. Davis, deputy foreign manager of that bank, has been appointed manager of the department."

OIL CONTROL AND BRITISH INTERESTS.

Mr. PHELAN. Mr. President, I ask to have printed in the RECORD an article appearing in the New York Times of yesterday on the control of oil passing into the hands of Great Britain. It is a matter to which I have called the attention of the Senate heretofore and which I think is of great importance.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 21, 1919.]

"SEES OIL CONTROL PASSING TO BRITAIN—AMERICA ALREADY IMPORTING PETROLEUM, SAYS E. MACKAY EDGAR—FOREIGN FIELDS GOBBLED—IN 10 YEARS AMERICAN IMPORTS, HE PREDICTS, WILL BE RESTORING STERLING EQUILIBRIUM.

"LONDON, *September 20.*

"Recently E. Mackay Edgar, head of the firm of Sperling & Co., expressed confident views on the ability of Great Britain to hold her own against American competition in an article in Sperling's Journal entitled 'The answer to Mr. Vanderlip.' In a further article in the same journal Mr. Edgar makes an equally optimistic deliverance on the future of the world's supply of petroleum, which he is convinced lies in British and not American hands at present. Mr. Edgar says it seems impossible to overthrow America's predominance in the oil industry, but just as America, although 30 or 40 years ago the great timber-producing country, is now in the grip of a timber famine, so he is convinced, first, that she is rapidly running through her stores of domestic oil and is obliged to look abroad for future reserves, and, secondly, that these reserves are owned or controlled by British capital.

"'More oil,' says Mr. Edgar, 'has probably run to waste in the United States than has ever reached the refiners. Improvidence, carelessness, a blind gambling spirit have marked all except the most recent phases of the industry. The great oil fields of the United States are nearing exhaustion, and it is not believed that the new ones which are being proved will yield anything like the old prodigal production. America has recklessly and in 60 years run through a legacy that, properly conserved, should have lasted her for at least a century and a half.

"'Already, although few people realize it, America is an importer of oil. Last year she imported from Mexico 38,000,000 barrels of 42 gallons each. Like farsighted men, however, Americans are now diligently scouring the world for new oil fields, only to find that wherever they turn British enterprise has been before them.'

"Mr. Edgar goes on to say that one finds that Americans have had comparatively little success in securing oil leases in Guatemala, Honduras, Nicaragua, Costa Rica, Panama, Colombia, Venezuela, and Ecuador, and that a decisive and really overwhelming majority of petroleum concessions in these countries is held by British subjects. Geologists are convinced that a continuous belt of oil runs from Mexico through the Isthmus and bifurcated into Venezuela and Ecuador. 'By far the most valuable concessions in these territories belong to the Alves group,' he adds. And Alves is a wholly British group. Then, again, 'that greatest of all organizations,' the Shell group, operating with a paid-up capital which Edgar estimates at £100,000,000, possesses exclusive or controlling interests in every important oil field in the world—in Mexico, Russia, the Dutch East Indies, Roumania, Egypt, Venezuela, Trinidad, India, Ceylon, Malay States, North and South China, Siam, the Straits Settlements, and the Philippines. In a few years, Edgar declares, it will control not far short of one-fourth of the world's supply.

"'We hold in our hands, then,' says Edgar, 'secure control of the future of the world's oil supply. We are sitting tight on what must soon become the lion's share of raw material indispensable to every manufacturing country and unobtainable in sufficient quantities outside the sphere of British influence.

"'I estimate that if their present curve of consumption, especially of high-grade products, is maintained, Americans in 10 years' time will be importing 500,000,000 barrels of oil yearly. At £2 a barrel, that means an annual payment of £200,000,000 per annum, most, if not all, of which will find its way into British pockets.'"

FREEDOM OF SPEECH IN WAR TIME (S. DOC. NO. 95).

Mr. LA FOLLETTE. Mr. President, I have here an article which appeared in the Harvard Law Journal, written by Zechariah Chaffee, jr., of the Harvard Law School. It is upon the freedom of speech in war time, and, so far as my observation goes, it is altogether the most comprehensive discussion of that subject which has yet appeared. I ask to have it printed as a Senate document.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Wisconsin? The Chair hears none, and it is so ordered.

ROOSEVELT MEMORIAL ASSOCIATION.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 2972) to extend the cancellation stamp privilege to the Roosevelt Memorial Association, which were, after the word "employment," in lines 4 and 5, to strike out the remainder of line 5 and all of lines 6 and 7, and insert "of special canceling stamps bearing the following words and figures: 'Roosevelt Memorial Association, October 20–27,' at such post offices as he may designate and under such rules and regulations as he may prescribe," and to amend the title so as to read: "An act to extend the cancellation stamp privilege for the Roosevelt Memorial Association."

Mr. TOWNSEND. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

HOUSE BILL REFERRED.

H. R. 9205. An act making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1920, and prior fiscal years was read twice by its title and referred to the Committee on Appropriations.

THE CALENDAR.

Mr. NORRIS. Mr. President, I rose to ask that the Chair lay before the Senate the resolution introduced by me on last Friday, which went over under the rule, but I am just reminded that under the rule of the Senate on Monday the calendar should be called. I do not wish to interfere with that. I can just as well call up the resolution to which I have referred tomorrow or at the conclusion of the calendar, if it should be concluded before 2 o'clock.

Mr. THOMAS. Mr. President, the calendar is very small at present, and I ask unanimous consent that the rule be dispensed with this morning in order that the Senator may present his resolution.

Mr. NORRIS. I have no desire to do that. I would just as lief take up the resolution to-morrow morning or the next day. I do not like to interfere with the call of the calendar. There are Senators here having bills on the calendar which they desire to have taken up.

Mr. THOMAS. I withdraw the request.

Mr. McLEAN. I move that the Senate proceed to the consideration of Calendar No. 126, being House bill 7478. This is the bill that has been under discussion in the Senate for a week or 10 days, and I think it ought to be disposed of.

Mr. JONES of Washington. I suggest that that would be out of order unless by unanimous consent the call of the calendar is first dispensed with.

Mr. NORRIS. I should like to suggest to the Senator that the calendar be called, and when the bill referred to is reached on the calendar it can be taken up in its regular order. I do not like to dispense with the call of the calendar.

Mr. McLEAN. Very well.

The PRESIDENT pro tempore. The calendar, under Rule VIII, is in order.

The resolution (S. Res. 76) defining a peace treaty which shall assure to the people of the United States the attainment of the ends for which they entered the war, and declaring the policy of our Government to meet fully obligations to ourselves and to the world, was announced as first in order.

Mr. ASHURST. Let that go over.

The PRESIDENT pro tempore. The resolution will be passed over.

The bill (S. 529) for the relief of the heirs of Adam and Noah Brown was announced as next in order.

Mr. SMOOT. I ask that that bill go over.

The PRESIDENT pro tempore. The bill will be passed over.

HEIRS OF SUSAN A. NICHOLAS.

The bill (S. 600) for the relief of the heirs of Mrs. Susan A. Nicholas was announced as next in order.

Mr. SMOOT. I ask that that bill go over.

Mr. RANSDELL. I ask the Senator to withdraw his objection for just a moment to allow me to make a very brief explanation of the bill. It is a bill which has been before Congress for a long time and is for the relief of two old ladies. One of them, Mrs. Caroline Nicholas Muller, is 75 years of age. Their father was a United States Senator from the State of Louisiana. He died in 1857. The facts are that this property was taken by the Union Army. It was composed of sugar, molasses, mules, sugar cane, and things of that kind. It was valued at $50,000 and the committee found that the claimants were entitled to $40,000. A large crop of growing sugar was also destroyed, but no account is taken of that, because the Army got no benefit of the growing crops. The Army did get the benefit of the sugar and molasses and other property.

These old ladies are now in a distressed financial condition. One of them has to work hard for a living, although she is 75 years of age. There have been no laches in this case. These ladies have been trying for 18 or 20 years, according to the record here—and I do not know what efforts they made before that—to get their claim adjusted. It is certainly a just and equitable one. I have tried for two or three Congresses to get it through. I sincerely hope the Senator will not press his objection, and will allow this case to proceed.

Mr. PENROSE. What is the amount of the claim?

Mr. RANSDELL. The amount found by the committee is $40,000. The evidence shows that the value of the property was $50,000.

Mr. SMOOT. Mr. President, claims of this kind have been presented to the Senate time and time again, ever since the close of the Civil War. Of late years none of them have passed the Senate. Omnibus claim bills have passed the Senate under rules adopted by both Houses of Congress, but not claims of this character.

The items on which the claim is based are as follows:

| | |
|---|---|
| 500 hogsheads sugar (1,120 pounds per hogshead), at 6 cents per pound | $33,600 |
| 500 barrels molasses, at 25 cents per gallon | 5,000 |
| 43 sugar mules, at $200 per mule | 8,600 |
| 14 sugar-cane wagons, at $150 each | 2,100 |
| 5 bagasse carts, at $75 each | 375 |
| 43 sets harness, at $10 per set | 430 |

It is true that this is not quite as bad as some of the claims that have been made, such as 648 fence poles, 432 pounds of tobacco, and items given in detail, such as 3,000 bushels of wheat growing in the field at such and such a price per bushel, and so many pounds of cotton destroyed while in the field and worth so much.

I have taken great pains in the past to go into the testimony in cases of this kind, and in certain cases I have found that the number of pounds of tobacco or the number of fence poles that have been destroyed by the Federal armies were sworn and testified to by people who were not over 9 years old at the time the destruction of the property took place.

If these bills are going to pass, the proper way for them to be handled is by an omnibus bill, and have all of them come in under one head; not to pick out one as against another. If the Committee on Claims decides that these claims should be paid—claims for which I believe there is very little basis—let them all be paid. Similar claims have been sent to the Court of Claims. I can not say whether this has or not, but——

Mr. RANSDELL. I will state to the Senator that this particular one has not.

Mr. SMOOT. I do not say that it has. As I just stated before the Senator interrupted me, I do not know whether it has been sent to the Court of Claims or not, but let it go there before we undertake to pay it. Let the claimants present what testimony they have to that court, whether there is anybody——

Mr. RANSDELL. Mr. President, will the Senator permit an interruption?

Mr. SMOOT. Wait just a moment, and I will conclude.

Mr. RANSDELL. Has the Court of Claims jurisdiction now to act upon this matter? We removed that jurisdiction several years ago.

Mr. SMOOT. Yes; we removed the jurisdiction, but removing it does not prevent the Congress of the United States from asking that court to consider cases of this kind. Let the court be shown the facts by the testimony of the witnesses who know that there were 500 hogheads of sugar, who know whether there were 5 carts or 43 sets of harness or 43 sugar mules. It seems to me that that is the least that could possibly be asked on the part of the claimants—that they should establish their case, and not bring a claim of this character before the Senate and ask the Senate to pass it.

I recognize what the Senator says—that the father of one of these claimants was a Member of this body.

Mr. RANSDELL. The father of both of them.

Mr. SMOOT. Well, that does not make any difference. I would not care whether it was the humblest citizen living in Louisiana or any other State in the Union. Their claim against the Government is just as strong as the claim of the daughter of any Senator that ever lived. Let us try these cases in a uniform way, and let us have some evidence, at least, that the Government of the United States is a debtor, and that these people who are making this claim were loyal to the Government of the United States.

For that reason I object to the consideration of the bill.

The PRESIDENT pro tempore. The Senator from Utah objects, and the bill will be passed over.

MOSES M. BANE.

The bill (S. 1479) for the relief of the estate of Moses M. Bane was considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to the estate of Moses M. Bane, deceased, who was receiver of public moneys for the Territory of Utah, and paid office rent at Salt Lake City for the years 1877 and 1878 and for the first quarter of the year 1879, the sum of $1,080, the said sum for office rent having been advanced by the officer out of his private means.

Mr. PHELAN. I desire to ask the Senator from Utah if he approves of this measure?

Mr. SMOOT. The department approves of it, as I understand. I did not introduce the bill. The lady is living in Virginia to-day. I understand that while she was the wife of Col. Bane, he, as an official of the Land Department, during the years stated here, did pay that rent, and that the Government owes him $1,080. I have not any interest whatever in it.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS PASSED OVER.

The bill (S. 1223) for the relief of the owner of the steamer *Mayflower* and for the relief of passengers on board said steamer was announced as next in order.

Mr. LENROOT. Let that go over.

The PRESIDENT pro tempore. The bill will be passed over.

The bill (S. 174) for the relief of Emma H. Ridley was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDENT pro tempore. The bill will be passed over.

ARREARS OF PAY, BOUNTY, AND OTHER ALLOWANCES.

The bill (S. 631) repealing certain provisions contained in the urgent deficiency act approved December 22, 1911, was considered as in Committee of the Whole, and was read as follows:

*Be it enacted, etc.*, That the following provisions contained in the urgent deficiency act approved December 22, 1911, to wit: "No claim for arrears of pay, bounty, or other allowances growing out of the service of volunteers who served in the Army of the United States during the Civil War shall be received or considered by the accounting officers of the Treasury unless filed in the office of the Auditor for the War Department on or before December 31, 1912"; "No claim for arrears of pay, bounty, or other allowances growing out of the service of volunteers who served in the Army of the United States during the War with Spain shall be received or considered by the accounting officers of the Treasury unless filed in the office of the Auditor for the War Department on or before December 31, 1914," relating to claims for arrears of pay, bounty, or other allowances growing out of the Civil War and the War with Spain are hereby repealed.

SEC. 2. That hereafter no agent, attorney, or other person engaged in preparing, presenting, or prosecuting any claim for pay, bounty, or other allowances shall, directly or indirectly, contract for, demand, or receive for such services in preparing, presenting, or prosecuting such claim a sum greater than 20 per cent of the amount allowed by the accounting officers of the Treasury Department, which sum shall be payable only on the order of the said accounting officers; and any person who shall violate any of the provisions of this section, or shall demand, collect, or receive from the claimant the whole or any part of a claim allowed such claimant under this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall, for each and every offense, be fined not exceeding $500.

SEC. 3. That all acts or parts of acts inconsistent with this act are hereby repealed.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ESTATE OF CHARLES BACKMAN.

The bill (S. 1722) for the relief of Watson B. Dickerman, administrator of the estate of Charles Backman, deceased, was announced as next in order.

Mr. PHELAN. Mr. President, is not that a very old claim, dating back to 1868?

Mr. WADSWORTH. It is my recollection that the claim has been pending for several years. There is not the slightest doubt but that the Government of the United States owes this estate the money.

Mr. PHELAN. It strikes me as very remarkable, when the Government of the United States destroys property of people in 1919 not only in my State, but in the Senator's State, that we should be compensating them in matters of loss by reason of a waste of liquor in 1868. I ask that the bill may go over.

The PRESIDENT pro tempore. The bill will be passed over.

LIEUT. EDWARD S. FARROW.

The bill (S. 2259) for the relief of Edward S. Farrow was considered as in Committee of the Whole, and was read as follows:

*Be it enacted, etc.*, That the laws regulating appointments in the Army be, and they are hereby, suspended only for the purpose of this act. And the President is hereby authorized to nominate and, by and with the consent of the Senate, appoint Edward S. Farrow, late first lieutenant, Twenty-first Regiment United States Infantry, a first lieutenant of Infantry in the Army of the United States, and thereupon place him, the said Edward S. Farrow, upon the retired list of the Army, with the rank, grade, pay, and allowances of first lieutenant, without regard to the number now authorized by law of said retired list.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS PASSED OVER.

The bill (S. 1369) to regulate the height, area, and use of buildings in the District of Columbia and to create a zoning commission, and for other purposes, was announced as next in order.

Mr. PHELAN. In the absence of the Senator from New York [Mr. CALDER] I ask that the bill may go over, as the District Committee is now formulating some amendments to the act.

The PRESIDENT pro tempore. The bill will be passed over.

The bill (S. 1699) for the retirement of employees in the classified civil service, and for other purposes, was announced as next in order.

Mr. THOMAS. I ask that the bill may go over.

The PRESIDENT pro tempore. The bill will be passed over.

The bill (S. 168) to create a commission to investigate and report to Congress a plan on the questions involved in the financing of house construction and home ownership and Federal aid therefor was announced as next in order.

Mr. PENROSE. Let that go over, Mr. President.

The PRESIDENT pro tempore. The bill will be passed over.

The bill (S. 2224) to incorporate the Recreation Association of America was announced as next in order.

Mr. THOMAS. Let that go over.

The PRESIDENT pro tempore. The bill will be passed over.

DIVISION OF TUBERCULOSIS.

The bill (S. 1660) to provide a division of tuberculosis in, and an advisory council for, the United States Public Health Service, and for other purposes, was announced as next in order.

Mr. PENROSE. Let that go over, Mr. President.

Mr. RANSDELL. Mr. President, I hope the Senator from Pennsylvania will permit me to make a brief explanation of the bill.

Mr. PENROSE. I object to the consideration of the bill at this time. If the Senate gives unanimous consent to the Senator from Louisiana to make an explanation, of course I shall not object.

Mr. RANSDELL. I did not hear what the Senator said.

Mr. PENROSE. I said I object to the consideration of the bill, but I shall not object to the Senator's speaking as long as he chooses if the Senate gives unanimous consent.

Mr. RANSDELL. Mr. President, I would like to make a brief explanation of the bill. I doubt if the Senator from Pennsylvania understands it. It is a bill to create a division of tuberculosis in the Public Health Service. It was objected to when it came up last, I think by the Senator from Utah [Mr. SMOOT], on the ground that it would cost a very large sum. I have a very brief memorandum here from the head of the Public Health Service, which I would like to read in explanation of the bill.

We all know that tuberculosis is a disease which causes more loss of human life than any other disease. It is very destructive of human life, and this year, with the influenza threatening us, we certainly ought to do everything possible to guard against this disease, so close kin in its disastrous effects to influenza. This memorandum, addressed to me, is dated August 20 and reads as follows:

TREASURY DEPARTMENT,
BUREAU OF THE PUBLIC HEALTH SERVICE,
*Washington, August 20, 1919.*

Memorandum for Senator JOSEPH E. RANSDELL.

It appears from the discussion on August 18, 1919, by the Senate of the bill (S. 1660) to provide a division of tuberculosis in the Public Health Service that there was no difference of opinion as to the necessity of the Public Health Service having appropriations for the study and control of tuberculosis, but there does seem to be a difference of opinion as to the administration of such a fund.

The necessity for the Federal Government bearing its just proportion of the work of the control of tuberculosis is set forth in the report of the Surgeon General of the Public Health Service, under date of January 18, 1919. I do not feel that it is necessary to make any supplemental statement in this regard.

I should like to say that the report which is attached to the bill shows that last year we lost approximately 145,000 people from tuberculosis, and that it was unquestionably the most fruitful cause of death in this country.

The memorandum continues:

There seems to be no opposition to the Federal Government undertaking its share of the work, but there does seem to be some opposition to the creation of an administrative division to carry on this work. Whether such administrative division is created or not, it is obvious that additional appropriations would require some additional administrative personnel, but the amount expended for administrative personnel would be a negligible part in the expenditure of funds appropriated for the investigation of tuberculosis. Administrative personnel would not be in the nature of large increases as has been forecasted, but would be somewhat along the lines that you have indicated, i. e., the detail of an additional medical officer to the bureau to take charge of the division, and the employment of some additional office personnel which probably would not exceed six or eight assistants and clerks. It has always been the policy of this bureau to decentralize so far as possible its work, and I believe that investigation will show that it conducts its activities with a smaller overhead charge for administration than any other bureau in the Federal Government.

Mr. PENROSE. The great building would come later on.

Mr. RANSDELL. If the Senator wants to take the responsibility of preventing Congress from doing all in its power to eradicate tuberculosis, and check, as much as is humanly possible, the greatest enemy of the human race, I am willing that he should take that responsibility. For my part I am going to lay this matter before the Senate, and let it decide whether it wants to pass the bill. My State does not feel any special interest in the establishment of this division. We care very little about it down there. We have our share of tuberculosis, but this is a matter that relates to the whole Union. I want to have it done for the benefit of humanity in the United States, and even if it does cost a considerable amount of money, the Congress that has been pouring out money as we have been pouring it out here for the last two years certainly ought not to balk, Mr. President and Senators, at a reasonable appropriation to control this awful curse.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. RANSDELL. I ask unanimous consent to be allowed to proceed so that I may finish reading this memorandum.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and the Senator from Louisiana will proceed.

Mr. RANSDELL. The memorandum continues:

As to the statement that the creation of such a division would require a great building rented in the District of Columbia, I beg to assure you that there is no such intention on the part of this bureau, but a very large proportion of the sums appropriated for tuberculosis work would be expended in field investigations and demonstrations. All that would probably be necessary to house such a division in the District of Columbia would be the provision of four or five office rooms for administrative purposes and for the storing of records and correspondence. It is believed that the Treasury Department would be able to provide this space in buildings already under the control of that department.

I am glad to note in the RECORD that the Senator from Utah [Mr. SMOOT] has made the following statement:

"I have no objection to the Government making appropriations for the purpose of assisting in the investigation of tuberculosis. The Senator from Louisiana is no more interested in the subject than I am. The Senator from Louisiana does not know of its ravages and what it has done to the people of the United States more than I know it."

With the above explanation that only a relatively small office force will be involved in the creation of a new division in the bureau, taken in connection with the attitude, as indicated in the above quotation of the Senator, it is hoped that the Senator will withdraw his opposition and consent to the consideration of this bill, the enactment of which is urgently needed in order that the Federal Government may properly discharge its responsibilities to the Nation and the people.

J. C. PERRY,
*Acting Surgeon General.*

Just one word, Mr. President, and I shall have no more to say. I have tried for several years to get this bill passed. The Surgeon General of the Public Health Service insists that it is essential to the proper carrying on of this work. If Senators wish to object to its passage, they can take that responsibility. It is for them to decide, and not for me. I firmly believe, sir, that it ought to be passed. I firmly believe that it will do a great deal to check tuberculosis, in conjunction with the efforts of the respective States, and I sincerely hope, in behalf of the poor human beings who have suffered so much from this awful disease and those who may hereafter fall victims to it, that Congress will do what it can to check it. It will be a very small sum, and I earnestly hope that the Senator from Pennsylvania [Mr. PENROSE] will not insist on objecting to the present consideration of the bill.

Mr. SMOOT. Mr. President, just a word in answer to the Senator from Louisana. I object to this bill because it establishes another division, and not only a division within the Public Health Service—because that is not all it does—but a division and an advisory council for the United States Public Health Service. I have not any doubt but that the statement made by the Senator from Louisiana that they will begin with about five or six or seven officials is correct. But, Senators, how often have we heard stated upon the floor of the Senate that if we create this bureau, or create that division, at no time in the future will the expense of same be more than $10,000. I call to mind now the establishment of a division in the Department of Labor. The Senators who were in favor of it, and asking the Senators to adopt the measure, guaranteed to the Senate that at no future time would the expense of that division exceed $25,000. I venture to say, Mr. President, that last year there was appropriated nearly $300,000 for that division alone.

Mr. THOMAS. Mr. President, may I ask the Senator if there is any probability of the Senators who guaranteed against more than $25.000 being willing to make their guaranty good?

Mr. SMOOT. None whatever, Mr. President; and it has happened so often before that when the statement was made I had very little confidence in it.

Mr. OVERMAN. Mr. President, I would like to know some reason why they want a division. The department makes an estimate to the Appropriations Committee, as the Senator, being on the committee, well knows, of the amount it thinks necessary to carry on its work in the country. That is done through the head of the medical department, and we always give them the money they ask for. I want to know some reason why they want another division when they are doing the work now.

Mr. SMOOT. Mr. President, I have confidence enough in the United States Public Health Service to believe that if an appropriation is made for this specific activity in that service they can carry it on with the officials who are now in charge of the service. I say now that as a member of the Committee on Appropriations I will favor an appropriation for this specific work, but I want the money that is appropriated for it to go directly to the work in the field and not for the building up in the District of Columbia of another division occupying rooms that could well be occupied by other activities of the Government and for which the Government is paying rent, and high rent at that, in some cases as high as $1.75 a square foot, whereas before the war we thought that 33⅓ cents per square foot was an exceedingly high price. No one can tell me that this division, if created, is not going to grow in numbers and expand until there would be a building used entirely for its purposes. I speak that way, Mr. President, because all of the past experiences in the establishment of bureaus and divisions for the Government since I have been a Member of this body prove that to be the case.

I want officials of the United States Public Health Service to know that I am perfectly willing, and I say now that I believe that every member of the Appropriations Committee is perfectly willing, to give them money for this very purpose. It is a laudable purpose. It is a work that ought to be done by the Government of the United States, but let it be done under the present organization, and I am quite sure that it will be done just as successfully as if we created the new division. I know that it will save the United States hundreds of—I was going to say hundreds of thousands, which it would have in time, but it will save tens of thousands of dollars in the very near future to the Government of the United States by not creating this division.

I think the Senator from North Carolina [Mr. OVERMAN] will bear me out in stating that no division of the Government has been so liberally cared for with appropriations as the United States Public Health Service. I can not call to mind now one request within reason that has been made by them that has not been granted by your Committee on Appropriations. So far as I am concerned, it is not that I am opposed to a division in the Public Health Service only but I am opposed to the creation of any more bureaus or any more divisions in the departments of our Government. For that reason when the bill comes up I shall vote against it, and, of course, I want the Senator from Louisiana [Mr. RANSDELL] to know that it is not because I have any special objection to this division more than I would have to any division in any department that may be suggested in the future.

The PRESIDENT pro tempore. The Chair desires to announce that no motion has been made to continue consideration of the bill.

Mr. SMOOT. It was understood that we were talking by unanimous consent.

Mr. RANSDELL. Do I understand that the Senator from Pennsylvania insists upon his objection?

Mr. PENROSE. I do.

The PRESIDENT pro tempore. The bill will be passed over.

## BILLS OF EXCHANGE.

The bill (H. R. 7478) to amend sections 5200 and 5202 of the Revised Statutes of the United States as amended by acts of June 22, 1906, and September 24, 1918, was announced as next in order.

Mr. McLEAN rose.

The PRESIDENT pro tempore. The Chair is advised that the bill has been read in full and that an amendment is now pending.

Mr. SMOOT. Will the Senator from Connecticut [Mr. McLEAN] allow it to go over until we can get through with the calendar? We can then take it up.

Mr. McLEAN. If there can be an understanding that after matters are objected to they will be passed over and this bill will be taken up, that will be satisfactory. If, however, there is to be a discussion of 10 minutes on every calendar number, the morning hour will soon be consumed.

Mr. SMOOT. I will say to the Senator that I do not know of another number on the calendar that is going to lead to any discussion.

Mr. McLEAN. Does the Senator know of any matter yet to be reached that is pressing for action?

Mr. SMOOT. I can not say that there is.

Mr. McLEAN. Then I think we might as well go ahead with this bill.

Mr. LENROOT. I ask that the bill may go over.

The PRESIDENT pro tempore. The bill will be passed over.

Mr. SMITH of Georgia. Mr. President, a motion would be in order to proceed with the bill now, but if the Senator from Connecticut prefers to wait and make the motion when the calendar is concluded, that course will perhaps be better. Under the rule a motion is in order now to proceed to the consideration of the bill, but I will not make it, and I suppose the Senator will not make it at this time.

Mr. McLEAN. It is in order, but I do not think we will gain anything in time by making the motion now.

The PRESIDENT pro tempore. The next bill on the calendar will be announced.

Mr. POMERENE subsequently said: Mr. President, I simply wish to ask permission to offer an amendment to the bill (H. R. 7478) to amend sections 5200 and 5202 of the Revised Statutes of the United States as amended by acts of June 22, 1906, and September 24, 1918, which is on the calendar, so that Senators may be advised of it.

On page 2, line 22, of the bill, after the word "section," I desire to offer the amendment which I just sent to the desk, and which I ask to have printed in the RECORD; and also another amendment on page 3, line 9, to strike out the numerals "25" and insert "20."

The first amendment intended to be proposed by Mr. POMERENE is as follows:

On page 2, line 22, after the word "section," insert:
"The total liabilities to any association of any person, corporation, company, or firm, upon the discount of bills of exchange, drafts, demand obligations and commercial or business paper, as described in (1) and (2) hereof, shall not exceed at any time twice the paid-in and unimpaired capital stock and surplus of said association."

EDWARD W. WHITAKER.

The bill (S. 861) for the relief of Edward W. Whitaker was considered as in Committee of the Whole.

The bill had been reported from the Committee on Military Affairs with amendments on page 2, line 2, after the words "United States," to strike out "after the date of the passage of this act" and insert "thereafter"; in line 5, after the word "the," to strike out "passage of this act" and insert "date of his commission as a retired officer"; and in line 7, after the word "act," to insert "*Provided further*, That no back pay, allowances, or other emoluments, except his pay as a retired lieutenant colonel of cavalry, shall accrue as a result of the passage of this act," so as to make the bill read:

*Be it enacted, etc.*, That the President be, and he is hereby, authorized to nominate and, by and with the advice and consent of the Senate, appoint Edward W. Whitaker, late lieutenant colonel First Regiment Connecticut Volunteer Cavalry, and brevet brigadier general, United States Volunteers, a lieutenant colonel of Cavalry in the Army of the United States; and when so appointed he shall be placed upon the retired list of the Army, unlimited, with the pay and emoluments of a retired officer of that grade the retired list being thereby increased in number to that extent: *Provided*, That on receiving the said retired pay under this act he shall relinquish all his right and claim to pension from the United States thereafter, and any payment made to him covering a period subsequent to the date of his commission as a retired officer shall be deducted from the amount due him on the first payment under this act: *Provided further*, That no back pay, allowances, or other emoluments, except his pay as a retired lieutenant colonel of Cavalry, shall accrue as a result of the passage of this act.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

THE DIXIE HIGHWAY.

The joint resolution (S. J. Res. 79) exempting the Dixie Highway from the prohibition contained in the act approved July 11, 1919, was considered as in Committee of the Whole.

The joint resolution had been reported from the Committee on Military Affairs with an amendment, on page 2, line 4, after the words "Dixie Highway," to strike out "around" and insert "on," so as to make the joint resolution read:

*Resolved, etc.*, That the completion of the construction of the detour in the Dixie Highway on the reservation at Camp Knox, Ky., out of unexpended balances of appropriations heretofore made for the support and maintenance of the Army or the Military Establishment be, and the same is hereby, exempted from the prohibition contained in the above-quoted provision of said act, and the War Department is hereby authorized to proceed to complete such construction.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended and the amendment was concurred in.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was reported from the Committee on Military Affairs with an amendment, in the second whereas, after the word "detour," to strike out the word "around" and insert the word "on," so as to make the preamble read:

Whereas by an act approved July 11, 1919 (Public No. 7, 66th Cong., H. R. 5227), it is provided as follows:
"That no part of any of the appropriations made herein nor any of the unexpended balances of appropriations heretofore made for the support and maintenance of the Army or the Military Establishment shall be expended for the purchase of real estate of (or) for the construction of Army camps or cantonments except in such cases at National Army or National Guard camps or cantonments which were in use prior to November 11, 1918, where it has been or may be found more economical to the Government for the purpose of salvaging such camps or cantonments to buy real estate than to continue to pay rentals or claims for damages thereon, and except where industrial plants have been constructed or taken over by the Government for war purposes and the purchase of land is necessary in order to protect the interest of the Government"; and
Whereas under the terms of the said provision of said act, construction at Camp Knox, Ky., is prohibited, and among the items of construction being done at Camp Knox upon the date of the approval of said act was the construction of a portion of the Dixie Highway, made necessary by the discontinuance of the use of about 10 miles of said Dixie Highway through the reservation at Camp Knox, and the construction of a detour on the reservation to replace the broken link in the Dixie Highway; and
Whereas such detour is an essential part of the highway system of the State of Kentucky and its completion is in the national interest: Therefore be it.

The amendment was agreed to.

The preamble as amended was agreed to.

PANAMA CANAL ZONE.

The bill (S. 1273) to prohibit intoxicating liquors and prostitution within the Canal Zone, and for other purposes, was announced as next in order.

Mr. JONES of Washington. Let that go over.

The PRESIDENT pro tempore. The bill will be passed over.

PAYMENTS TO DEPENDENTS OF DECEASED SOLDIERS.

The bill (S. 2497) to provide for the payment of six months' pay to the widow, children, or other designated dependent relative of any officer or enlisted man of the Regular Army whose death results from wounds or disease not the result of his own misconduct was announced as next in order.

Mr. SMOOT. Mr. President, I should like to ask the Senator from New York [Mr. WADSWORTH], before taking up the consideration of the bill, to explain the details of it, because I have not had time to read the report. On its face it seems to me the whole subject really is before the Finance Committee, and that they have dozens of bills with reference to the war-risk insurance affecting our soldiers. Will the Senator please explain it?

Mr. WADSWORTH. Mr. President, I am not aware, of course, of the bills which are before the Committee on Finance, but this bill has one specific object in view. It is to restore the provision of the law affecting the Regular Army up to the time of the enactment of the war-risk insurance law. Through an obvious error, the war-risk insurance act, by implication at least, repealed the provision of the law which had been upon the statute books for many years, under which the nearest of kin, in the event of the death of an officer or soldier in the Regular Army, received six months' pay in the nature of an insurance payment to tide over the emergency caused by the death of the head of the family. It is a privilege which Regular Army Officers' families and Regular soldiers 'families have had for many, many years.

Mr. SMOOT. I will ask the Senator if it is not true that they would also receive the insurance which the officers and men were carrying? Would not the dependent also receive the payment of $57.50 each month as provided for under the war-risk insurance act?

Mr. WADSWORTH. The Senator will find the following language in section 3 of the bill:

SEC. 3. That the sum received hereunder shall be deducted from any amount that may be, or may become, due and payable to any such widow, child, children, or dependent relative of such officer or enlisted man under the act entitled "An act to amend an act entitled 'An act to authorize the establishment of a Bureau of War Risk Insurance in the Treasury Department,' approved September 2, 1914, and for other purposes," approved October 6, 1917, or any act or acts amendatory thereof.

So the Senator will see that we have taken care of the particular matter to which he alludes.

Mr. SMOOT. Then the object of the bill is simply to authorize the Government to pay six months' pay immediately, so that the beneficiaries may have the use of the money at once?

Mr. WADSWORTH. It is.

The PRESIDENT pro tempore. The bill having heretofore been read, it is now before the Senate as in Committee of the Whole, and open to amendment. If there be no amendment proposed to the bill, it will be reported to the Senate.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CONTROL OF FOOD PRODUCTS.

Mr. GRONNA. I ask the Chair to lay before the Senate the action of the House on the amendments of the Senate to H. R. 8624, the food-control bill, which have been returned disagreed to by the House.

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 8624) to amend an act entitled "An act to provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of food products and fuel," approved August 10, 1917, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. GRONNA. I move that the Senate insist upon its amendment and agree to the conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

Mr. JONES of Washington. Mr. President, I should like to ask the Senator from North Dakota whether he would have any objection to placing on the conference committee some member of the Committee on the District of Columbia?

Mr. GRONNA. I will say to the Senator that I would have objection, because the bill is under the jurisdiction and in the control of the Committee on Agriculture and Forestry.

Mr. JONES of Washington. I know; but the principal amendment is an amendment coming from the Committee on the District of Columbia.

Mr. GRONNA. Let me say to the Senator that the amendment was written into the bill by the Senate Committee on Agriculture and Forestry, and it was amended by the Senate.

Mr. JONES of Washington. I know there was a provision put in it by the Committee on Agriculture and Forestry. If the Senator objects, I will not press the suggestion.

Mr. GRONNA. Yes; in the absence of a more potent and just suggestion, I do object.

Mr. JONES of Washington. I think, really, that the District Committee ought to be represented in the conference.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from North Dakota [Mr. GRONNA].

The motion was agreed to; and the President pro tempore appointed Mr. GRONNA, Mr. NORRIS, and Mr. SMITH of Georgia conferees on the part of the Senate.

AMENDMENTS TO THE CONSTITUTION.

The joint resolution (S. J. Res. 41) proposing an amendment to the Constitution of the United States was announced as next in order.

The joint resolution was read as follows:

*Resolved, etc.*, That Article V of the Constitution of the United States is hereby amended to read as follows, to wit:

"Article V.

"The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or on the application of the legislatures of two-thirds of the several States shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution when ratified within six years from the date of their proposal by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, or by the electors in three-fourths thereof, as the mode of ratification may be proposed by the Congress: *Provided*, That no State, without its consent, shall be deprived of its equal suffrage in the Senate."

Mr. ASHURST. Mr. President, I wish to make a brief observation on the joint resolution which has just been read. I am very much in favor of the joint resolution, but it is obvious that it can not be disposed of under the five-minute rule. I wish, however, again to urge the early adoption of an amendment to the Constitution of the United States which will provide that no amendment shall become a part of the Constitution unless it is ratified by the voters at the polls, each State voting separately.

The reasons which brought about the amendment to the Constitution providing for the direct election of Senators applies with equal force, even with greater force, to the suggestion that a constitutional amendment should not be adopted except by a vote of the people. I believe that the two amendments which were last proposed for ratification, viz, the one providing for woman suffrage and the other for prohibition—and I am earnestly in favor of both those amendments—were not forced upon the people, but that they were submitted in response to a demand made by the people. At the same time I am not oblivious to the fact that there are millions of citizens of high character who believe that lobbies intimidated the legislatures of the various States and even intimidated Congress into submitting those amendments. I do not believe that; I believe, as I have stated, that those amendments were in response to a demand of the people, and that they would be sustained by the people at the polls by a two-thirds majority; yet I feel that it is clearly our duty, in this day of progress, when we are forward looking, to say to the people, "On this grave question of your fundamental law you, the people, should have a right to say what sort of a Constitution you desire to live under."

Mr. POMERENE rose.

Mr. ASHURST. I have only five minutes, but I yield to the Senator.

Mr. POMERENE. I merely want to ask the Senator a question. This is a very interesting question.

Mr. ASHURST. I yield to the Senator from Ohio.

Mr. POMERENE. In some of the States where they have the referendum it is contended that there may be a referendum on the resolution of the general assembly ratifying an amendment to the Constitution. What is the Senator's view as to whether or not that is correct?

Mr. ASHURST. I have heretofore gone into that. While it is true that in States which have the referendum we treat the people as a part of the law-making body, yet I am convinced that when the framers of the Federal Constitution used the word "legislatures" they did not intend that the people should be included in the expression; in other words, I believe that when the Constitution was framed it was the intention of its framers that the legislatures of the States and not the people should ratify the various proposed amendments, unless ratification was brought about by a convention. Notwithstanding the fact that some courts have held that the referendum if resulting unfavorably to a proposed constitutional amendment is binding, I dissent from such view.

Mr. HARRISON. Mr. President——

Mr. ASHURST. I yield to the Senator from Mississippi.

Mr. HARRISON. If the Senator will permit me, I might say that some months ago I introduced and had referred to the Committee on the Judiciary a resolution carrying out that idea, and I showed it to the Senator before it was introduced. I hope that the Committee on the Judiciary will before long give a hearing on the resolution.

Mr. ASHURST. Let me say to the Senator from Mississippi in reference to his resolution—and he did me the honor of asking me to read it before he introduced it, and I remember the language of his resolution—that the Senate Committee on the Judiciary at the last Congress had before it a joint resolution proposed by the Senator from Connecticut [Mr. BRANDEGEE], and, having therefore considered that particular joint resolution, reported it favorably; but the fact that they have not reported the resolution of the Senator from Connecticut is in no sense a derogation of the resolution of the Senator from Mississippi.

Mr. President, under the limitations of the five-minute rule one can not discuss this question, and I ask unanimous consent of the Senate that I may be allowed to proceed four minutes longer on this subject.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and permission is granted.

Mr. ASHURST. The joint resolution before me provides that hereafter—and it is not retroactive in any sense—all proposed amendments to the Constitution submitted by Congress shall be adopted within six years. The joint resolution simply changes Article V of the Federal Constitution in this regard. Article V provides that the Constitution may be amended after the proposed amendment has been adopted by a two-thirds vote in each House of the Congress and when the legislatures of three-fourths of the States have adopted it or by conventions duly called in three-fourths of the States.

The joint resolution now pending proposing to amend the Constitution simply sets up an additional tribunal. It does not take away the two tribunals or two methods of amending the Constitution that now exist; it simply gives the Congress, the National Legislature, the right, the power, and the authority to submit amendments to a vote of the people if Congress shall see fit.

Mr. POMERENE. Mr. President, may I ask the Senator another question?

Mr. ASHURST. Yes.

Mr. POMERENE. Has the court of any State in which a referendum is a part of the State law held that such a referendum would not lie to a proposed amendment to the Constitution?

Mr. ASHURST. No; on the contrary, one court of high authority has held—I think a district court in a State which has a referendum—that notwithstanding the fact that the legislature had ratified the proposed constitutional amendment, if at a referendum the people disapprove the ratification of the legislature, the ratification is null and void. It is a respectable court, a court of high authority.

In addition to the fact that a further tribunal is set up by which the people may affirmatively pass on proposed amendments to the Constitution, there is another vital part of the joint resolution, to wit, the proposed amendment must be ratified within six years. The necessity for such a provision must be obvious when we reflect there are now pending two amendments which have been pending since the 15th of September, 1789, over 130 years; that there is another amendment submitted in 1810 which provides that no citizen of the United States shall accept any gift or anything of value or reward or title from any prince or foreign State. That proposed amendment was submitted 109 years ago and is still pending. It once lacked but one vote of being ratified. I am sure that such an amendment would meet the approbation of nine-tenths of the American people.

The PRESIDENT pro tempore. The joint resolution is before the Senate as in Committee of the Whole and open to amendment.

Mr. BRANDEGEE. Mr. President, this joint resolution was reported favorably by the Senate Committee on the Judiciary at

the last session, but, owing to the stress of business, it was not reached upon the calendar at that session. It was discussed at times briefly but not at all exhaustively; indeed, it would not seem that a very exhaustive discussion of the joint resolution were necessary. It was unanimously reported by the Senate Committee on the Judiciary both at the last session and at this session. I am not sure that every member of the committee was in attendance when it was reported, but there were no adverse votes, and there was no minority report.

The Senator from Arizona [Mr. ASHURST] has made a much more thorough study of the considerations pertaining to the necessity of this proposed amendment to the Constitution than have I, and I do not intend in any profound way to elucidate the resolution or to enter upon a discussion of the considerations that make it necessary. I think we are more or less familiar with them.

In brief, the reasons which I think and which the committee think make this proposed amendment to the Constitution proper and wise are these: As the Senator from Arizona has stated, the Constitution, in Article V, provides in substance that amendments to the Constitution of the United States may be made when proposed by two-thirds of each branch of Congress and ratified by the legislatures of three-fourths of the States or by conventions called in three-fourths of the States for that purpose.

In the whole history of the amendment of the Constitution since its existence, Congress has never availed itself of the second method of ratification; that is, it has never recommended that an amendment be ratified by conventions in the several States; but it has always, without exception, recommended that the other method proposed in the Constitution for ratification should be adopted, to wit, ratification by the legislatures of the several States.

In passing, I may say in relation to the inquiry interjected by the Senator from Ohio [Mr. POMERENE] as to whether, in such States as under their constitutions have to have their legislative proposals submitted to the people by what is known as the process of referendum for their approval before they can become valid, the constitutional language of submitting the proposed amendment of the United States Constitution to the legislatures of the several States compels its submission to the people of those States—I do not know that that question has been finally and definitely adjudicated in this country. I do not know whether it has been before the Supreme Court or not. There have been some decisions of inferior courts, one of which I seem to recall, that where the constitution of a State made a referendum to the people necessary for the validity of an act of the legislature, such referendum became a part of the legislative process, a part of legislation, and that the action of the people by referendum was really a part of the legislature of that State. I never have been able to persuade myself, though I have not given the subject very careful consideration, that that contention was well founded, because I think the ordinary rules applying to the construction of legal documents would require that the term "legislatures," as used in the Constitution of the United States, should be construed in the light of what the framers of that instrument at the time considered to be legislatures. At the time our Constitution was formed the referendum process had not entered into the public policies of any of the States, and "legislatures" then certainly meant to the framers of the Constitution the general assemblies of the States, as distinguished from the electors thereof.

I am going to ask, as my time is about to expire, that I may proceed and conclude my remarks on this question. The matter has been up several times, and I have always been willing to pass it over, but I should like to make a statement on it this morning, if there is no objection.

The PRESIDENT pro tempore. The Chair hears none, and it is so ordered.

Mr. POMERENE. Mr. President, before the Senator goes to another branch of the subject, the Senator has referred to a decision of one of the lower State courts. I am familiar with that. Has this matter been before any Federal court, so far as the Senator knows?

Mr. BRANDEGEE. I do not know, Mr. President. I will frankly state that I have not attempted to investigate that question. Whether it had or not, I should think that unless it had gone at least to a very high Federal court the decision would not be considered as final and conclusive until it was decided by the Supreme Court of the United States, since it is such a grave constitutional question.

The amendment proposes, in addition to the two methods now provided by the Constitution for the ratification of amendments, to add a third method, to wit, ratification by the electors of the States. It also proposes to fix a time limit, to wit, a period of six years, within which such amendments must be ratified in order to become valid.

It has been suggested that there had been no great abuse, in the history of the Government in the past, in the present method of ratification, and hence that this joint resolution is not very necessary. Mr. President, I do not think it is necessary to wait for abuses to arise. In view of the tendency in this country to make the people more and more interested in and responsible for the functions of government, I think it is an exceedingly wise provision that our fundamental law should not be changed except by direct participation of the people themselves. If the people are competent, as they are, to elect their representatives in this body, and if the former exclusive privilege of the legislatures in that respect was taken away from the legislatures and placed directly in the hands of the people, it would seem that the approval of a constitutional amendment could be justified by the same logic and the same reasoning which proved so efficacious to bring about the change as to the election of United States Senators.

Furthermore, if the process of amending the Constitution in the past has not been abused, it was largely due, in my opinion, to the fact that in prior years the Congress of the United States confined itself to such amendments of the Constitution as concerned our form of government and the distribution of its powers. Now that there are so many movements in the country to change the Constitution in reference to matters which intimately concern themselves and are irrevocably connected with the daily habits of each individual citizen, it seems to me that all the more, in justice and in fair play and in order to determine the accurate sentiment of the people, the people themselves should be the tribunal to whom should be proposed the question of whether or not they approve a proposed change in the Constitution.

The Senator from Arizona [Mr. ASHURST] has suggested that he would like to have it arranged so that it would be necessary for the people to approve such a proposed change in the Constitution. I, for my part, have no objection whatever to such an amendment being proposed, and in fact it meets my personal and individual views.

Mr. ASHURST. Mr. President, will the Senator yield to me at that point?

The PRESIDENT pro tempore. Does the Senator from Connecticut yield to the Senator from Arizona?

Mr. BRANDEGEE. Certainly.

Mr. ASHURST. The Senator has correctly stated my view, that I would be glad, indeed, to see an amendment adopted even to this joint resolution which will let the people be the only and the exclusive tribunal to which the same should be or could be submitted, yet there are some practical difficulties in the way. It is a difficult thing to amend the Federal Constitution; and I am comforted by the reflection, and will be content to stand on it without proposing any amendment, that if the Senator's amendment should be proposed—and I believe it will be adopted if proposed—Congress would thereafter always avail itself of that just and proper tribunal, the people themselves. So I shall not offer any amendment, because I believe the philosophy of the situation would be that Congress itself would always submit the amendment to the proper tribunal, the people.

Mr. BRANDEGEE. I think the Senator is correct about that; and the reason why in drafting this proposed amendment I left in the existing methods of ratification was because I think it is wiser, in making a change in the Constitution, to make as little change as may be necessary to accomplish the object. Having in mind what I consider to be the certainty that Congress in the future will always submit these amendments to the people instead of to the legislatures or to conventions, if this amendment shall be ratified, I do not consider it essential to put in the ratification of the people as an exclusive method of ratification; but I am perfectly willing to have it go in if the Senate wants it in, or it can be put in in conference, or by the House, if the House prefers it that way, when this matter goes to the House.

Another reason why I would not like to offer such an amendment on the floor now is that I reported the joint resolution as the action of the committee, and I could offer the amendment personally, but I could not speak for the committee in advocating such an amendment.

It has been suggested to me since this amendment was reported from the committee that the Supreme Court, in passing on the language of the Constitution which provides that whenever two-thirds of both Houses shall deem it necessary Congress may submit an amendment, has recently decided that two-thirds of both Houses means two-thirds of a quorum of both Houses, which may mean much less than a majority, even, of each House, because a quorum consists of a bare majority in each House, and two-thirds of a bare majority would be just one-third, which is less than a majority, if I am correct in my figures; so that you have a small fraction of both branches proposing a constitutional

amendment, instead of two-thirds of the membership of both branches, which I think was really intended by the framers of the Constitution to be the constitutional requirement. So I am going to suggest as an amendment, solely on my own responsibility, that the joint resolution as proposed be amended so as to read:

The Congress, whenever two-thirds (of the Members) of both Houses shall deem it necessary—

So that it would require two-thirds of the total membership of each House to approve such a joint resolution. I think that would be a wise provision. I am not going to insist upon it if there is an objection, because I do not want to imperil the passage of the joint resolution.

Mr. President, I hesitate to press this matter to a vote this morning, not by reason of any fear of the result, but it is perfectly evident that there is not a quorum present at this minute; and inasmuch as the Constitution requires two-thirds to vote, I do not want to be responsible for taking what I regard as an important action with so few Members present. I am perfectly willing that it shall go to a vote if that is the regular order.

Mr. JONES of Washington. Mr. President, I simply want to suggest that if the Senator is going to urge a vote on the joint resolution, I shall object.

Mr. ASHURST. I am sure I should not urge a vote upon it. The Senator from Connecticut will be in charge of the joint resolution.

Mr. BRANDEGEE. The Senator will bear in mind the language I used, that if there was objection I should not press the amendment. I will not press the amendment.

Mr. ASHURST. Mr. President, I again thank the Senate for granting me this additional time.

My attention was drawn to this proposed reform or change in our Federal Constitution, not by any original thought within myself, but I think the Senator from Connecticut [Mr. BRANDEGEE] was the first person who suggested the same change, and I recall in the Judiciary Committee the words of the distinguished President pro tempore, who now presides over this Chamber, that if he could have his way there would be no intervening body whatever in the matter of proposing amendments to the people's fundamental law; that the people themselves should say, and they should alone say, under what sort of Government they desired to live.

Mr. President, this proposed amendment, if submitted by the Congress and ratified by the States, would change Article V of the Federal Constitution in two particulars, namely:

First. It would require the States to ratify or reject an amendment within six years from the date the amendment was proposed by the Congress.

Second. It would grant power to the Congress to submit an amendment to the qualified electors of the States as well as to the legislatures and to conventions.

Counting the woman-suffrage amendment, we have had 19 amendments to the Federal Constitution. I will treat the first 10 amendments as a part and parcel of the original Constitution, because when the Constitution was ratified it was upon the distinctly implied, in some cases expressed, understanding that amendments would be adopted. They were proposed and submitted by the First Congress on the 15th of September, 1789. They were 12 in number. The third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth were ratified by the required number of States within exactly two years and three months. But No. 1 and No. 2 are still pending, and on the 15th day of this present month had been pending 130 years.

So we perceive a wise suggestion in the amendment proposed by the Senator from Connecticut [Mr. BRANDEGEE] that there should be a time limit. Moreover, we have precedent. Congress, in submitting the prohibition amendment, laid a limit upon the time within which the State could ratify.

I call the attention of the Senate to the fact that the last 9 amendments—eliminating the first 10—have been brought about by "amendment periods." The eleventh and twelfth were adopted in the 10-year period between 1794 and 1804, the twelfth having been brought about by the unfortunate tie between Thomas Jefferson and Aaron Burr. Call that the first amendment period. Then, notwithstanding the fact that many score of amendments were introduced in Congress and two were proposed between 1804 and 1864, no amendment was adopted; thus there was a 60-year period of immobility with respect to amending our Federal Constitution.

Then came the second amendment period, which began in 1865 and lasted until 1875. In that 10-year period the thirteenth, fourteenth, and fifteenth amendments were proposed and adopted.

There came another period of nearly 40 years of silence, and then came the sixteenth, seventeenth, eighteenth, and, treating the woman-suffrage amendment as adopted, the nineteenth amendment—the third amendment period (1909 to 1919)—showing that these amendments move in great cycles.

The Federal Constitution conserves and protects all that real Americans hold precious; it should not be changed by legislative caucus, but by the direct vote of the people.

There is not a State in the Federal Union whose constitution may be amended by the State legislature. The various State constitutions may be amended only by the electorate of the State. How utterly archaic, therefore, it is to deny the electorate an opportunity to express itself upon the proposed change in our fundamental law.

If the consent of the voters be required to alter and amend a State constitution, a fortiori, the vote of the people should be required to change the Federal Constitution.

It is vital to our American system that the voter should have an opportunity to say at the ballot box what form of government he desires to live under.

If you are not willing that the State legislatures should choose United States Senators, for a much stronger reason the State legislatures should not change your fundamental law.

Every argument in favor of the election of Senators by a direct vote of the people is a stronger argument in favor of consulting the people on constitutional amendments.

I favored the amendments providing for the income tax, direct election of Senators, prohibition, and woman suffrage. I believe they were wise amendments, and that they were in response to the deliberate judgment and progressive thought of a vast majority of our countrymen; indeed, I believe those amendments were demanded by the people and were not forced upon the people. My belief, unfortunately, does not settle the question; for the stubborn fact exists that millions of our countrymen thoroughly believe that the prohibition and woman-suffrage amendments were adopted by cunning, by craftiness and indirection, and that the Congress and the State legislatures were either browbeaten into voting for the amendments or were induced to do so by an insidious lobby. It is my personal opinion that if a referendum to the people on the prohibition and woman-suffrage amendments could have been had, each amendment would have been adopted and ratified by at least a three-fourths majority of the electors. We should, therefore, take the requisite steps to preclude the opportunity in the future of a recurrence of such discontent and suspicion by providing a means by which the electors of each State may pass upon amendments to the Federal Constitution.

Mr. President, there are 435 Members of the House of Representatives and 96 Members of the Senate, in all 531. I ask unanimous consent to include in the RECORD, at this point in my remarks, a statement showing the exact number of State senators, number of members of the house or assembly, as the case may be, in the State legislatures.

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

*Number of members in State legislatures.*

| State. | Senate. | House or assembly. |
|---|---|---|
| Alabama | 35 | 106 |
| Arizona | 19 | 35 |
| Arkansas | 35 | 100 |
| California | 40 | 80 |
| Colorado | 35 | 60 |
| Connecticut | 35 | 258 |
| Delaware | 17 | 35 |
| Florida | 32 | 75 |
| Georgia | 44 | 189 |
| Idaho | 37 | 65 |
| Illinois | 51 | 152 |
| Indiana | 50 | 100 |
| Iowa | 50 | 108 |
| Kansas | 40 | 125 |
| Kentucky | 38 | 100 |
| Louisiana | 41 | 115 |
| Maine | 31 | 151 |
| Maryland | 27 | 132 |
| Massachusetts | 40 | 240 |
| Michigan | 32 | 100 |
| Minnesota | 67 | 130 |
| Mississippi | 49 | 133 |
| Missouri | 34 | 142 |
| Montana | 41 | 95 |
| Nebraska | 33 | 100 |
| Nevada | 17 | 37 |
| New Hampshire | 24 | 404 |
| New Jersey | 21 | 60 |
| New Mexico | 24 | 49 |
| New York | 51 | 150 |
| North Carolina | 50 | 120 |
| North Dakota | 49 | 113 |
| Ohio | 36 | 128 |
| Oklahoma | 44 | 111 |
| Oregon | 30 | 60 |
| Pennsylvania | 50 | 207 |
| Rhode Island | 39 | 100 |

*Number of members in State legislatures*—Continued.

| State. | Senate. | House or assembly. |
|---|---|---|
| South Carolina | 44 | 124 |
| South Dakota | 45 | 103 |
| Tennessee | 33 | 99 |
| Texas | 31 | 142 |
| Utah | 18 | 46 |
| Vermont | 30 | 246 |
| Virginia | 40 | 100 |
| Washington | 41 | 97 |
| West Virginia | 30 | 94 |
| Wisconsin | 33 | 100 |
| Wyoming | 27 | 57 |
| | 1,760 | 5,643 |

| | |
|---|---|
| Members of senates | 1,760 |
| Members of houses or assemblies | 5,643 |
| Total | 7,403 |

Mr. ASHURST. So we have a total of 7,403 members of the State legislatures, and, as the Senator from Connecticut [Mr. BRANDEGEE] says, a majority of that 7,400—not two-thirds, but a bare majority of that 7,400 men—may pass upon an amendment to the Constitution.

So we find ourselves in this posture: Two-thirds of the Congress and a majority of the 7,400, or about 4,500 men, pass upon the destiny of the most advanced people that ever lived in the tide of times. We set ourselves up as the leader among the nations in thought and as responsive to the people's will, and yet 4,500 men, if they saw fit, could Prussianize the Republic.

As the Senator from Ohio [Mr. POMERENE]—and I thank him for it—says, sotto voce, two-thirds of a quorum in Congress is all that is necessary.

Mr. President, it is startling to investigate and then reflect upon the perils that have come and that in the future may come by a continued failure to set a time limit within which a proposed amendment may be ratified.

Five different amendments duly proposed by the Congress are now pending before the States for their action. These amendments are as follows:

One, proposed September 15, 1789, 130 years ago, relating to enumeration and representation:

ARTICLE 1. After the first enumeration required by the first article of the Constitution there shall be one Representative for every 30,000 until the number shall amount to 100, after which the proportion shall be so regulated by Congress that there shall be not less than 100 Representatives, nor less than one Representative for every 40,000 persons, until the number of Representatives shall amount to 200, after which the proportion shall be so regulated by Congress that there shall not be less than 200 Representatives, nor more than one Representative for every 50,000 persons.

Another, proposed September 15, 1789, 130 years ago, relating to compensation of Members of Congress:

ART. 2. No law varying the compensation for the services of the Senators and Representatives shall take effect until an election of Representatives shall have intervened.

One proposed May 1, 1810—109 years ago—to prohibit citizens of the United States from accepting presents, pensions, or titles from princes or from foreign powers:

If any citizen of the United States shall accept, claim, receive, or retain any title of nobility or honor, or shall, without the consent of Congress, accept and retain any present, pension, office, or emolument of any kind whatever, from any emperor, king, prince, or foreign power, such person shall cease to be a citizen of the United States, and shall be incapable of holding any office of trust or profit under them, or either of them.

One proposed, March 2, 1861—58 years ago—known as the Corwin amendment, prohibiting Congress from interfering with slavery within the States:

No amendment shall be made to the Constitution which will authorize or give to Congress the power to abolish or interfere, within any State, with the domestic institutions thereof, including that of persons held to labor or service by the laws of said State. (12 Stat., 251.)

And the woman suffrage amendment proposed June 4, 1919:

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

On September 15, 1789, 12 constitutional amendments were proposed by the First Congress. The requisite number of States ratified proposed articles numbered 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 within exactly two years and three months, whilst Nos. 1 and 2, although proposed 130 years ago, have not, according to the latest available returns, received favorable action by the requisite number of States and are yet before the American people, or the States, rather, have been for 130 years, and are now subject to ratification or rejection by the States. After those two proposed amendments, to wit, Nos. 1 and 2, had been in nubibus—"in the clouds"—for 84 years, the Ohio State Senate in 1873, in response to a tide of indignation that swept over the land in opposition to the so-called "back-salary grab," resurrected proposed amendment No. 2 and passed a resolution of ratification through the State senate. No criticism can be visited upon the Ohio Legislature that attempted to ratify the amendment proposed in 1789, and if the amendment had been freshly proposed by Congress at the time of the "back-salary grab" instead of having been drawn forth from musty tomes, where it had so long lain idle, stale, and dormant, other States doubtless would have ratified it during the period from 1873 to 1881.

Thus it would seem that a period of 130 years, or 84 years, within which a State may act is altogether too long, and I will support a proposition limiting the time to 6, 8, or 10 years within which a State may act under a particular submission, so that we will not hand down to posterity a conglomerate mass of amendments floating around in a cloudy, nebulous haze, which a State here may resurrect and ratify, and a State there may galvanize and ratify.

We ought to have homogeneous, steady, united exertion, and certainly we should have contemporaneous action with reference to these various proposed amendments. Judgment on the case should be rendered within the ordinary lifetime of those interested in bringing about the change in our fundamental law. Final action should be had while the discussions and arguments are within the remembrance of those who are called upon to act.

There is still another reason why a time limit should be set: When the 12 amendments were submitted in 1789 there were only 13 States. Vermont had not been admitted, if I remember correctly.

Question: Should three-fourths of the States then in the Union or three-fourths of those now in the Union be the test as to what shall be the number required for ratification?

The amendment proposed on May 1, 1810, was submitted to the States under the most interesting and peculiar auspices that ever came before a legislative body, and was as follows:

If any citizen of the United States shall accept, claim, receive, or retain any title of nobility or honor, or shall, without the consent of Congress, accept and retain any present, pension, office, or emolument of any kind whatever from any emperor, king, prince, or foreign power, such person shall cease to be a citizen of the United States and shall be incapable of holding any office of trust or profit under them, or either of them.

What was the reason for that proposed amendment? History does not disclose, but the reason was that when officials accept presents of great value they dissolve the pearl of independence in the vinegar of obligation.

Mr. PENROSE. Mr. President, will the Senator permit an inquiry?

The PRESIDENT pro tempore. Does the Senator from Arizone yield to the Senator from Pennsylvania?

Mr. ASHURST. I yield.

Mr. PENROSE. The Senator does not have in mind, I take it—or has he in mind—the very valuable and numerous presents brought back to this country by those in executive and diplomatic place affecting to represent the United States abroad?

Mr. ASHURST. I know, nothing, Mr. President, about any presents received by anybody. I do not know anything about that. But if any Democrat has received any present, he would receive my condemnation just as quickly as though he were a Republican. It is one of the habits of the majority party to receive presents, and I do not want the Democratic Party to get into that habit.

Mr. PENROSE. To state the matter bluntly, I am told that the President came back to this country laden and overburdened with presents from crowned heads and foreign governments——

Mr. ASHURST. I am sure the Senator from Pennsylvania does not believe that.

Mr. PENROSE. And that even the ladies in the Executive party brought back jewelry worth many hundreds of thousands of dollars. An official of the customhouse, I was informed, stated that jewelry amounting to $1,000,000 had been brought back by one of the party on a recent trip.

Mr. ASHURST. In the first place, Mr. President, I know of no ladies who are holding any office at this time under the Federal Government; and, secondly, I am not in the business of attacking women, anyhow.

Mr. PENROSE. I am not in the business, either, of attacking anybody; but I am simply stating a fact, that the presidential party, including the ladies of the party, brought back to this country presents from crowned heads and foreign governments amounting to several million dollars, and I was anxious to know whether the Senator from Arizona had referred to this constitutional amendment as applicable to modern cases.

Mr. ASHURST. I will read the amendment proposed in 1810, and the Senator may see to whom it would apply. This amendment was proposed, and is still pending, and with the views of the Senator from Pennsylvania as stated, I hope to enlist him for the amendment proposed by the Senator from Connecticut [Mr. BRANDEGEE]. This proposed amendment read:

If any citizen of the United States shall accept, claim, receive, or retain any title of nobility or honor, or shall, without the consent of Congress, accept or retain any present, pension, office, or emolument of any kind whatever from any emperor, king, prince, or foreign power, such person shall cease to be a citizen of the United States, and shall be incapable of holding any office of trust or profit under them, or either of them.

Unfortunately, the annals of Congress and contemporary newspapers do not give any of the debate upon this interesting proposition. The only light thrown upon the subject by the annals is the remark of Mr. Macon, who said "he considered the vote on this question as deciding whether or not we were to have members of the Legion of Honor in this country." What event connected with our diplomatic or political history suggested the need of such an amendment is not now apparent, but it is possible that the presence of Jerome Bonaparte in this country a few years previous, and his marriage to a Maryland lady, may have suggested this measure.

An article in Niles's Register (vol. 72, p. 166), written many years after this event, refers to an amendment having been adopted to prevent any but native-born citizens from being President of the United States. This is, of course, a mistake, as the Constitution in its original form contained such a provision; but it may be possible that the circumstances referred to by the writer in Niles relate to the passage of this amendment through Congress in regard to titles of nobility. The article referred to maintains that at the time Jerome Bonaparte was in this country the Federalist Party, as a political trick, affecting to apprehend that Jerome might find his way to the Presidency through "French influence," proposed the amendment. The Federalists thought the Democratic Party would oppose it as unnecessary, which would thus appear to the public as a further proof of their subserviency to French influence. The Democrats, to avoid this imputation, concluded to carry the amendment. "It can do no harm" was what reconciled it to all.

That amendment was submitted 109 years ago, and it was ratified within two years by Maryland, Kentucky, Ohio, Delaware, Pennsylvania, New Jersey, Vermont, Tennessee, Georgia, North Carolina, Massachusetts, and New Hampshire. It was rejected by two or three of the States. At one period of our national life the school-book histories and the public men stated that it was a part of our organic law, because in the early days of our Government the Secretary of State did not send messages to Congress announcing ratification or promulgate to the public any notice whatever as to when an amendment became a part of the Constitution. I have caused the journals, records, and files in the Department of State to be searched, and there may not be found any notice of any proclamation or promulgation of the ratification of the first 10 amendments to the Constitution. The States assumed—it was not an unwarranted or violent assumption—that when the requisite number of States had ratified an amendment it was then and there a part of our organic law.

When the War between the States began to throw its shadow over the land, men rushed here and there with a compromise to heal the breach, if possible, and tried to avert the shock that was apparently about to come to our governmental structure. Expedient after expedient was proposed, and just before the adjournment of Congress—to wit, on March 2, 1861—the following amendment, known as the Corwin amendment, to the Constitution of the United States was proposed to the States, and it read as follows:

No amendment shall be made to the Constitution which will authorize or give to Congress the power to abolish or interfere, within any State, with the domestic institutions thereof, including that of persons held to labor or service by the laws of said State. (12 Stat., 251.) Proposed by Congress March 2, 1861.

That amendment was proposed by Congress on the 2d of March, 1861, and I warrant there are not 5,000 people in the United States to-day who know that such an amendment is now pending before the various States of the Union for their ratification. The amendment was ratified by the State of Ohio and by the State of Maryland through their legislatures and by the State of Illinois in 1862 by a convention.

Thus we perceive that a system which permits of no limitation as to the time when an amendment may not be voted upon by the State is not fair to posterity nor to the present generation. It keeps historians, publishers, and annalists, as well as the general public, constantly in doubt.

Having searched closely as to whether there is in the Constitution itself any expressed or implied limitations as to when an amendment may not be adopted, I am driven irresistibly to the conclusion that an amendment to the Constitution, once having been duly proposed, although proposed September 15, 1789, could not be recalled even by the unanimous vote of both Houses, if the Congress wished the same recalled, because the power to submit an amendment is specifically pointed out; but no power is given to recall it, and silence is negation.

I am not without authority on this subject, and I wish to include in the RECORD some data I have collected on this subject.

The PRESIDENT pro tempore. The time for the consideration of the calendar under Rule VIII has expired.

Mr. LODGE. Mr. President, I move that the Senate proceed to the consideration of executive business in open session.

The motion was agreed to.

Mr. ASHURST. I should like to conclude my remarks on the joint resolution.

Mr. LODGE. The Senator from Missouri [Mr. REED] gave notice that he would address the Senate at this time.

Mr. ASHURST. I am like a man pardoned out of the penitentiary, I was not allowed to finish my sentence. I was cut off by the motion of the Senator from Massachusetts, but I should like to finish.

Mr. REED (to Mr. ASHURST). Go ahead.

The PRESIDENT pro tempore. The Chair recognizes the Senator from Arizona.

Mr. ASHURST. I will conclude by saying that I realize this is a serious matter, that this proposed constitutional amendment can not be disposed of in the morning hour, but I feel the debate has not been without some value to us all, and I am glad to note there is such unanimity of expression of opinion favorable to the resolution.

Mr. OWEN. I should like to say that there is no unanimity on it, but very resolute opposition to it.

Mr. ASHURST. For the first time I now know that the Senator from Oklahoma intends to deprive the people of the United States of voting upon what kind of government they wish to live under.

Mr. OWEN. The Senator from Arizona does not interpret correctly the "Senator from Oklahoma."

Mr. ASHURST. I am a very accurate interpreter, I think, and I will ask the Senator from Oklahoma whether he would prefer having 5,000 men pass on our Constitution or all of the voting people, men and women of our country? Does he prefer a constitution like Mexico or one of the people?

Mr. OWEN. The amendment which I offered a few moments ago, Senate joint resolution 33, called the "Gateway amendment," deprives the minority of either House or a minority of the States from preventing a proposed amendment to the Constitution being submitted to the people, as the pending resolution proposes, and places it in the hands of the people by majority vote of a majority of the congressional districts and a majority of all votes cast and permits amendments to be proposed by a majority of the Members either of the United States Senate or the House of Representatives. The proposed amendment which I offered fully sets forth my views. I shall be content with nothing less. I am utterly opposed to minority rule and will submit to it no longer than I am compelled to do so.

Mr. ASHURST. Then if the Senator has offered such an amendment as that he has offered one that will give the people more authority and has performed a valuable service.

Mr. OWEN. It not only gives the people more authority but enables a majority of their Representatives in either House to submit proposed amendments to the Constitution, which the majority of either House believe the people want. I demand the right of the people to rule be put in concrete form and without delay.

Minority rule in this Nation is now threatening to bring about mob rule as a remedy, which is another form of minority rule even more dangerous and chaotic in tendency than the present order.

Majority rule is the safe and middle course, and it is of urgent immediate importance. At present, anything in excess of one-third of the House or Senate membership or in excess of one-fourth of the States can block the right of the people to amend the Constitution, and organized financial and commercial power controls by this means the veto power against the majority of the people.

Mr. ASHURST. The Senator from Colorado [Mr. THOMAS] in his speech on August 22 reached heights of true eloquence. Concluding with a noble peroration, the Senator said:

I sometimes picture this great Republic as a majestic image, towering to the clouds from an eternal anchorage of justice and ordered liberty, its benignant features bathed in the eternal sunlight of heaven, its invincible arms extended above our continent-covering domain, shielding, protecting, encouraging. May such an image find sanctuary in the hearts of every man and woman and child under the national ensign, quickening their affection, stimulating their patriotism, and ministering to their sense of civic responsibility.

I devoutly share the hope expressed by the Senator from Colorado, whose genius spread that sublime picture before us, that "*such an image will find sanctuary in the heart of every man and woman under the national ensign.*" But while it is true that the heroic image of our American institutions lifts its head into the clouds, it is also true that it is neither anchored *securely* nor *anchored* at all; it stands upon a fragile pivot, the will of five thousand men; but if we see to it that the charter of American freedom shall not be changed except by a vote of the people then this heroic image will be supported by a pivot, the will of the people, a diamond pivot upon whose unbreakable, infrangible strength the destiny of the Republic may safely and easily revolve.

## APPENDIX.

### DISCUSSION OF CONSTITUTIONAL QUESTIONS INVOLVED.

(Jameson.)

SEC. 585. VI. Two further questions may be considered: (1) When Congress has submitted amendments to the States, can it recall them? and (2) How long are amendments thus submitted open to adoption or rejection by the States?

1. The first question must, we think, receive a negative answer. When Congress has submitted amendments, at the time deemed by itself or its constituents desirable, to concede to that body the power of afterwards recalling them would be to give to it that of definitely rejecting such amendments, since the recall would withdraw them from the consideration of the States and thus render their adoption impossible. However this may be, it is enough to justify a negative answer to say that the Federal Constitution, from which alone Congress derives its power to submit amendments to the States, does not provide for recalling them upon any event or condition, and that the power to recall can not be considered as involved in that to submit as necessary to its complete execution. It therefore can not exist.

2. The same consideration will, perhaps, furnish the answer to the second question. The Constitution gives to Congress the power to submit amendments to the States; that is, either to the State legislatures or to conventions called by the States for this purpose, but there it stops. No power is granted to prescribe conditions as to the time within which the amendments are to be ratified, and hence to do so would be to transcend the power given. The practice of Congress in such cases has always conformed to the implied limitations of the Constitution. It has contented itself with proposing amendments, to become valid as parts of the Constitution, according to the terms of that instrument. It is, therefore, possible, though hardly probable, that an amendment once proposed is always open to adoption by the nonacting or nonratifying States.

The better opinion would seem to be that an alteration of the Constitution proposed to-day has relation to the sentiment and the felt needs of to-day, and that, if not ratified early, while that sentiment may fairly be supposed to exist, it ought to be regarded as waived and not again to be voted upon unless a second time proposed by Congress.

SEC. 586. In discussing the question of the right of the States to vote upon proposed amendments at any time after the date of their proposal it is proper to look into the consequences of such a right. If they have the right there are now floating about us, as it were, in nubilous, several amendments to the Constitution proposed by Congress which have received the ratification of one or more States but not of enough to make them valid as parts of that instrument. Congress could not withdraw them, and there is in force in regard to them no recognized statute of limitations. Unless abrogated by amendments subsequently adopted they are, on the hypothesis stated, still before the American people to be adopted or rejected.

In 1873 the Senate of Ohio, acting upon the theory that once proposed an amendment to the Constitution is always open to ratification, adopted a joint resolution ratifying the second of the 12 amendments submitted to the States by Congress in 1789, but then rejected, providing that "no law varying the compensation of Members of Congress shall take effect until an election for Representative shall have intervened." This resolution, prepared by Madison, was an excellent one; but suppose it had been unjust, proposed, perhaps, in the interest of a section or of a party, and, failing at the time to receive the requisite majority, it had subsequently by a concerted rally of those interested in its adoption been carried without discussion or a clear expression of the existing public will; is that a true construction of the Constitution which may be followed by so dangerous consequences? And, supposing the right referred to exists, by what majority shall the resurrected amendments be adopted? If proposed in 1789, when the States numbered but 13 and when a majority of 10 States might have ratified the amendment, how many would have been requisite in 1873, when there were 38 States which would have been called upon to vote? If the answer should be that 29 States must have voted to ratify, since that number was three-fourths of all the States in 1873, however reasonable such an answer might seem, it would be founded upon no statute or custom of the country, and therefore different opinions as to its reasonableness might well be entertained. Hence the danger of confusion or conflict. We discuss this question here merely to emphasize the dangers involved in the Constitution as it stands and to show the necessity of legislation to make certain those points upon which doubts may arise in the employment of the constitutional process for amending the fundamental law of the Nation. A constitutional statute of limitation prescribing the time within which proposed amendments shall be adopted or be treated as waived ought by all means to be passed. (Jameson, John A. A treatise on constitutional conventions (4th ed., 1887), pp. 634–636.)

### AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES PROPOSED BY CONGRESS BUT NOT RATIFIED BY THREE-FOURTHS OF THE STATES, COLLATED BY MR. ASHURST.

#### APPORTIONMENT OF REPRESENTATIVES.

After the first enumeration required by the first article of the Constitution, there shall be one Representative for every 30,000 until the number shall amount to 100; after which the proportion shall be so regulated by Congress that there shall be not less than 100 Representatives nor less than one Representative for every 40,000 persons, until the number of Representatives shall amount to 200; after which the proportion shall be so regulated by Congress that there shall not be less than 200 Representatives nor more than one Representative for every 50,000 persons. (1 Stat., 97.) (Submitted at the same time as those which became part of the Constitution as amendments 1 to 10.)

Proposed by Congress September 15, 1789.

Ratified by the following States:

New Jersey, November 20, 1789. (Senate Journal, p. 199, 1st Cong., 2d sess.)

Maryland, December 19, 1789. (Senate Journal, p. 106, 1st Cong., 2d sess.)

North Carolina, December 22, 1789. (Senate Journal, p. 103, 1st Cong., 2d sess.)

South Carolina, January 19, 1790. (Senate Journal, p. 50, 1st Cong., 2d sess.)

New Hampshire, January 25, 1790. (Senate Journal, p. 105, 1st Cong., 2d sess.)

New York, March 27, 1790. (Senate Journal, p. 53, 1st Cong., 2d sess.)

Rhode Island, June 15, 1790. (Senate Journal, p. 110, 1st Cong., 2d sess.)

Virginia, October 25, 1791. (Senate Journal, p. 30, 2d Cong., 1st sess.)

Pennsylvania, September 21, 1791. (Senate Journal, p. 11, 2d Cong., 1st sess.)

Vermont, November 3, 1791. (Senate Journal, p. 98, 2d Cong., 1st sess.)

Pennsylvania had first rejected the proposed amendment March 10, 1790.

Rejected by Delaware January 28, 1790.

The Journals give no record of the action of the Legislatures of Massachusetts, Connecticut, and Georgia.

#### COMPENSATION OF MEMBERS OF CONGRESS.

No law varying the compensation for the services of the Senators and Representatives shall take effect until an election of Representatives shall have intervened. (1 Stat., 97.) (Submitted at the same time as those which became part of the Constitution as amendments 1 to 10.)

Proposed by Congress September 15, 1789.

Ratified by the following States:

Maryland, December 19, 1789. (Senate Journal, p. 106, 1st Cong., 2d sess.)

North Carolina, December 22, 1789. (Senate Journal, p. 103, 1st Cong., 2d sess.)

South Carolina, January 19, 1790. (Senate Journal, p. 50, 1st Cong., 2d sess.)

Delaware, January 28, 1790. (Senate Journal, p. 35, 1st Cong., 2d sess.)

Vermont, November 3, 1791. (Senate Journal, p. 98, 2d Cong., 1st sess.)

Virginia, December 15, 1791. (Senate Journal, p. 69, 2d Cong., 1st sess.)

Rejected by New Jersey, November 20, 1789 (Senate Journal, p. 199, 1st Cong., 2d sess.); New Hampshire, January 25, 1790 (Senate Journal, p. 105, 1st Cong., 2d sess.); Pennsylvania, March 10, 1790 (Senate Journal, p. 39, 1st Cong., 2d sess.); New York, March 27, 1790 (Senate Journal, p. 53, 1st Cong., 2d sess.); Rhode Island, June 15, 1790 (Senate Journal, p. 110, 1st Cong., 2d sess.).

The Journals give no record of the action of the Legislatures of Massachusetts, Connecticut, and Georgia.

#### TITLES OF NOBILITY.

If any citizen of the United States shall accept, claim, receive, or retain any title of nobility or honor, or shall, without the consent of Congress, accept and retain any present, pension, office, or emolument of any kind whatever, from any emperor, king, prince, or foreign power, such person shall cease to be a citizen of the United States and shall be incapable of holding any office of trust or profit under them or either of them. (2 Stat., 613.)

Proposed by Congress May 1, 1810.

Ratified by the following States:

Maryland, December 25, 1810.
Kentucky, January 31, 1811.
Ohio, January 31, 1811.
Delaware, February 2, 1811.
Pennsylvania, February 6, 1811.
New Jersey, February 13, 1811.
Vermont, October 24, 1811.
Tennessee, November 21, 1811.
Georgia, December 13, 1811.
North Carolina, December 23, 1811.
Massachusetts, February 27, 1812.
New Hampshire, December 10, 1812.

Rejected by New York (senate) March 12, 1811; Connecticut, May session, 1813; South Carolina, approved by senate November 28, 1811, reported unfavorably in house and not further considered December 7, 1813; Rhode Island, September 15, 1814.

#### AMENDMENT ABOLISHING OR INTERFERING WITH SLAVERY PROHIBITED (CORWIN AMENDMENT).

No amendment shall be made to the Constitution which will authorize or give to Congress the power to abolish or interfere, within any State, with the domestic institutions thereof, including that of persons held to labor or service by the laws of said State. (12 Stat., 251.)

Proposed by Congress March 2, 1861.

Ratified by the following States:

Ohio, March 13, 1861.
Maryland, January 10, 1862.
Illinois (convention), February 14, 1862.

#### RATIFICATIONS ON SUFFRAGE AMENDMENT.

Illinois, June 10, 1919.
Wisconsin, June 10, 1919.
Michigan, June 10, 1919.
Kansas, June 16, 1919.
Ohio, June 16, 1919.
New York, June 16, 1919.
Pennsylvania, June 24, 1919.
Massachusetts, June 25, 1919.
Texas, June 28 1919.
Iowa, July 2, 1919.
Missouri, July 3, 1919.
Arkansas, July 28, 1919.
Montana, July 30, 1919.
Nebraska, August 2, 1919.

Mr. OWEN. Mr. President, I ask permission of the Senator from Massachusetts to offer an amendment, in the nature of a substitute, to the joint resolution (S. J. Res. 41) proposing an amendment to the Constitution of the United States, which I desire to have printed and lie on the table. I rose to offer the amendment and was precluded from doing so by the closing of the morning hour.

Mr. LODGE. Certainly; I have no objection to the Senator offering an amendment to be printed.

The amendment by Mr. OWEN is to strike out all after the resolving clause and insert:

That Article V of the Constitution shall be amended so as to read:

"This Constitution may be amended in the following manner and in no other way: An amendment or amendments or the calling of a constitutional convention may be proposed—

"By a majority vote of the Members enrolled in each House of Congress.

"By either House should the other House twice reject the proposal, and a failure for three months to act favorably shall constitute a rejection.

"Congress shall propose an amendment or amendments or the calling of a constitutional convention when requested by a majority of the State legislatures.

"Congress or either House may submit competing measures.

"Proposed amendments shall be transmitted by the Secretary of State to the secretaries of state of the several States of the Union for submission to such of the voters of the several States as are qualified to vote for the election of Members of the House of Representatives. To each voter there shall be mailed a copy of the proposals and a copy of the arguments, for and against, prepared by two committees composed of leading representatives of the opposing sides; and the entire expense shall be borne by the Government of the United States. Not less than two nor more than four months shall elapse between the time of issuing the voters' pamphlet and the date of the referendum vote.

"The returns shall be transmitted to the House of Representatives, and the will of a double majority shall prevail—a majority of those who vote on the measure in a majority of the congressional districts and a majority of all the votes cast thereon: *Provided, however*, That no State, without its consent, shall be deprived of its equal suffrage in the Senate."

TREATY OF PEACE WITH GERMANY.

The PRESIDENT pro tempore. The Chair lays before the Senate the unfinished business of the executive session, namely, the German treaty.

The Senate, in open executive session, resumed the consideration of the treaty of peace with Germany.

Mr. REED obtained the floor.

Mr. JONES of Washington. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

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

| | | | |
|---|---|---|---|
| Ashurst | Gerry | McNary | Smith, Ariz. |
| Ball | Gronna | Moses | Smoot |
| Bankhead | Hale | Nelson | Spencer |
| Beckham | Harding | New | Stanley |
| Borah | Harrison | Newberry | Sterling |
| Brandegee | Hitchcock | Norris | Sutherland |
| Capper | Jones, N. Mex. | Nugent | Thomas |
| Chamberlain | Jones, Wash. | Overman | Townsend |
| Colt | Kellogg | Owen | Trammell |
| Culberson | Kendrick | Page | Underwood |
| Curtis | Kenyon | Penrose | Walsh, Mass. |
| Dillingham | Keyes | Phelan | Walsh, Mont. |
| Edge | Kirby | Phipps | Warren |
| Elkins | Knox | Pittman | Watson |
| Fall | La Follette | Pomerene | Williams |
| Fernald | Lenroot | Reed | Wolcott |
| Fletcher | Lodge | Sheppard | |
| France | McCumber | Shields | |
| Gay | McKellar | Simmons | |

Mr. GERRY. I desire to announce that the Senator from Oklahoma [Mr. GORE] is detained from the Senate by illness. I wish also to announce that the Senator from Nevada [Mr. HENDERSON], the Senator from Louisiana [Mr. RANSDELL], and the Senator from South Carolina [Mr. SMITH] are detained from the Senate on public business.

Mr. KIRBY. I desire to announce the unavoidable absence of the senior Senator from Arkansas [Mr. ROBINSON], who is detained on public business.

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). Seventy-three Senators have answered to their names. A quorum is present.

Mr. REED. Mr. President, in a number of recent speeches the President has declared that the assembly of the league of nations is largely "a debating society."

He has also said:

We can always offset with one vote the British six votes. I must say that I look with perfect philosophy upon the difference in number.

The distinguished Senator from Nevada [Mr. PITTMAN], who has been justly recognized as one of the spokesmen of the President, declared on the floor of the Senate on August 20, as follows:

Mr PITTMAN. Mr. President, this league of nations as it is construed by the President—and he is convinced, so he says, that the other framers agree with him—is hardly more to-day than a meeting place where the consensus of opinion of the civilized world may be obtained and the moral force brought to bear.

The above doctrine has been widely disseminated throughout the Union. The effort is to coax the people into the league by the claim that it is an innocuous and harmless thing.

But on other occasions the advocates of the league assert it is possessed of sufficient power to control the passions and ambitions of the world and hold in leash the armed forces of mankind. Both of these views can not be correct.

The truth is to be found in the written covenant now under consideration. I therefore venture to invite your attention to the language of that instrument.

But before I attempt that task, permit me to make a few observations in order to remove certain false arguments which have been advanced for the purpose of beclouding the issue.

I ask permission, Mr. President, to insert at the close of my remarks certain remarks made by Hon. Lee Meriwether, recently one of the representatives of our Government at Paris, certain remarks made by Gov. Glynn in his keynote speech at the St. Louis Democratic national convention which nominated the President in 1916, and certain experts from a letter written by Hon. Edward E. Yates, one of the most distinguished lawyers and Democrats of the Central West.

The PRESIDING OFFICER. Without objection, permission to do so is granted.

Mr. REED. Mr. President, the great question confronting the American people ought to be settled by a sober appeal to reason. Viewed in any light, its importance can not be overestimated. According to the President, it is to usher in "a new age," which he asserts will lift mankind to the highest levels. In the opinions of others, it involves the sacrifice of American sovereignty, plunges our Republic into the wars of the world, and jeopardizes the future of mankind.

Whichever view is correct the question is one of the deepest gravity. Its solution is fraught with infinite good or unspeakable ill to the world. Such a problem can only be solved by the study of facts and by the application of sound reason. If the President is right, then surely the case can be won by an appeal to the intellect of the American people.

The President has spent eight months in Europe helping frame this document, which contains first and last 80,000 words. He has, or he should have, intimate knowledge of all its terms and ought to be capable of demonstrating by cool reason and by the citation of the terms of the instrument that it will benefit mankind. The people had the right to expect that in his tour across the continent he would convey to them an intimate and concise knowledge of the contract into which he proposes to force the country and that he would make plain to them every doubtful proposition, but—

If a citizen refuses to repudiate the policies under which our country has become great, the President characterizes him as "pygmy minded."

If he declines to turn his back upon Washington and Jefferson, he is described as afflicted "with curious aberrations of thinking."

If he refuses to surrender with the pen what Washington gained with the sword, he is politely described as a "contemptible quitter."

If he can not see his way clear to embroil America in the wars of every country and to plunge her into controversies of every land, he sees with "jaundiced eyes."

If he venture to point out that article 10 binds us to send our soldiers to defend the frontiers of every land in every quarter of the globe, he is "afflicted with amazing ignorance."

If he looks with pride upon the glorious achievements of America's past and refuses to abandon the policies which have brought us to the heights of prosperity, he is "*a dreamer living in the forgotten age.*"

If after studying the league covenant lawyers and statesmen reach the conclusion that it is inimical to the public weal, they are classified as men "*whose heads are only fit to serve as knots to prevent their bodies from unraveling.*"

If Senators of the United States, sworn to defend the Constitution and to protect the Republic in strict accordance with the terms of their oaths, study the proposed covenant and reach the conclusion that it is their duty not to advise or consent to its ratification, they are denounced as "*dishonest opponents of the treaty who will be gibbeted and who will regret that the gibbet is so high.*"

Or, again, they are informed, as the President did declare in Washington a few weeks ago, that he would like to see them

*"hung on a gibbet as high as heaven, but pointed in the opposite direction."*

And so the resistless argument proceeds.

The President marshals his syllogisms as a general marshals the battalions of his army. They appear to advance in logical phalanx, but his soldiers are epithets; his battalions aggregations of bitter names; his army an assemblage of denunciatory epigrams.

Yet after it has passed the calm onlooker will recognize only the vapors of anger; the intemperance autocracy manifests at opposition.

If I could be so unkind as to reply in kind, I might answer that, of course, the President does it all unconsciously, in complete innocence, and possibly only when wrought upon by the "new magic." And that he substitutes fancies for facts, confuses the phantasms of his dreams with the actualities of life, mistakes the visions of ambition for the inspiration of idealism, and imagines that phrases can take the place of realities.

The President talks much of "duty of sacrifice," but even while he speaks, he, at Government expense, rides on special trains; sails upon magnificent ships, fitted with special glass pavilions; lives in the palaces of princes; receives presents from foreign nobility worth hundreds of thousands of dollars; commandeers entire hotels; summonses armies of retainers; creates diplomats without law; and wages war without authority.

Out of the public funds he provides the keep of his retainers. He compels the American taxpayers to furnish their food and to wash their dirty linen. He talks of sacrifices, but the sacrifices are to be made by American boys who perish in the snows of Siberia or who are yet to die beneath the suns of the Equator.

We stopped the onrushing Germans at the Marne, broke their attack at Chateau-Thierry, rolled them back at the Argonne, and forced their representatives to surrender at Paris.

Our Armies rescued our allies.

Our food fed them.

Our money maintained them.

To accomplish this work we left 50,000 dead in France, and sent staggering over our land another 50,000 brave men, blind, crippled, diseased.

We accumulated a debt of $20,000,000,000.

We disarmed Germany and dismembered Austria.

Having done all this, if we now say that the time has arrived to bring our soldiers home and to begin looking after the wants of our own people, we are "contemptible quitters."

Asserting that the league will bring universal peace, the President yet demands a standing Army of a half million men.

Insisting that war will be no more, he urges the doctrine of universal military training.

Proclaiming that the day has come when swords are to be beaten into plowshares, he demands millions for a Navy.

He advocates freedom of the seas, but consents that England shall remain mistress of the waters of the world.

He chafes at being kept at his presidential duties in Washington when he has been in this country only 60 days in the past 9 months.

He makes a speech declaring his own opinions and the next day asserts that his own speech is a solemn instruction by the people which he is dutifully carrying into effect.

He hears the echo of his own words, and the next day proclaims them the voice of God.

He denounces secret treaties, yet seeks to engage his country in a contract ratifying and confirming secret and cruel treaties by which our own Allies have been despoiled.

He preaches open covenants, openly arrived at, yet goes into secret conclaves and seizes cable lines and permits a censorship of European news.

He refuses to inform the Senate concerning his vote on racial equality, pleading that he would thereby disclose secrets which would cause international embarrassment, although the public statement of the Japanese statesman Baron Goto that Wilson and House had both voted with Japan on racial equality has for weeks gone unchallenged and undisputed. I insert that interview.

HOW DID PRESIDENT WILSON VOTE ON THE JAPANESE QUESTION OF RACIAL EQUALITY?

Testimony on August 20, 1919, before Foreign Relations Committee of the United States Senate:

The President referred to the fact that the Japanese had presented a resolution for racial equality, "but rather as an expression of opinion or hope, and it was not pressed for action."

Senator JOHNSON. May I ask, if permissible, how the representatives of the United States voted upon that particular proposition?

The PRESIDENT. I think it is very natural that you should ask that. I am not sure that I am at liberty to answer, because that touches the intimacy of a great many controversies that occurred in that conference, and *I think it is best, in the interests of international good understanding, that I should not answer.*

The facts as admitted by Baron Goto, member of Japan's Supreme Council on Foreign Relations. This interview has never been denied.

[From the Washington Post, Apr. 20, 1919.]

NEW YORK, *April 19, 1919.*

In an astonishingly frank interview Baron Goto declared that Japan considered herself the spokesman of all oriental peoples, *and, having already obtained the support of President Wilson, would not give up her fight for racial equality.*

"Both President Wilson and Col. House voted with Japan for racial equality at the peace conference," Goto said.

Because the Members of the Senate have not in answer to his dictation immediately approved the treaty he has in substance charged them with treasonable practices by intimating that they are now conspiring with Germany, a country with which we are still technically at war.

The statement is as false as it is infamous.

He goes about the country denouncing the Senate for the delay in passing upon the treaty, yet he refused to give to the Senate the practically completed draft of the treaty, although it was in the possession of all the chancelleries of Europe and was being sold upon the streets of Berlin and authenticated copies of it were in the hands of the great bankers of New York City.

He complains of delay, yet his adherents in the Senate conducted a filibuster to prevent the publication in the CONGRESSIONAL RECORD and to the country of an advance copy of the treaty.

He complains of delay, yet he withheld from the Senate the French treaty, which by express terms was to be laid before the Senate at the same time the German treaty was submitted.

He complains of delay, yet he even now withholds documents important to the proper understanding of the treaties pending before the Senate.

Mr. President, no man regrets the necessity of these remarks more than myself; but the time has come when we will determine whether the Senate of the United States is a part of the Government set up by the people of the United States, and whether it shall proceed to exercise its functions without fear or favor, without coercion, and without abuse.

Let me interpolate, I am not speaking for the dignity of the Senate merely as a body of men here assembled. It is a part of the Government erected by the people; and whosoever denies to that part of the Government the full and untrammeled exercise of its powers seeks to usurp the powers of the people themselves.

Mr. President, I shall undertake now, by a reference to the documents and by citation of proof as I proceed, to demonstrate a number of propositions.

THE LEAGUE OF NATIONS UNDERTAKES TO ESTABLISH A SUPERGOVERNMENT OF THE WORLD.

*It is in fact a superstate.*

I shall undertake to demonstrate six propositions.

First. That whether the entity now sought to be created be described as a "league," a "confederation," or an "empire," it nevertheless sets up a superstate, with rights, powers, and authorities superior to those of its constituent members, who, upon acceptance of membership, become subject to its governing control.

Second. That it has the power of self-extension both as to its membership and its jurisdiction.

Third. That it possesses a supreme jurisdiction over all matters international and over many purely national rights and policies.

Fourth. That member nations may be deprived of their most sacred rights in defiance of the will of their people or their governments.

Fifth. That nonmember States may be forced to obey the mandates of the superstate, even though their inhabitants unanimously protest.

Sixth. That the bodies authorized to decide these important questions are purely political, controlled by self-interests, and lack in every essential the attributes of courts or tribunals of justice.

THE LEAGUE ESTABLISHES A SUPERSTATE.

*The league when consummated will constitute a distinct entity with every element of an independent and sovereign power or State.*

It will possess:

(1) A permanent capital or seat of government.

(2) A flag.

(3) A membership composed of colonies, dependencies, and nations.

(4) Governing bodies, composed of the representatives of the members.

(5) A permanent organized body called a secretariat, which corresponds to an executive branch of government.

(6) Authority of control or command over matters embraced within a broad jurisdiction expressly granted.

(7) Force to execute its commands, judgments, and decrees.

THE CAPITAL.

*The league possesses a capital or seat of government, with the power to change and move this capital at will.*

"The seat of the league is established at Geneva.

"The council may at any time decide that the seat of the league shall be established elsewhere. * * * Representatives of members of the league and officials * * * the buildings and other property occupied by the league or its officials * * * shall enjoy diplomatic privileges and immunities." (Art. 7.)

The temporary capital buildings have already been secured.

The grounds for permanent buildings are being secured.

Soon we may expect to see the buildings of the world capital in process of erection.

THE FLAG.

A flag has always been defined as a "national standard." It is the visible sign of authority. Disrespect to a flag has always been regarded as an insult to the power it typifies. According to public press reports a league flag has already been adopted. It is the banner of the superstate being set up.

THE MEMBERSHIP.

Whether we regard the proposed organization as a mere international council or as a superstate, designed to govern the world, its membership is of vital importance. The character of the membership will determine the nature of its activities and measure its capacity for good or evil. Common prudence therefore demands a candid inquiry concerning our new partners and the influences likely to control their conduct. The table I have compiled shows:

| Dark countries. | | | | | White countries. | | |
|---|---|---|---|---|---|---|---|
| Country. | Year estimated. | Population. | Percentage of dark and mixed races. | Percentage of illiteracy. | Country. | Population. | Percentage of illiteracy. |
| 1. Liberia | [1] 1916-17 | 2,000,000 | 100 | 98 | 1. United States | 110,000,000 | 7.7 |
| 2. Haiti | 1911 | 1,500,000 | 90 | Very high. | 2. Belgium | 7,500,000 | 13.1 |
| 3. Hejaz | 1911 | 300,000 | 100 | High. | 3. British Isles | 45,000,000 | 11 |
| 4. Panama | 1916 | 450,000 | 90 | High. | 4. Canada | 8,300,000 | 11 |
| 5. Honduras | 1911 | 562,000 | 85 | 68 | 5. Australia | 5,000,000 | 1.8 |
| 6. Nicaragua | 1914 | 703,500 | 90 | High. | 6. New Zealand | 1,099,000 | 2 |
| 7. Guatemala | 1903 | 1,842,000 | 85 | 92 | 7. Czechoslovakia | 13,000,000 | |
| 8. Ecuador | 1900 | 1,500,000 | 93 | High. | 8. France | 39,500,000 | 3 |
| 9. Cuba | 1907 | 2,048,000 | 33 | 44 | 9. Greece | 2,750,000 | 57 |
| 10. Bolivia | 1900 | 1,816,000 | 87 | 82 | 10. Italy | 28,500,000 | 31 |
| 11. Peru | 1908 | 4,500,000 | 86 | [2] Very high. | 11. Poland | 10,000,000 | |
| 12. Brazil | 1904 | 24,500,000 | 88 | 80 | 12. Portugal | 6,000,000 | 68 |
| 13. South Africa | | 5,000,000 | 80 | 69 | 13. Roumania | 7,500,000 | 41 |
| 14. Siam | 1909 | 6,230,000 | 99 | Very high. | 14. Serbia | 3,000,000 | 84 |
| 15. India | 1911 | 294,361,000 | 95 | 92 | 15. Uruguay | 1,378,000 | |
| 16. China | 1906 | 407,253,000 | 100 | High. | | | |
| 17. Japan | 1917 | 56,860,000 | 99 | Low. | | | |
| | | 811,425,500 | [3] 89 | | | 289,428,000 | |

[1] Negro Yearbook. [2] Statesman's Yearbook, 1169. [3] Average.

NOTE.—Figures are from Encyclopædia Britannica and Statesman's Yearbook.

An examination of the table discloses certain upstanding facts that:

(a) Counting Cuba, where miscegenation is commonly practiced, and race distinctions are not recognized, a majority of our partners belong to the dark-skinned races. It is therefore perfectly apparent that from the first a majority of the league will always vote for race equality.

(b) With the single exception of Japan, the degree of illiteracy among these dark-skinned peoples is alarmingly high. This fact demonstrates the backwardness of these peoples upon all questions of government, liberty, or morals.

(c) Approximately there are three dark-skinned men in the league for each white man in the league.

(d) The following countries, all populated by whites, are left out of the league and constitute the major portion of the white population of the earth:

WHITE NATIONS WHO ARE NOT MEMBERS OF THE LEAGUE OF NATIONS.

I—*States excluded from the league of nations covenant.*

| State. | Population. | Per cent illiteracy. |
|---|---|---|
| Austria | 28,571,934 | 18.7 |
| Hungary | 20,744,744 | 33.3 |
| Bulgaria | 5,517,700 | 65.5 |
| Germany | 67,812,000 | .05 |
| Russia | 178,378,800 | 69.00 |
| Total | 301,025,178 | [1] 37.31 |

[1] Average.

II—*States invited to accede to the covenant who have not joined.*

| State. | Population. | Per cent illiteracy. |
|---|---|---|
| Denmark | 2,940,979 | 0.2 |
| Netherlands | 6,583,227 | .8 |
| Norway | 2,391,780 | (1) |
| Sweden | 5,757,566 | .2 |
| Switzerland | 3,880,000 | .3 |
| Total | 21,553,552 | .34 |

[1] No figures given, but about the same as Sweden.

White nations who are not members of the league of nations: Austria, Hungary, Bulgaria, Germany, and Russia.

The total of the white population in the league now is 289,428,000.

States invited to accede to the covenant who have not joined: Denmark, Netherlands, Norway, Sweden, and Switzerland.

As the table shows, these States have a total white population of 21,553,552, and a degree of illiteracy of a little over three-tenths of 1 per cent—the lowest degree of illiteracy in the world.

III—*States invited to accede to covenant who have professed willingness to do so.*

| State. | Population. | Per cent illiteracy. |
|---|---|---|
| Spain | 20,747,893 | 58.7 |
| Grand total | 43,326,552 | [1] 22.45 |
| Total, excluding Spain | 22,578,730 | [2] 18.825 |

[1] Total average. [2] Average, excluding Spain.

Sources: Population from Statesman's Yearbook, 1918. Per cent illiteracy from estimates furnished by Bureau of Census to the New York World, World Almanac, 1918.

Spain has been invited to come in, and I understand has come in with her 20,000,000 of population; but the grand total shows that there are now outside of the league 343,326,552 white people.

(e) The member nations in every respect exhibit the widest contrast. Liberia contains only 50,000 civilized inhabitants. The total population of Hedjaz, civilized and uncivilized, is 300,000. Nevertheless, these and other insignificant countries are received into membership.

The absurd result is that a semibarbarous Bedouin has a representation in the league 368 times as great as an American, and 1,356 times as great as a Chinaman. Likewise a partially civilized negro from Liberia has representation equal to 2,200 white Americans, or 2,200 colored Americans, and the colored American of this country is as much outraged, as a matter of fact, by this provision as are the whites.

Embracing every kind of State from the most powerful nations to subject countries and dependent colonies; ranging in civilization from the basest barbarism to the most advanced culture;

in learning from the depths of ignorance to the heights of knowledge; in religion from the divine doctrines of Christianity to the child sacrifices of voodooism; in government from the democracy of liberty and equality to the despotism of chains and slavery, the membership presents an inharmonious blending of divergent races, conditions, and civilizations incapable of either a common interest or a common destiny.

Is it not written, "Thou shalt not yoke the ox and the ass together"?

With the exception of the British Empire each of these countries, of whatsoever degree or kind, has exactly the same representation in the league of nations as the United States. I would not be misunderstood. They are not all represented on the council, but they are all members.

THE PREDOMINANCE OF THE BRITISH EMPIRE.

Anomalous as are the facts to which I have adverted, they are nevertheless aggravated by the circumstance that the British Empire is given directly and immediately six times as many votes as the United States.

That was true until about the day before yesterday, when it was discovered that six is the exact mathematical equal of one. This result is accomplished by allowing a membership and a vote for Canada, Australia, New Zealand, South Africa, and India. Each of the countries named, while constituting only a fractional part of the Empire, is given a full vote in the assembly and is qualified for every place in the assembly. At the same time the Empire, composed in part of these fractions, is given a full vote.

The power of the British Empire to so increase its vote as to gain a complete dominance will be discussed later.

For the present I call attention to the fact that under the right to admit into full membership self-governing dominions, colonies, and States, Great Britain can at any time furnish a large number of lusty applicants for admission, who will be completely under her control and responsive to her will. The British Empire alone has an abundance of raw material out of which to create these new members. I shall return to that in a moment.

THE GOVERNMENT.

*The league possesses the power of self-extension as to both its membership and jurisdiction. The government of the league is divided into three branches:*

(1) *The assembly*, to consist of—

(a) One voting representative of each of the present members;

(b) One representative of each member of the league hereafter created.

(2) *The council*, the membership of which is divided into three classes:

(a) The permanent membership, namely, the representatives of Great Britain, France, Italy, Japan, and the United States, five in all.

(b) Four temporary or removable members. The present temporary members are the representatives of Belgium, Brazil, Greece, and Spain.

(c) Additional members which may be created as hereinafter pointed out. (Art. 4.)

(3) *The secretariat.*

The secretariat shall comprise a secretary general and such secretaries and staff as may be required. (Art. 6.)

That is a brief résumé. Now, let us turn to the assembly. This is the point that has been misrepresented or misunderstood throughout the country. To the point I am now going to make, and the one which follows, I challenge the thought of Members of the Senate.

THE ASSEMBLY.

*The assembly possesses the absolute power of self-extension. By a two-thirds vote it can admit or by a one-third plus one vote exclude from membership more than one-half of the total white population of the earth.*

And that power is referred to as the power of a debating society.

It has been frequently asserted and widely published that the assembly possesses no power of importance; that it is, in fact, little more than an "international debating society"; and that therefore its membership is of little consequence.

This is the special defense offered to the protest against the six votes allowed the British Empire, it being asserted that the five votes allowed the British dominions and colonies will not count for anything of importance, because according to the claim they are votes only to be cast in the assembly.

That body is, as I have said, contemptuously referred to as "largely a debating society."

In his speech at Spokane on September 13, the President is quoted as saying:

The league of nations assembly is largely a debating body and seldom will act on important questions, and when it does the United States with its one vote will have absolute veto under the rule requiring a unanimous vote.

That statement has been printed and millions of copies sent throughout this land to people who never read the covenant of the league and have had no chance to read it.

I shall later show that the assembly possesses a very wide jurisdiction. But for the present I challenge attention to the fact that the present membership of the assembly has the power by a two-thirds vote to admit into the league or by a one-third plus one vote exclude from the membership of the league any of the following States:

Austria, Hungary, Bulgaria, Germany, and Russia. These States are all populated by white peoples. Their importance and power is well understood. Their inhabitants number 301,025,178. The question whether they should be admitted or not may be vital, not only to the stability of the league but to the peace and safety of the world.

It is provided in the league covenant that the following European nations may join as of right, namely, Denmark, Netherlands, Norway, Sweden, Switzerland, and Spain, provided they shall join within two months after the going into force of the covenant. Of the States named, Spain has already indicated a willingness to join, but the other States have not.

Not counting Spain, they contain an aggregate population of 21,553,552 persons. They are among the most intelligent and highly educated people on earth, the degree of illiteracy being less than 0.4 per cent.

This is, in part, a repetition of what I have said, but I am trying to bring these matters together under topics.

In addition to the foregoing, the following States have been invited to join: Argentine Republic, Chile, Colombia, Paraguay, Persia, Salvador, and Venezuela, with a total population of 32,205,000.

Should any of these nations fail to join within the 60 days specified, then their admission may be accomplished by a two-thirds vote or their rejection by a one-third plus one vote of the assembly. In that event it would be within the power of the present membership to admit or exclude from membership the vast majority of the nations of Europe.

This power to admit into the league all these mighty nations or to reject them, in the latter instance by a one-third plus one vote, is the power to force upon us as partners some of the nations with which we have been recently at war, even though they may not have purged themselves of their offenses, even though every citizen of the United States should protest against it, for it is done by a two-thirds vote in the assembly, when we have but 1 vote out of a present vote of 32.

Upon the other hand, it is the power to unwisely exclude these and the nonoffending nations and to force all of the outside nations to unite themselves into an offensive and defensive alliance, thus separating the world into two great antagonistic organizations. Under such circumstances a single spark struck even in a remote and barbarous country may start a conflagration which will blaze around the world.

But, in addition to the States named, the league has the express right to receive other States. It is specifically recited:

Any fully self-governing State, dominion, or colony not named in the annex may become a member of the league if its admission is agreed to by two-thirds of the assembly. (Art. 1.)

Under the broad authority thus granted there is no limit to the membership which may be admitted except the lack of raw material.

Mr. President, I present here two tables, one of them a long list of States that are self-governing; another a long list of colonies which, if they are not absolutely self-governing, can be made self-governing by their respective countries within a few days' time. I shall not pause to read them. There is not one in the list that is not more entitled to membership than Liberia, that is not better qualified for membership than Haiti, and I could name some others. They take four pages of print. I shall print them as a part of my remarks, with the permission of the Senate.

[There being no objection, the matter was ordered to be printed in the RECORD, as follows:]

Among the States not invited to join are—

GROUP I.—*Recognized independent States.*

EUROPE.

| | | |
|---|---|---|
| 1. | Albania | 6,000 |
| 2. | Andorra | 825,000 |
| 3. | Luxemburg | 268,000 |
| 4. | Monaco | 20,000 |
| 5. | San Marino | 10,000 |
| 6. | Liechenstein | 10,000 |

| | |
|---|---|
| **ASIA.** | |
| 1. Afghanistan | 6,000,000 |
| 2. Arabia | 3,500,000 |
| 3. Mongolia | 3,000,000 |
| 4. Nepal | 5,000,000 |
| 5. Oman | 750,000 |
| 6. Siberia | 10,377,000 |
| 7. Tibet | 3,000,000 |
| **AFRICA.** | |
| 1. Abyssinia | 8,000,000 |
| 2. Morocco | 6,500,000 |
| **AMERICA.** | |
| 1. Costa Rica | 427,000 |
| 2. Dominican Republic | 710,000 |
| 3. Mexico | 15,160,000 |

GROUP II.—(*Colonies, Protectorates, and Dominions*).

| | |
|---|---|
| **EUROPE.** | |
| 1. Iceland (Denmark) | 85,000 |
| 2. Greenland (Denmark) | 11,000 |
| **ASIA.** | |
| 1. Bhutan (granted a subsidy by England) | 250,000 |
| 2. Cochin-China (France) | 16,594,000 |
| 3. Bokhara (Russia before the revolution) | 1,250,000 |
| 4. Khiva (Russia before the revolution) | 800,000 |
| 5. Korea (Japan) | 16,500,000 |
| 6. Formosa (Japan) | 3,000,000 |
| 7. Goa (Portugal) | 515,000 |
| 8. Timor (Portugal) | 377,000 |
| 9. Straits Settlements (England—Crown Colony) | 812,000 |
| **AFRICA.** | |
| 1. Egypt (England) | 12,000,000 |
| 2. Sudan (England | 3,000,000 |
| 3. Belgian Congo | 15,000,000 |
| 4. Algeria (France) | 5,600,000 |
| 5. Tunis (France) | 1,900,000 |
| 6. Madagascar (France) | 3,253,000 |
| 7. French Congo | 1,000,000 |
| 8. Reunion (France) | 176,000 |
| 9. French Somali | 208,000 |
| 10. Sahara (France) | No estimate. |
| 11. Senegal (France) | 1,247,000 |
| 12. Guinea (France) | 1,812,000 |
| 13. Ivory Coast (France) | 1,417,000 |
| 14. Dahomey (France) | 911,000 |
| 15. Sudan (France) | 5,590,000 |
| 16. Niger (France) | 850,000 |
| 17. Mauritania (France) | 600,000 |
| 18. Eritrea (Italy) | 450,000 |
| 19. Somaliland (Italy) | 350,000 |
| 20. Tripoli (Italy) | 1,000,000 |
| 21. Cape Verde Islands (Portugal) | 149,000 |
| 22. Portuguese Guinea (Portugal) | 289,000 |
| 23. Angola (Portugal) | 2,124,000 |
| 24. Mozambique (Portugal) | 2,000,000 |
| 25. Spanish Guinea (Spain) | 200,000 |
| **AMERICA.** | |
| 1. British Guiana | 296,000 |
| 2. British Honduras | 42,000 |
| 3. Newfoundland and Labrador (England) | 254,000 |
| 4. Jamaica (England) | 906,000 |
| 5. Trinidad (England) | 371,000 |
| 6. French Guiana | 49,000 |
| 7. Guadeloupe (France) | 212,000 |
| 8. Martinique (France) | 193,000 |
| 9. Dutch Guiana (Netherlands) | 91,000 |
| 10. Curacao (Netherlands) | 57,000 |
| 11. Alaska (United States) | 64,000 |
| 12. Porto Rico (United States) | 1,200,000 |
| 13. Virgin Islands (United States) | 23,000 |
| **OCEANIA.** | |
| 1. New Caledonia (France) | 50,000 |
| 2. Papua (territory of Commonwealth of Australia, England) | 201,000 |
| 3. Fiji (England) | 163,000 |
| 4. Tonga (British protectorate) | 23,000 |
| 5. British Solomon Islands | 210,000 |
| 6. New Hebrides (England) | 70,000 |
| 7. Java (Netherlands) | 30,000,000 |
| 8. Sumatra (Netherlands) | 4,000,000 |
| 9. Borneo (Netherlands) | 1,300,000 |
| 10. Celebes (Netherlands) | 2,600,000 |
| 11. Bali and Lombok (Netherlands) | 1,207,000 |
| 12. Molucca Islands (Netherlands) | 560,000 |
| 13. Philippines (United States) | 8,879,000 |
| 14. Hawaii (United States) | 217,000 |
| 15. Samoa (United States) | 7,000 |
| 16. Guam (United States) | 12,000 |

Mr. REED. So that the power to let in the world or keep out the world, to name the conditions, and so forth, that I shall discuss in a minute, this immense power of consolidating the world in one mighty thing or excluding the world from it is a mere grant of that enormous power. It is the greatest power ever sought to be granted to any body of men.

The charter members of the assembly are composed of 32 men, one of whom is an American citizen, 31 of whom are aliens to us, and probably not more than 3 of them, unless they are exceptions to their people, can even speak our tongue.

I come now to another power.

THE ASSEMBLY HAS THE POWER TO DICTATE THE GUARANTEES WHICH SHALL BE GIVEN BY APPLICANTS FOR MEMBERSHIP.

The language of the covenant is:

Any fully self-governing State, dominion, or colony not named in the annex may become a member of the league if its admission is agreed to by two-thirds of the assembly: *Provided, That it shall give effective guarantees of its sincere intention to observe its international obligations, and shall accept such regulations as may be prescribed by the league in regard to its military, naval, and air forces and armaments.* (Art. 1.)

The power to receive or reject applicants for membership and the power to prescribe the nature and the character of the guarantees are found in a single sentence. Clearly the right to determine all these questions is lodged in the assembly.

The power to prescribe the nature and character of the guarantees may be so employed as to influence the conduct of any State seeking membership.

"What will constitute effective guarantees" rests wholly in the decision of the assembly. Should a State in dire necessity come into the league, guarantees might be exacted of such nature as to practically render it a vassal State or leave it so completely disarmed or crippled as to be without effective power of defense.

Notice that the language is that it shall accept the regulations, among other things, "in regard to its military, naval, and air forces and armaments."

It might be required to dismantle fortresses, to concede the control of navigable waters, or to even yield territory.

Upon the other hand, the only guarantees required might be a simple promise to abide by the rules of the league.

The power thus lodged is manifestly a great and important one, which can be so employed to the advantage of the dominant element in the league. States friendly to that element can be admitted upon generous terms; States unfriendly excluded or required to give such guarantees as to place them under control.

The results indicated may be regarded as certain to follow, for it must be remembered that in all international dealings nations have continuously held to the doctrine that it is the business of each State to have regard to its own interests. He who imagines that a membership in the league will change this century-old disposition is a visionary indeed.

Proof is found in the circumstances at this moment confronting us. Even as we form the league, and while the respective nations are proclaiming amity, good will, generosity, and disinterestedness with their lips, each is grabbing with both hands territories, peoples, and indemnities.

If, holding in sacred trust the rights of the American people, charged with the high duty of guarding their interests, we close our eyes to the plain facts of life and refuse to have regard for the lessons of history, we prove ourselves not only dreamers but fools.

WITHDRAWAL OF MEMBERS.

I now call attention to the withdrawal amendment. I want to get every Senator here to thinking about this question.

THE ASSEMBLY CAN DENY ANY STATE THE RIGHT TO WITHDRAW FROM THE LEAGUE.

THIS POWER IS FOUND IN THE AUTHORITY OF THE ASSEMBLY TO DECIDE WHETHER THE WITHDRAWING STATE HAS FULFILLED ALL ITS "INTERNATIONAL OBLIGATIONS AND ITS OBLIGATIONS UNDER THE COVENANT."

The provision regarding the withdrawal of members from the league is as follows:

Any member of the league may, after two years' notice of its intention so to do, withdraw from the league, *provided that all its international obligations and all its obligations under the covenant shall have been fulfilled at the time of its withdrawal.* (Art. 1.)

It will not be seriously contended that the State desiring to withdraw is entitled to decide for itself whether it has fulfilled all its international obligations and its obligations under the covenant.

Such a construction would deny to the league any jurisdiction over its members and would leave the case so that a State which had broken every obligation under the covenant, and every precept of international law, could also, without restriction, throw off its obligations of membership.

That is a denial of the very purpose alleged for the creation of the league, namely, that it is called into existence to decide international controversies and to prevent war by substituting its judgments for the will of individual nations.

It seems to me beyond dispute that the power of decision is therefore vested in the league.

The question, then, arises what tribunal of the league is to determine whether the applicant for withdrawal has fulfilled "all its international obligations and all its obligations under the covenant."

An examination of the context of the language just quoted seems to make the answer perfectly clear.

It will be observed that the provision touching withdrawal is found in the last paragraph of article 1. That article throughout deals with the question of league membership. It prescribes:

(a) Who the original members of the league are.

(b) That certain favored States named in the annex may become members, provided they shall join within two months after the league becomes effective. Otherwise they apparently forfeit their right to become members and fall into the class I next name.

(c) That any other "self-governing State, dominion, or colony may become a member by a two-thirds vote of the assembly upon giving effective guaranties that it will accept" regulations by the league in regard to "its military, naval forces, and armaments."

The foregoing clause is immediately followed by the provision that "any member of the league may withdraw after two years' notice of its intention so to do, *provided that all its international obligations and all its obligations under the covenant shall have been fulfilled at the time of withdrawal.*"

It will be noticed that the entire article deals with the question of membership and that the only tribunal authorized by the article to take any action whatsoever is the assembly. It seems perfectly clear, therefore, that the assembly, and it alone, has the power to decide whether a withdrawing member has fulfilled its obligations.

It being clear that before a State can withdraw the assembly must decide whether or not it has "*fulfilled all its international obligations and all its obligations under the covenant,*" the question arises must the assembly arrive at its decision—

(a) By a two-thirds vote;

(b) By a unanimous vote; or

(c) Is a majority vote sufficient?

Before we can answer this vital question we must determine whether the vote is governed by the provisions of article 1 or article 5; and if by the latter, whether the question is one involving a *decision*—I wish lawyers would bear that in mind—a decision or whether it is a mere "matter of procedure," in the former case a unanimous vote being required and in the latter only a majority vote.

As has been said, article 1 treats with the single subject of membership, and contains this clause:

> Any fully self-governing State, domain, or colony not named in the annex may become a member of the league *if its admission is agreed to by two-thirds of the assembly.*

Plainly enough a two-thirds vote can admit a member. But does the provision cover the last paragraph of article 1, which provides for the withdrawal of members, or is the withdrawal covered by the terms of article 5, which reads:

> EXCEPT WHERE OTHERWISE EXPRESSLY PROVIDED *in this* covenant or by the terms of the present treaty, *decisions*—

I call attention to that word "decisions"—

> at any meeting of the assembly or of the council *shall require the agreement of all the members* of the league represented at the meeting.
>
> *All matters of procedure*—

I call attention to that language—

> at meeting of the assembly or of the council, including the appointment of committees to investigate particular matters, shall be regulated by the assembly or by the council and *may be decided by a majority* of the members of the league represented at the meeting.

It seems to me that it can hardly be claimed that the question whether a withdrawing State has fulfilled all its obligations under the league and all its international obligations can scarcely be regarded as a mere "matter of procedure." It involves a decision of both law and fact and is of a highly judicial character. Whereas matters of procedure relate generally to the matter of conducting business, in law it applies to the methods of pleading, introduction of evidence, and so forth, and is substantially synonymous with the words "practice" or "process."

It seems to me, therefore, that we must reject any thought that a State can be permitted to withdraw by a mere majority vote.

It remains to inquire whether the two-thirds vote provided for in article 1 or the unanimous vote required by article 5 must be obtained.

Turning to article 1 we find that the very language itself which provides for a two-thirds vote is limited to the clause relating to the admission of members. It reads, "If the admission is agreed to by two-thirds of the assembly." To no other parts or provisions of that article does the language seem to apply. In order to make it apply to the withdrawal of members we must change the language by writing into it "any fully self-governing dominion or colony not named in the annex may become a member" or may *withdraw from membership*, "if agreed to by two-thirds vote of the assembly."

We are not justified in so altering the language of the covenant. It is therefore my judgment that the decision is governed by the general provision of article 5 and requires a unanimous vote.

It is therefore very clear that if once we enter this league we can not escape its thralldom unless we can secure the gracious permission of every member of the assembly. In that case any State, however insignificant, by the casting of a single negative vote, could deny the United States the right of withdrawal by refusing to concur in the unanimous decision that the United States had "fulfilled all its international obligations and all its obligations under the covenant."

I am aware of that fact that the President in his interview with the Foreign Relations Committee took the opposite view, holding to the doctrine, which is to me astonishing, that the right of withdrawal is absolute and that "it is unconditional, so far as the legal or the moral right (of withdrawal) is concerned."

I quote now from the published report of the interview between the President and the Foreign Relations Committee:

> Senator BORAH. * * * Who passes upon the question of the fulfillment of our international obligations, upon the question whether a nation has fulfilled its international obligations?
>
> The PRESIDENT. Nobody.
>
> Senator BORAH. Does the council have anything to say about it?
>
> The PRESIDENT. Nothing whatever.
>
> Senator BORAH. Then, if a country should give notice of withdrawal, it would be the sole judge of whether or not it had fulfilled its international obligations—its covenants—to the league?
>
> The PRESIDENT. That is as I understand it. *The only restraining influence would be the public opinion of the world.*
>
> Senator BORAH. Precisely; but if the United States should conceive that it had fulfilled its obligations, that question could not be referred to the council in any way, or the council could not be called into action?
>
> The PRESIDENT. No.
>
> Senator BORAH. Then, as I understand, when the notice is given the right to withdrawal is unconditional?
>
> The PRESIDENT. Well, when the notice is given *it is conditional on the faith of the conscience of the withdrawing nation* at the close of the two-year period.
>
> Senator BORAH. *Precisely; but it is unconditional, so far as the legal right or the moral right is concerned?*
>
> The PRESIDENT. *That is my interpretation.*
>
> Senator BORAH. There is no moral obligation on the part of the United States to observe any suggestion made by the council?
>
> The PRESIDENT. Oh, no.
>
> (Hearings before the Foreign Relations Committee on the treaty, p. 507.)

If this view is correct, then it applies equally to the whole of the membership obligation.

Moreover, if we have the right at the end of two years to withdraw without the let or hindrance of any tribunal, even though we have not fulfilled our obligations under the covenant, then we can withdraw at any time before the period of two years. If we are not bound in the one instance, we are not in the other. Let us follow that.

When we enter the league we agree—

(a) To stay for at least two years;

(b) That we will fulfill all our international obligations and all our obligations under the covenant;

(c) That our right of withdrawal is dependent upon giving a two years' notice of our intention to withdraw.

If we are under no legal or moral duty to fulfill our obligations under the league before withdrawing neither are we under any obligation to give the 24 months' notice, for that is merely one of the obligations of the league, one of the conditions precedent to withdrawal.

If the doctrine announced is sound, it is difficult to understand why any nation might not at any time repudiate all its obligations under the league and declare none of them either legally or morally binding except as it may see fit to regard them as binding upon—and I quote the President—"the faith of the conscience of the withdrawing nation."

If the right to withdraw without having fulfilled the obligations under the league is circumscribed by "only the restraining influence of the public opinion of the world," then truly the entire chain of the league so carefully welded together may be broken at any moment without any notice whatsover by the withdrawal of any one or a dozen nations, even though they have not fulfilled their obligations under the league or their international obligations. All this may be done without incurring any other penalty than the "restraining influence of the public opinion of the world."

In my humble judgment, the construction contended for is unsound. But if it be sound, and if it be the view of the President, then it should be plainly written into the document.

I venture the assertion that the proponents of the league will lift their hands in horror and their voices in protest against an amendment which shall clearly express the right of each nation to decide for itself whether it has fulfilled its "international obligations and its obligations under the league," and thereupon to withdraw without the let or hindrance and without the decision of either the council or the assembly.

I challenge gentlemen to state their positions upon that. Bear in mind we are now writing a document, and the time when a lawyer clarifies a document is before it is signed and not afterwards. When the parties find themselves in dispute

as to the meaning of a phrase, before they sign, always the lawyer ascertains then which view is correct and writes that into the instrument.

POWER TO CREATE AND CONTROL COUNCIL.

Now, Mr. President, I come to a topic of such importance and so fundamental that I again especially ask the kindest and most careful consideration. The assembly has the power to create and control the council.

*The assembly has the power to elect four of the nine members of the council and thus make that body subservient to its will.*

(1) As previously stated, there are five permanent members of the council, namely, the representatives of the British Empire, France, Italy, Japan, and the United States. There are four temporary or removable members. The temporary members are the representatives of Belgium, Brazil, Greece, and Spain. It is expressly stated in article 4 that:

These four members of the league shall be selected (as members of the council) by the assembly from time to time in its discretion. (Art. 4.)

The article continues:

Until the appointment of the representatives of the four members of the league first selected by the assembly, representatives of Belgium, Brazil, Greece, and Spain shall be members of the council. (Art. 4.)

The question at once arises by what vote does the assembly act in electing members of the council. Here again we are confronted with article 5. If the election of the four members of the council can be regarded as a "decision" by the assembly, then the vote must be unanimous, for article 4, which gives the power of election, fails to specify the kind of vote which shall be given in order to result in an election.

If the election requires a unanimous vote, then the absurd result follows that although Belgium, Brazil, Greece, and Spain are only named as temporary members of the council, and although it is expressly provided that the four temporary members of the council "shall be selected by the assembly from time to time in its discretion," nevertheless, the four temporary members when they have once been installed can never be ousted. This is so because no one of these nations would voluntarily relinquish its place upon the council, and it could not be ousted from that place so long as it refuses to consent to its own removal by joining in a unanimous vote to select another State as its successor. Accordingly, if the unanimous vote rule applies, then each of these States so named as temporary members of the council are in fact seated there forever. This construction would force the conclusion that the language inserted in article 4, "these four members of the council shall be selected by the assembly from time to time, in its discretion," is a mere fraud put upon the world.

Upon the other hand, if the election can be regarded as a matter of procedure, which I think is the better view, then the assembly may proceed by a majority vote. It follows that a simple majority of the assembly can easily dominate the council, for the power to elect at will four out of the nine members of the council can be easily so employed as to result in a complete control.

A simple illustration will suffice. It is inconceivable that the majority of the assembly should unite in electing four members of the council unless making a part of that majority, and probably directing its action would be found one or two great States, already represented among the permanent members of the council. In that event, the election of four additional members would assure a majority, and in the event that all of the five nations permanently represented on the council, or, indeed, four of them or three of them, were to act in accord in the election of the four temporary members, they could in this way oust nations from the council which refused to be subservient to their will and elect in their stead others that would join them in some desired unanimous decision.

The statement just made will be at once met by the claim that in that event the United States would not be harmed because the result referred to would only be brought about with her acquiescence. A moment's consideration, however, will show that circumstances might arise in which the power of the assembly could be employed to deprive us of a fair decision by the council in matters vital to our interests.

Assume that a controversy between the United States and Great Britain is impending and that the four temporary members of the council are friendly to the contention of the United States, whereas France, Italy, and Japan, being united with Great Britain by the closest ties, are friendly to her. Assume, further, that the nations just named are able to command, as they would probably be, a majority of votes in the assembly. That body could be immediately called into session. The four temporary members of the council could be at once ousted and the majority vote of the assembly employed to elect successors, every one of whom would be inimical to the United States. When the controversy between the United States and Great Britain then came before the council we would find ourselves and Great Britain excluded because of interest, but Great Britain would hold in the hollow of her hand the seven votes of the council and could secure a unanimous decision, having removed the four protesting members by the means I have suggested. A refusal on our part to obey would result in bringing upon us the united power of all the nations of the world solidified and bound together in the league or all the nations that could get in.

The case put may appear extreme, but careful consideration will show that it is not at all overdrawn. The conduct of the various nations at the peace conference demonstrate that each of the European and Asiatic nations are controlled alone by their self-interest. They are not disturbed by the illusions of idealism. In order to gain their ends they did not hesitate to make secret treaties, betraying their own allies. Before the smoke of carnage had cleared away they were striving to obtain every possible advantage.

These same selfish impulses and shrewd policies will continue to operate. From the moment the league is organized, or even in the process of its organization, each will seek to place its friends, satellites, and dependencies in positions of power so that if any question shall arise it will find itself stoutly fortified and prepared to secure a favorable decision. The British Empire is already so fortified.

I now take up another topic in connection with this question, and I call attention to the fact that the assembly, having the power to elect four of the nine members of the council by some vote—and I think by a majority vote—is referred to as a debating society, and we are told that the qualifications and character of its membership amount to nothing.

*While the assembly can without the consent of the council add to its own membership, the council is powerless to add to its membership without the consent of the assembly.*

The council may desire to add:

(a) To its permanent membership. In that event it must secure the permission of the assembly. Without that permission an increase in the permanent membership of the council can never be had. The power is a very important one and may be so exercised as to bar from permanent representation in the council any State not now enjoying that valuable advantage. The general language is:

With the approval of the *majority of the assembly*, the council may name *additional members* of the league whose representatives *shall always* be members of the council. (Art. 4.)

That is the permanent membership.

(b) Neither can the council increase its temporary or general membership without first obtaining the consent of the assembly. The language of the article is:

The council with like approval (the majority of the assembly) may increase the number of members of the league to be selected by the assembly for representation on the council. (Art. 4.)

The importance of these powers can scarcely be overemphasized. More than one-half of the white race are now outside of the league. It is natural to suppose in the process of time, if the league flourishes, that some of these nations may desire to enter the league. In the opinion of the United States and of a majority of the council, it may be highly desirable to admit one or more of these great States to the deliberations of the council, yet a bare majority of the assembly might be easily induced to refuse the council the right to increase its common or general membership. The infinite variety of circumstances which might make such action possible or, indeed, probable, lie in the womb of the future. What they may be we can not even conjecture, but the fact remains that there is vested in the assembly this great and potential control over the very composition of the council.

I desire to dispose of one further proposition, which has to do with the power of this superstate to change its very nature by changing the membership of both of its governing bodies.

*The assembly and the council, acting jointly, can change the entire character of the league through the power of changing its membership and the membership of its governing bodies.*

I have already shown that the assembly can increase its membership at will. I have also shown that the council may increase the membership of that body, permanent or temporary, if it obtains the consent of the assembly. It is, therefore, perfectly manifest that the two bodies, cooperating even for one hour, can completely change the control of the proposed world government. The assembly can admit nations with whom we desire neither partnership nor cooperation. The council and a majority of the assembly acting in concert can add to the council as permanent members any number of nations they see fit. Indeed, there is no legal reason why representatives from all the nations of the world might not thus be made permanent members of the council. While that danger may not be great, there is great danger that the two bodies may in the future be

willing to admit as members of the council, either permanent or temporary, nations highly objectionable to the people of the United States, if they were privileged to be consulted.

I call attention here to the fact that at no place save one are the people or the Government to be consulted. One man, one internationalist who happens to get on this board, can bind us in all these matters.

It should not go unnoticed that while the power to create permanent members exists, the power to oust or reject permanent members of the council necessarily can not exist.

It should not be overlooked that these radical changes in the membership of the governing bodies of the league can be effected without reference to any Government and without regard to the vote of any people on earth.

These governing bodies thus set up possess within themselves the immense power of procreation and extension by the exercise of which they can change the very nature and purpose of the league itself by changing the character of its membership.

The reply will, of course, be made that the United States can withdraw, but she can not withdraw without first giving two years' notice. Within that space of time the world may be overturned and our Republic destroyed.

Before leaving the question of the character of the inherent power of the governing bodies of the league, and especially the powers of the assembly in connection therewith, I want to call attention to the secretariat.

*The secretariat—The assembly exercises a controlling influence over the executive branch of the government of the league.*

The powers of the secretary general are not limited, as the name would seem to indicate, as the mere business recording officer. On the contrary, the secretariat is the executive arm of the government, possessing powers of the greatest importance. Very briefly I summarize these powers by quoting from the article:

The permanent secretariat shall be established at the seat of the league. The secretariat shall comprise a secretary general and such secretaries and staff as may be required.

The secretary general shall be appointed by the council with the *approval of the majority of the assembly.*

The secretaries and staff of the secretariat shall be appointed by the secretary general, with the approval of the council. (Art. 6.)

The language just quoted shows the power which may be exercised by the assembly. A simple majority of that body may refuse to concur in the unanimous selection of a council. It is a power which might easily be so exercised as to dictate the selection of a secretary general.

It is important in this connection to note the fact that the council and the assembly acting jointly have the absolute power of selection. That is to say, the executive is the creation of these two bodies. He has no independent source of authority. Here is found another marked distinction between the character of the world government and that of nearly every other government of the world, which generally recognizes the necessity of an executive owing his election to an independent source.

It is the closest and best-knit power trust ever conceived in the brain of man.

An examination of the peace treaty as well as the league covenant will show how important the control of the selection of the secretary general may be.

(a) He appoints the permanent staff; that is, permanent executive officers of the central government.

(b) He and his employees enjoy diplomatic privileges.

(c) The secretariat is, in fact, the executive arm and possesses powers of a very wide character. I can not at this time pause to discuss them. The point I now desire to emphasize is that he owes his election, in part, to the despised assembly, which is referred to as a mere "debating society."

Logical arrangement seems to require at this point a discussion of the sovereign powers possessed by the league. That arrangement I propose to temporarily disregard in order to impress, if possible, the great general jurisdiction vested in the assembly and its controlling power over the most important functions of the council.

THE ASSEMBLY POSSESSES A GENERAL JURISDICTION OVER ALL QUESTIONS AFFECTING THE PEACE OF THE WORLD.

A few quotations from the text of the covenant demonstrate the proposition just laid down:

The action of the league under this covenant shall be effected through the instrumentality of an *assembly* and of a *council*, with a permanent secretariat. (Art. 2.)

* * * The assembly shall meet at stated intervals and from time to time as occasion may require. * * *

*The assembly may deal at its meetings with any matter within the sphere of action of the league or affecting the peace of the world.*

At meetings of the assembly each member of the league shall have one vote. * * * (Art. 3.)

Here is a general all-embracing grant of jurisdiction and authority. It is unlimited by words of restriction. It is not said that "except as otherwise herein provided" "the assembly may deal with any matter within the sphere of action of the league or affecting the peace of the world," but the statement is broad, general, and unlimited.

Bear in mind that this is the body in which every member of the league has representation, where all stand upon an exact equality, and where each is permitted to cast the same vote, saving and excepting, of course, the British Empire. That is to be excepted always.

Bear in mind, also, that we are pretending to be setting up a world democracy, a democracy of equity and equality.

I quote the President. When he wrote down his 14 points he declared:

A general association of nations must be formed under specific covenants for the purpose of affording mutual guarantees of political independence and territorial integrity *to great and small alike.*

At Mount Vernon on July 4, 1918, he said:

There must be a settlement of every question, whether of territory, of sovereignty, or economic arrangement, or of political relationship, *upon the basis of the free acceptance of that settlement by the people immediately concerned.*

On September 27, 1918, he said:

* * * As representing this Government's interpretation of its own duty with regard to peace:

"First, the impartial justice meted out must involve no discrimination between those to whom we wish to be just and those to whom we do not wish to be just. *It must be a justice that plays no favorites and knows no standard but the equal rights of the several peoples concerned.*"

On Memorial Day at Arlington, May 30, 1916, he declared:

That small and weak States have as much right to their sovereignty and independence as large and strong States.

He still declares for these doctrines.

At Tacoma on September 13, 1919, he said:

We shall fight * * * for democracy * * * for the rights and liberties of small nations.

At St. Louis, on September 4, he said:

The essential object of that treaty is to establish the independence and protect the integrity of the weak peoples of the world.

If these weak peoples are to be brought into the league and permitted no voice or vote, and if the assembly is a "mere debating society," then how are they to be protected?

If the business of this league is to be conducted by the council, and these small States are excluded from the council, what becomes of world democracy except the vain sound of words that lose themselves in the emptiness of space, as they were empty of good faith when uttered, if we give it this construction?

If the assembly is a "mere debating society," then the power of the league must be lodged in the council, from the membership of which body the weaker nations are lawfully excluded. If such a view is to be entertained, then it is an oligarchy of nine nations controlling the world. Such has not been the view of the league which has heretofore been presented.

The league is to be, or was to be, a "parliament of men, a confederation of the world."

Bear in mind also that the assembly is the only body at the present time in which 23 of the member nations have any voice or vote. It is the only tribunal through which they can speak.

To claim, therefore, that the grant of power just quoted is materially restricted by other provisions of the league and that the power thus denied to the assembly is vested in the council is at the same time to deny the democracy and equality of the league. It is to assert that the league, instead of being a world democracy in which all member States have the right to deal with all questions concerning the peace of the world, is in fact a world autocracy, governed and controlled by nine nations.

I said that awhile ago, and I repeat it now. It ought to be repeated every morning, not in my poor words, but in the language of some man who could command the powers of our English.

To affirm that 23 nations are, as to all questions "affecting the peace of the world," made subject and vassal States, that they are controlled neither by their own interests nor guided by their own conceptions of justice, but that they must answer to the brutal lash of power wielded by the hands of nine international overlords, is to assert that the league is a great power machine erected upon the ruins of independent States.

Plainly, therefore, if we have regard for the pretended purposes of this league, the grant of authority to the assembly must be given not only its natural but its widest significance.

With this rule of construction, and no other rule is consistent with world democracy or national sanity, what questions are embraced in the words, "the assembly may deal at its meetings with any matter within the sphere of action of the league or affecting the peace of the world?"

You can not wrench these words from their plain meaning. The assembly can do anything the league as a whole can do. Its jurisdiction is as broad as the jurisdiction of the league. Every power granted to the league may be exercised by the assembly.

How broad are these powers thus granted to the league and to the assembly as its agent. It "may deal with any matter affecting the peace of the world." That embraces every international question, every problem of international law; boundary disputes; rights upon the seas; rights of nationals; rights of trade; construction of treaties; violations of territory. All are drawn within the sweeping terms of the provision. They are of the very essence of national sovereignty. When they are yielded by a State it has yielded the power of self-determination and granted the authority of life and death.

Additional proof that this construction is correct and was intended is found in the fact that there are but two governing bodies in the league—the assembly and the council—and the identical language employed with reference to the assembly in article 3 is employed word for word in article 4 with reference to the council. The two bodies are thus placed upon an exact equality. Each of them "may deal with any matter within the sphere of action of the league or affecting the peace of the world."

Should any controversy affecting the peace of the world hereafter arise between the United States and any other country, and the assembly being in session should proceed to deal with that controversy, how could the United States, being a signatory of this agreement, challenge the jurisdiction of the assembly or repudiate the authority it had expressly granted?

That is a question I put to some of these gentlemen who are able to distinguish between moral and legal obligations of States and in matters of the world.

Now I am coming to an answer so complete to the contention of the President as to require a modification of his words. I am referring to his statement that upon all questions save the matter of election of membership the United States' one vote counts for as much as Great Britain's six, because we have an absolute veto power, and that therefore it makes no difference whether Great Britain has six votes or not; and we can sit down and indulge in the ecstasy of a sort of international dream, in which Great Britain appears in the character of a fool, with cap and bells, demanding six votes that count for nothing. This is the proposition that I lay down:

UPON MANY QUESTIONS OF VITAL IMPORTANCE THE ASSEMBLY CONSTITUTES A TRIBUNAL WITH POWER TO ANNUL, SET ASIDE, AND FOR NAUGHT HOLD THE UNANIMOUS DECISIONS OF THE COUNCIL. IT CAN COMPLETELY PARALYZE THE COUNCIL IN ITS MOST IMPORTANT FUNCTIONS. THIS MAY BE ACCOMPLISHED BY ANY 12 MEMBERS OF THE ASSEMBLY, 12 BEING A MAJORITY OF THE NON-COUNCIL MEMBERS OF THE ASSEMBLY.

The most important functions of the league, indeed, the functions which afford the most substantial arguments for its existence, are the provisions relating to the settlement of international disputes.

The machinery for the carrying out of these objects constitutes a curious and involved scheme which is set forth in articles 12, 13, 15, and 16. It will require some patience to straighten out the tangled skein. It is a very labyrinth of words. Nevertheless, the task is perhaps not impossible.

Article 12 contains two distinct provisions:

First. That all disputes *likely to lead to rupture* will be submitted for decision *either* to *arbitration* or to the *council*.

Second. That there shall be no resort to war until three months after the decision.

I quote:

The members of the league agree that if there should arise between them any dispute *likely to lead to a rupture*, they will submit the matter *either to arbitration or to inquiry by the council*.

And they agree in no case to resort to war until three months after the award by the arbitrators or the report by the council. * * * (Art. 12.)

It will be noticed that the provisions of article 12 seem to be limited to "any dispute likely to lead to rupture."

The provisions of article 13 are much broader. By its terms the members are made to agree "that whenever any dispute shall arise between them which they recognize to be suitable for submission to arbitration, they will arbitrate the whole subject matter."

It is then expressly declared that—

(1) "Disputes as to the interpretation of treaties";

(2) "Disputes as to any question of international law";

(3) "Disputes as to the existence of any fact which, if established, would constitute a breach of any international obligation";

(4) "Disputes as to the extent and nature of the reparation to be made for any such breach" of international obligations are declared to be "among those which are generally suitable for submission to arbitration."

The above language clearly includes every international question and dispute, including disputes involving the vital interests of the respective countries. Indeed it is difficult to conceive of any question which can arise between nations which is not embraced within the terms set forth. *When we enter the league we therefore solemnly agree that all these questions are arbitral and we will submit them to either the decision of the board or court of arbitration or to the council of the league.*

So far so good. Up to this point the tribunal of decision is either a court of arbitration or the council of the league; but article 15 qualifies and to a large extent nullifies all these provisions for submission to arbitration or to the council. This is accomplished by three provisions:

(1) By the provision which permits either party to insist in the first instance that the case shall not be decided by the court of arbitration but that it shall be sent to the council.

(2) By the provision which permits either party to remove the case from the council to the assembly.

(3) By the provision that the council may itself refer the dispute to the assembly for decision.

The language is:

If there should arise between the members of the league any dispute likely to lead to a rupture, *which is not submitted to arbitration as above* (viz, as provided in articles 12 and 13), the members of the league agree that they *will submit the matter to the council*.

*Any party to the dispute may effect such submission by giving notice of the existence of the dispute to the secretary general, etc.* (Art. 15.)

That carries it to the council.

The submission to the council is therefore an absolute right, and may be accomplished by either party filing a simple notice.

Thus the dispute is transferred from a tribunal of arbitration to the council.

The case being now in the council, it can be removed to the assembly by either one of two processes—

First. The council may upon its own motion transfer the dispute to the assembly for decision.

Second. Either party to the dispute may force such reference within 14 days after submission of the dispute to the council by simply making a request for transfer to the assembly.

The governing language of the section is:

The council may in any case under this article refer the dispute to the assembly.

The dispute *shall be* so referred *at the request of either party* to the dispute, provided such request be made within 14 days after the submission of the dispute to the council. (Art. 15.)

I may weary you a little by repetition, but let me follow that through.

Following these provisions through, it is clear—

First. That there is an agreement to arbitrate or to refer to the council.

Second. Either party may send the case to the council by a simple notice.

Third. Upon request of either party the case must be removed to the assembly for decision.

In the last analysis, therefore, the disputes mentioned in these important articles need not be, and probably will not be, decided by a board or court of arbitrators. Neither will they be decided by the council. The assembly will, by every probability, be the final and authoritative body which will render the decision.

Thus, I have shown that all the great international disputes covered by articles 12, 13, and 15 may be sent, by the simplest of processes, to the assembly for final determination.

It follows that in all disputes likely to provoke serious international difficulties or produce war one or the other of the parties will appeal to the assembly.

The result pointed out is bound to occur, because one or the other of the parties will naturally find its antagonist to have a natural advantage in the council. Upon discovering that fact, the nation disadvantaged will, of course, carry its case into the assembly, unless, indeed, it may know that body to be similarly prejudiced. To assume that any other course of conduct will be followed is to assert the incompetency of the contenders.

It is now important to inquire what is the effect of the removal of a dispute from the council to the assembly. A careful study of the document will show that—

THE POWER OF THE LEAGUE TO FORCE THE SETTLEMENT OF INTERNATIONAL DISPUTES BY THE UNANIMOUS DECISIONS OF THE COUNCIL MAY BE COMPLETELY NULLIFIED BY ANY 12 NON-COUNCIL MEMBERS OF THE ASSEMBLY REFUSING TO CONCUR IN THE UNANIMOUS DECISION OF THE MEMBERS OF THE COUNCIL.

To understand the above proposition it is necessary to call attention to the fact that it is provided—

If the report by the council (upon disputes arising under sections 12, 13, and 14) is *unanimously agreed to by the members thereof*, other than the representatives of one or more of the parties to the dispute, *the members of the league agree that they will not go to war with any party to the dispute which complies with the recommendations of the report.* (Art. 15.)

The thing that everybody who is for this league desires is that it shall make unanimous that the right to go to war shall cease.

But if the report is not unanimous, then the right is reserved to any State to go to war if it sees fit. The language is:

If the council fails to reach a report which is *unanimously* agreed to by the members thereof, other than the representatives of one or more of the parties to the dispute, *the members of the league reserve to themselves* the right to take such action as they shall consider necessary for the maintenance of right and justice. (Art. 15.)

Clearly, therefore, a unanimous decision by the council is of the utmost importance in order that war may be prevented, for if there is not such decision, the nations may immediately go to war, or at least at the end of three months.

Yet with the situation just described staring us in the face, we find the provision for the removal of the dispute to the assembly.

Now we have the dispute before the assembly, and it comes there upon the request of either party, to state the whole matter briefly.

When the controversy goes to the assembly in order that its decision may have the effect of a unanimous decision of the council, the unanimous vote of those members of the assembly who are members of the council—barring the disputants—must be secured, and also a majority of the noncouncil members of the assembly. If that majority is not secured, then the case stands as it would if it had remained in the council and that body had failed to unanimously agree. The governing language is:

In any case referred to the assembly all the provisions of this article and of article 12 relating to action and powers of the council shall apply to the action and powers of the assembly, provided *that the report made by the assembly, if concurred in by the representatives of those members of the league represented on the council and of a majority of the other members of the league, exclusive in each case* of the representatives of the parties to the dispute, shall have the same force and effect as a report by the council concurred in by all the members thereof other than the representative of one or more of the parties. (Art. 15.)

In the absence of a majority vote by the noncouncil members of the assembly the case then is in exactly the same condition as it would have been had it remained in the council and that body had failed to reach a unanimous decision. What then would be the situation?

It is, as I have already said, governed by the language:

*If the council fails to reach a report which is unanimously agreed to* by the members thereof, other than the representatives of one or more of the parties to the dispute, the members of the league reserve to themselves the right to take any such action as *they* shall consider necessary for the maintenance of right and justice. (Art. 13.)

That is to say, in the absence of a unanimous decision any nation is at liberty to go to war to enforce its claims or demands. It may "take such action as *it* shall consider necessary for the maintenance of right and justice."

Of course, every nation going to war claims to be going to maintain right and justice.

The absence of a unanimous decision by the council gives to each State, or leaves to each State, the right to decide the question for itself. All that is necessary, therefore, in order to authorize a State to go to war is that it shall secure a disagreement in the council, or if it can not secure a disagreement in the council, it may remove the case to the assembly. If it there can secure a majority of the noncouncil members, it is privileged to ravage the earth at will, the league of nations and the dream of world peace to the contrary notwithstanding.

The assembly being thus vested with the tremendous power by refusing concurrence in a unanimous decision of the council to deluge the world with war or by concurring to set in motion the alleged vast coercive machinery of the league—as is claimed—to preserve the peace of the world, is nevertheless referred to sneeringly by Senators and by the distinguished world advocate of the league as a mere international debating society.

If it be a mere debating society, then it is the most worthless machinery ever conceived in the brain of man, asleep or awake, thinking or dreaming.

THE POWER OF FINAL DECISION RESERVED TO THE ASSEMBLY GIVES TO THE BRITISH EMPIRE A DANGEROUS, IF NOT A DOMINATING, CONTROL OF THE LEAGUE, AND WILL ENABLE IT IN CASE THE COUNCIL SHOULD EVER BE PREPARED TO RENDER A DECISION AGAINST IT TO NULLIFY THE ACTION OF THE COUNCIL.

A simple illustration will serve to point the accuracy of the statement just made.

Assume that the United States has a dispute with the British Empire. The Empire refuses to arbitrate and the case goes to the council. Great Britain learns that all the members of the council not parties to the dispute are of the unanimous opinion that the contention of the United States is just. Thereupon Great Britain gives notice and the case is transferred to the assembly. The case comes on for decision. The seven members of the assembly—who are also members of the council and not parties to the controversy—namely, France, Italy, Japan, Belgium, Greece, Spain, and Brazil, all vote in favor of the United States. This leaves 23 members of the assembly who are not members of the council. Unless a majority of these members—to wit, 12—vote to concur with the members of the council, then the decision stands exactly as a decision of the council would stand which was not concurred in by all the members of the council. That is to say, the decision will have no binding force or effect whatever.

Great Britain can escape the effect of a unanimous decision provided 12 of the 23 noncouncil members of the assembly vote with her.

Accordingly the roll of the members of the assembly who are not members of the council is called. Upon this roll are found the following countries: Canada, Australia, New Zealand, South Africa, and India.

It needs no argument to prove that England starts with 5 of the necessary 12 votes in her pocket.

Neither does it require argument to show that Hedjaz, whose King is in the pay of the British Empire, will give an additional vote.

Likewise, it is certain that the vote of Siam would be similarly controlled.

This would give Great Britain 7 of the 12 votes necessary to block the effect of the unanimous decision of the council in favor of the United States. Thus she only needs 5 more votes.

Can any candid man looking over the list of member States doubt that British diplomacy and British gold and British power would secure the 5 necessary votes?

Consider, in this connection, Liberia, Haiti, and other semi-barbarous States, in some of which the governments are mere temporary military dictatorships established by first one revolutionist and then another, each seeking the office of ruler that he may loot the treasury and levy blackmail upon business.

Great Britain has an additional certain vote as soon as Persia joins, for she already holds that country in the hollow of her hand.

She can create others at any time by employing her six votes and her influence in the assembly to elect other British colonies and subject states as members.

At this point we will be met by this contention:

That the colonies and dependencies of the British Empire are constituent parts of the Empire, and therefore can not vote on any controversy to which the Empire is a party.

That is a good place to stop and stick a pin. When the President said we would always have a veto power, that our one vote would protect us in every controversy, he forgot that in every controversy where our life is at stake, where we are on trial, we have no voice and no vote, but alien states decide our fate and settle our right to live. That evokes a smile of pleasure and satisfaction from the distinguished leader of the league forces. [Laughter and applause in the galleries.]

If it were true, and it is not, as I shall show, that the colonies and dependencies of Great Britain can not vote in any controversy to which the British Empire is a party, still the fact would remain that in all other world questions coming before the assembly the empire would command six times the voting power of the United States.

Innumerable instances might arise where the British Empire was not a party and yet her interests be opposed both to the wishes and interests of the United States. In all such cases the predominance of her votes might be decisive and might give her a material advantage, to our great injury.

But is it true that the dominions and colonies are barred from a vote in cases where Great Britain is a party? I affirm—

First. THAT CANADA, AUSTRALIA, SOUTH AFRICA, NEW ZEALAND, AND INDIA ARE RECEIVED INTO THE LEAGUE AS INDEPENDENT POWERS AND THAT THEY ARE ENTITLED TO ALL THE RIGHTS OF ANY OTHER MEMBER, EXCEPT THAT THEY ARE NOT PRESENTLY NAMED AS MEMBERS OF THE COUNCIL.

Second. THAT THESE DOMINIONS AND COLONIES ARE, UPON ELECTION BY THE ASSEMBLY, QUALIFIED TO TAKE SEATS IN THE COUNCIL, THEIR RIGHT IN THAT RESPECT BEING—SAVE THE FIVE PERMANENT MEMBERS—EXACTLY THE SAME AS THE RIGHT OF ANY OTHER STATE, HOWEVER GREAT.

Third. IN ANY SUCH ELECTION BY THE ASSEMBLY THESE DOMINIONS AND COLONIES CAN AS MEMBERS OF THAT BODY CAST THEIR UNITED VOTES IN SUPPORT OF ANY ONE OR MORE OF THEIR NUMBER OR IN FAVOR OF ANY OTHER CANDIDATE FOR THE COUNCIL WHO MAY BE SUBSERVIENT TO BRITISH INTERESTS.

I am aware that these views have been challenged—indeed, they have been controverted—by the President. Permit me, therefore, to submit the proof:

(a) Article 1 reads: "The *original members* of the league of nations shall be those of the signatories named in the annex."

Among the signatories are to be found not only the British Empire, but also Canada, Australia, New Zealand, India, and the Union of South Africa, each of the latter signing exactly as the United States and other great nations.

To treat them as anything but full members is to deny the plain language of the instrument.

(b) Article 1 further provides:

Any fully self-governing State, dominion, or colony may become a member—

And so forth.

It does not say may become "a part of a member" or may become "a member some of the time." It declares that all "fully self-governing States, dominions, and colonies" may become members. "Self-governing States, dominions, and colonies" are all grouped together. The single requirement for membership is an election by the assembly.

(c) The representatives of the Dominion of Canada, Australia, New Zealand, India, and the Union of South Africa all actually sat on the peace council and took part in its proceedings as fully as any nation, except the five great powers, which, of course, dominated. Frequently, indeed, only three of the great powers sat to determine certain questions.

It may be remarked in passing that the Dominion of Canada took a more active part in the peace negotiations than many of the great nations, two Canadians sitting as representatives of the Dominion in the peace negotiations, while one of the three sat as the representative of the British Empire.

(d) All of these dominions and colonies were represented by ministers, who signed for their respective Governments, although Lloyd-George et al. had already appeared and signed, describing themselves as the representatives of "*His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British dominions beyond the seas, Emperor of India.*" These respective states appeared and signed by their duly accredited agents.

It is recited of those signing as follows:

WHO having communicated their full powers, found in good and due form, have AGREED AS FOLLOWS:

Then follows the peace treaty.

(e) These "self-governing dominions and colonies" were not only parties to the making of the treaty, represented by their duly authenticated agents, but the treaty itself has been submitted, or is in process of being submitted, for approval to the respective parliaments of these "self-governing dominions and colonies."

Within the past 30 days, after full consideration of the treaty, the Canadian Parliament solemnly approved the document.

All this seems to make a pretty conclusive showing of the question I am discussing, which is the full and complete membership of the British dominions and colonies.

Upon this point I present the further evidence that such is the construction of the British press and of the Canadian Government itself.

When the clause "any fully self-governing state, *dominion, or colony* may become a member" was written into the treaty, the London Times declared that as "the dominions are in this document recognized as nations before the world is a fact of profound significance in the history of these relations."

At about the same time British publicists declared the recognition of dominions and colonies of Great Britain as the equal of great States to be the finest triumph of British statesmanship in 200 years.

On September 3 Sir Robert Borden, Premier of Canada, in addressing the Canadian Parliament declared, in answering the inquiry, "What are the powers and what is the standing of Canada in the league?"—

The new and definite status of the dominions at the peace conference is further manifested in the constitution of the league of nations. Since they had enjoyed the same status at the peace conference as that of minor powers, we took the ground that the dominions should be similarly accepted in the future international relationship contemplated by the league. The league of nations commission, while inclined to accept this in principle, did not at the outset accept all its implications, as was apparent in the first draft of the covenant. This document, however, was professedly tentative. *The dominions' case was pressed, and in the final form, as amended and incorporated in the treaty of peace with Germany, the status of the dominions as to membership and representation in the assembly and the council was fully recognized. They are to become members signatory of the treaty, and the terms of the document make no distinction between them and other signatory members—*

Now, get this, for I am coming back to it—

*An official statement as to the true intent and meaning of the provisions of the covenant in that regard was secured by me and is on record in the archives of the peace conference.*

The British premier goes on to state that a similar question arose in respect to the constitution of the international labor organization and in substance declares that the representatives of the dominions and colonies forced its revision so as to recognize their status in that organization as it had been recognized in the league covenant. He then declared:

I hope the House will realize that the recognition and status accorded to the British dominions at the peace conference were not won without constant effort and firm insistence. In all these efforts the dominions had the strong and unwavering support of the British prime minister and his colleagues.

Further on he discusses the future of the British Empire, and in substance declares that the colonies are to be recognized as nations in their dealings with the British Empire itself, held together, however, by what he says is a British league of nations.

Referring back to the statement just quoted, I call attention to the clause in the statement of Sir Robert Borden—

An official statement as to the true intent and meaning of the provisions of the covenant in that regard (the status as to membership of the dominions and colonies) was secured by me and is on record in the archives of the peace conference.

That official statement filed in the archives of the peace conference was undoubtedly disclosed in the House of Commons of Canada on September 9 by Hon. Arthur Lewis Sifton, minister of public works, and one of the representatives of Canada at the Versailles conference, and one of the plenipotentiaries who signed the treaty for the Dominion.

After concurring generally in the statement made by Sir Robert Borden as to the struggles of the Dominion's statesmen to secure the full right to take part in the peace conference, he said:

*And, undoubtedly, they did work—*

The Canadian representatives—

*in conjunction with the permanent officials of the British Government * * * for the purpose of assisting in the formation of the treaty that would be of great advantage to Great Britain, to the advantage of the British Empire; and, as far as possible, a fair and honorable treaty for the world at large.*

That is the British view. It is a photograph of the British soul. I do not say that with unkindness for Great Britain; she is not a monster, but she is a great power that first secures great advantage to herself and then, *as far as possible, a fair and honorable treaty* for the other fellow.

I continue reading; I should not have broken the thread of my discourse. I read on:

That work—

That is, the work of securing this recognition—

was performed in connection with what I may call the peace treaty proper.

I continue reading:

The leader of the opposition contends that we can not take any part in the league of nations.

The President of the United States contends that they can not take any part in the league of nations; that they are only members of the council; that they have not any authority; that they are just admitted to a debating society. Let us see what these Canadians say:

The leader of the opposition contends that we can not take any part in the league of nations. Let me say that Clemenceau, President Wilson, and Lloyd-George disagreed absolutely with the honorable gentleman in that contention.

IN PROOF OF THIS HE SUBMITTED THE FOLLOWING LETTER SIGNED BY CLEMENCEAU, WILSON, and GEORGE:

The question having been raised as to the meaning of article 4 of the league of nations covenant, we have been requested by Sir Robert Borden to state whether we concur in his view that upon the true construction of the first and second paragraphs of that article representatives of the self-governing dominions of the British Empire may be selected or named as members of the council. We have no hesitation in expressing our entire concurrence in this view. If there were any doubt it would be entirely removed by the fact that the articles are not subject to a narrow or technical construction.

(Signed) G. CLEMENCEAU.
WOODROW WILSON.
D. LLOYD-GEORGE.

Dated at the Quai D'Orsay, Paris, the 6th day of May, 1919.

A debating society! [Laughter.] On the 6th day of May this letter was written. On the 19th day of September this body had so transformed itself that it had become a mere debating society in which votes are of no consequence, whether they are six or whether they are one!

Oh, memory, memory! How quick your footprints fade, and on the sands of time how futile it is to write the record of the years!

In view of this letter, which solemnly assures the Canadian statesman that the dominions were so fully recognized as members that their representatives were eligible to seats on the council, although the British Empire was already made a permanent member of that body, it would seem that argument ought to cease, and that any contention that the self-governing dominions and colonies are not received as separate and inde-

pendent entities with the full right of membership as independent States in every case, ought to be no longer heard.

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

The PRESIDENT pro tempore. Does the Senator from Missouri yield to the Senator from Massachusetts?

Mr. REED. I yield; certainly.

Mr. LODGE. I have listened to the reading of that letter signed by M. Clemenceau and by Lloyd-George and by the President. As I understand it, they declare that one of the self-governing dominions or colonies is eligible to a seat in the council.

Mr. REED. Undoubtedly.

Mr. LODGE. Which is the highest function.

Mr. REED. Yes, sir.

Mr. LODGE. But the distinction the President draws, as I understand it—the Senator will correct me if I am wrong—is that though they are eligible for the council they can not vote in the league. Is that about it?

Mr. REED. That seems to be it. [Laughter and applause in the galleries.]

The PRESIDENT pro tempore. Will the Senator suspend a moment? The Chair has a duty to perform, imposed upon him by the rules. He does not intend to interfere unduly, but he gives the galleries notice now that if there is further interruption in the course of the speech the Chair will regard it as his duty to clear the galleries.

Mr. REED. Mr. President, I hope the Chair will not be too hard upon the occupants of the galleries. It is the only chance the American people are having to express their opinion nowadays, although I am not criticizing the Chair—the Chair is absolutely right—and I am not seeking to have the galleries applaud. The Chair is right. We ought to observe the rule all the time. We have not observed it for about six or seven weeks. It is a good time to begin now.

The PRESIDENT pro tempore. Let the Chair be fully understood.

Mr. REED. I fully understand the Chair. The Chair is right.

The PRESIDENT pro tempore. The Chair is endeavoring to follow the custom adopted by the honored permanent occupant of the chair, and he does not intend to clear the galleries because there may be applause at the close of the speech of the Senator from Missouri [laughter]; but he can not permit the continuous interruption of the speech by expressions of approval or disapproval.

Mr. REED. Mr. President, I congratulate the President pro tempore. He has drawn a distinction almost as fine as that between moral and legal obligations. [Laughter.] Anyway, we get out from under the rule, and disregard it.

THE PRESIDENT'S CONTENTION.

*The President insists that the fact that the British Empire has six votes and the United States but one is utterly immaterial.*

In his speech at Spokane on September 15, he said:

There is another matter * * * that this covenant was an arrangement for the dominance of Great Britain. They base that upon the fact that in the assembly of the council six units of the British Empire are represented, whereas the United States is represented as only one unit. Alike in the assembly and the council, the vote of the United States is an absolute veto. *We can always veto, always offset, with one vote the British six votes. I must say that I look with perfect philosophy upon the difference in number.* (Quoted from the Washington Post, Sept. 13, 1919.)

On September 18 at San Francisco, in a written answer to questions propounded by a San Francisco league of nations organization, the President said:

But it is not true that the British Empire can outvote us in the league of nations and therefore control the action of the league, *because in every matter except the admission of new members in the league no action can be taken without the concurrence of a unanimous vote of the representatives of the States which are members of the council*, so that in all matters of action the affirmative vote of the United States is necessary and equivalent to the united vote of the representatives of the several parts of the British Empire. The united vote of the several parts of the British Empire can not offset or overcome the vote of the United States.

If it be true that the United States can always with its one vote offset the six votes of the British Empire, then it is equally true that with one vote the United States can offset the vote of the other 31 members of the league; for if six times one is one, or the equivalent of one, by the same kind of mathematics it is the equivalent of thirty-one.

The President's view is, however—and I want to state it fairly—that except upon the single question of the admission of new States the single vote of the United States can bar any action whatsoever by either the council or the assembly, because he holds that it requires unanimous action.

It grieves me to be compelled to differ from the President, but with all due respect I must insist that the President's statement is erroneous to the last degree. He utterly overlooks many controlling clauses of the agreement which he is now asking the American people to accept without proper time for debate or consideration. He disregards three important facts:

(1) *That when the United States is a party in interest it is denied the right to vote at all. If the case is before the council, it is determined by the members of that body not concerned in the dispute.*

(2) *If the case in which the United States is interested is removed to the assembly, again the United States, as a party in interest*, is barred from voting, but the British Empire has six votes in the assembly which it can cast either to create the necessary majority of the noncouncil members of the assembly, which, concurring with the decision of the members of the assembly, who are members of the council, will give to the decision of the assembly the full force and effect of a unanimous decision of the council. Upon the contrary, it could cast those votes in the opposite direction; but that is not material at this moment.

(3) In a controversy between the United States and Great Britain, where neither is permitted to sit in judgment, the five colonies and dominions are, as I have shown, and I think conclusively, as independent, self-governing bodies, permitted to cast their votes, and may either form the necessary concurring majority to make the unanimous decision in favor of Great Britain or they may be employed to destroy that majority, and thus deprive the United States of the effect of a unanimous decision.

All this I have sought to elaborate and demonstrate in the remarks heretofore made. I have already shown that the ability to command 12 votes out of the 23 noncouncil members of the assembly is the power to either give to a decision by the assembly the effect of a unanimous decision of the council or to render such decision utterly nugatory.

These facts are not to be passed by lightly. They can not be disposed of by flowers of rhetoric or obscured by generalization although couched in the most delicate diction.

What are the controversies which are to be thrown in the assembly and on which, being a party to the dispute, we can not sit and therefore can not cast the one precious vote which would negative, according to the President, all other efforts, and to which the President so impressively refers?

The controversies are "any dispute likely to lead to a rupture" (Art. 12) between the United States and any other country; all—

Disputes as to the interpretation of a treaty, as to any question of international law, as to the existence of any fact which if established would constitute a breach of any international obligation, or as to the extent and nature of the reparation to be made for any such breach. * * * (Art. 13.)

These questions, which cover the whole range of our possible international disputes and involve questions vital to our interests, may be forced before the assembly for decision.

Again, I repeat, when we are parties disputant we do not sit. We have neither voice nor vote in the decision. We are on trial. We are parties litigant, if indeed we are not haled before the tribunal like a prisoner brought to the bar of a criminal court. We therefore do not sit in judgment. We are not qualified for membership on the jury where our single negative vote might count.

Mr. JONES of New Mexico. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Missouri yield to the Senator from New Mexico?

Mr. REED. I yield.

Mr. JONES of New Mexico. I simply wish to inquire of the Senator what difference there would be in the position of the United States whether it had one vote or six in the contingency to which the Senator has just referred? Would the privilege of having six votes avail the United States any more than the one vote?

Mr. REED. If the United States had six votes she would be barred with her six votes, and she could not sit, and she could not count them; but her great antagonist—not in that controversy perhaps, but in a thousand others, and perhaps directly interested, but not on the surface—Great Britain, sits here on the jury and has six members of that jury. That is the side of the case that the Senator from New Mexico and other Senators can not see. When you give a nation six times the votes we have in every single controversy we have, where we are not in conflict with her, she has six times the power in the league that we possess.

Mr. JONES of New Mexico. Mr. President——

Mr. REED. Just a moment. As I have shown, and I think conclusively, if our controversy was with Great Britain the British Empire could not sit, but her five colonies could sit.

Mr. JONES of New Mexico. Assuming a case which was not one of dispute between the United States and Great Britain, but to which the United States and some other country would be the parties, does the Senator believe that the United States would be prejudiced from the fact that England and her colonies together had six votes? Does the Senator feel that the colonies of Great Britain would be any more apt to decide against the United States than any of the other nations parties to this league?

Mr. REED. Mr. President, that would just simply depend on the question. I start with the proposition that Great Britain now, as in the past, and in the future as in the past, is going to look out for British interests, and if a question arose between the United States and Italy in which the British Empire had a particular interest, the British Empire and her six votes would be cast solidly.

Now, let me give you a case out of my mind, although a man ought not to attempt a thing of this kind while he is on his feet. Let us assume the United States has a controversy with Belgium. We might as well talk plainly. Belgium only exists, and only has existed, because she is sustained by Great Britain. That is the reason, or one of the reasons, that Great Britain so quickly went to war in defense of Belgium, because she was a buffer State, put there to protect the British Channel. Let us assume that we get into a controversy with Belgium, and that that controversy with Belgium is of such a nature that its decision one way or the other will affect the interests of the British Empire in sustaining that State in a particular condition. I would not blame Great Britain, sitting in this political tribunal, that has not one of the attributes of a court of justice, if she voted in her own interest, as I know we would vote in our own interest if we had a man there fit to represent us.

I must proceed. I will give you an illustration. The controversy is with Japan. That country, like our own, is barred from voting. The case proceeds to judgment. The seven members of the council, sitting as members of the assembly, are closely attached to Japan, or to Great Britain, the friend and ally of Japan; the seven members of the council sitting with the assembly vote against us; but our case is not yet lost if we can secure the majority of the 23 members of the assembly who are not members of the council. Then we save a unanimous decision against us, and the question is open for us to take such action as we see fit.

But when the roll is called 12 of the 23 votes are cast against us and we learn to our dismay that 5 of these votes were cast by British dominions and colonies, following the lead and answering to the dictates of the Imperial Government. We also learn that the representative of Hedjaz, in the pay of Great Britain, has cast another of the 12 fatal votes, and that Siam, a vassal and corrupt State controlled by British influence, has added another fatal vote. We turn in dismay from the scene, when we hear called the names of Liberia, Haiti, and the other semibarbarous and venal States. Surely it can not be claimed that we can offset Great Britain's six votes with our single vote, for in that case we are not permitted to vote at all.

Let us go back to that illustration a minute. Mark you, the British Empire, as a member of the council, one of the permanent members, wants to decide against us, and has voted that way. The seven members of the council who are not members of the controversy between us and Japan have voted against us. Our only means of escape is to secure 12 of the 23 noncouncil members of the assembly, and 5 of those are Britishers. Will they not follow the lead of the parent States, and the vote already cast? Is that any advantage to Great Britain? Might it be a disadvantage to us?

That controversy, sir, if you please, is over the question of racial equality, the right of Japan to have her citizens land in California and enjoy the same privileges as the children of the native-born whites of that State. But when that controversy comes up, we find Great Britain, that made a secret treaty with Japan to rob China while China stood at her side, and kept that treaty a secret, from our President, at least, even while we were preparing for this war and winnig it—we find Great Britain now allied with Japan on this race question. Will it, sir, be of any disadvantage to us if she has six more votes in the assembly? The argument that it is not is an argument that is beneath the level of contempt, and does not warrant our reply.

There are some things fine phrases can not do. All the fine phrases that ever were coined in the brain of a phrase maker never changed a fact of life.

I now return to my text. If it be argued that the picture is dark, I answer that every page of history is black with similar pictures of selfishness, perfidy, and double-dealing. When the President was talking about his 14 points and the establishment of international justice Great Britain and Japan were secretly plotting the dismemberment of China. When Chinese laborers were expiring in the trenches beneath the blast of German artillery in the cause of the Allies their fatherland was being parceled out by their associates in the war and their sacred cities surrendered to their great rival and antagonist.

At the very time the President insisted that our soldiers were going over the trenches inspired by visions of world justice and dreaming the dream that the day of eternal equity had dawned, while, when they were dying beside British soldiers in the cause of Great Britain, British statesmen were concealing from the President the abominable and cruel treaties with Japan and Italy wrought out in the secret plottings and conspiracies of their diplomats.

Let a question ever arise in which the interests of Great Britain are strongly opposed to those of the United States, the six votes of Great Britain can be cast to our detriment or destruction, whilst we, sitting at the bar of a packed court, are denied the privilege of casting even one vote.

Now I want to summarize the powers of the assembly, this despised debating society. I can not allude to that thing without pointing to the arrant hypocrisy, I almost said knavery, of inviting nations of the world into an organization, sovereign nations, as equals, telling them they have a membership in one of those bodies, and then saying to them, "While you have a membership it does not amount to anything. You are mere children, fools, things that have been trifled with." And yet we proclaim that this is a great world democracy. If, sir, it be true that they have drawn 32 of the nations of the world into this league, and if they came believing in the doctrine of world democracy, and if having come in they have no power to vote in the assembly, no power that amounts to anything, if they are stripped of everything except the obligations of membership, then, instead of this being a world democracy, a temple of equality, it is a pitfall to which they have been lured, and instead of it being a great tribunal of justice it is a tribunal of power, where the mastership of the world is brought within the hands of four or five men, where three or four or five men can meet, as they have recently met over in Europe, and determine to send the armies of this country to fight and die in other lands.

The morning paper tells us that they have ordered the United States marines into Fiume. Will they fight, or is it a mere attempt to coerce Italian patriots into a surrender of a land they believe is theirs? Shall our strength be employed brutally to crush; and if so, at whose command? Is it the three or four men sitting in secret council 3,000 miles from the United States who order these troops into action? Beware ere you surrender the control of your own Government.

Now, I want to summarize the powers of this assembly.

THE POWERS OF THE ASSEMBLY SUMMARIZED.

Briefly let us summarize the powers of the assembly and the votes by which it acts.

(1) By a two-thirds vote the assembly can increase its own membership. It may so exercise this power as to admit every self-governing country, dominion, or colony, regardless of its size or the state of its civilization.

(2) The assembly can specify the guaranties which must be given by new members and dictate the strength of their military, naval, and air forces.

(3) The assembly by one-third vote, plus one vote, can exclude from membership any of the great European countries not named in the protocol. These countries embrace in the aggregate more than one-half of the white people of the world. By the exercise of the authority of exclusion, it may force the nations excluded into the organization of a rival league which would certainly result in a great conflagration. Upon the other hand, it might admit those with whom we have no desire for partnership or other intimate relations.

(4) The assembly can deny a member the right to withdraw by deciding it has not fulfilled all its international obligations and all its obligations under the covenant. The decision probably has to be arrived at by a unanimous vote; but the trouble is the unanimous vote must be secured by the assembly, and a single vote can probably bar a nation from withdrawing.

(5) *The assembly has the power in its discretion at any time to supplant four of the nine members of the council and to elect others in their stead.* This can probably be done by a majority vote.

(6) The assembly by a majority vote can prevent the council from creating additional permanent members of the council even though the council should unanimously vote for such increase.

(7) The assembly by a majority vote can prevent the council from creating additional general members of the council even though the council should unanimously vote for such increase.

(8) The assembly can by a majority vote prevent the council from appointing the secretary general, whom it has chosen by a unanimous vote.

(9) *Most important of all is the fact that the assembly is the court of final resort in—*

(a) *All disputes between members likely to lead to rupture.*

(b) *Disputes as to the interpretation of treaties.*

(c) *Disputes as to any question of international law.*

(d) *Disputes as to the existence of any fact which, if established, would constitute a breach of any international obligation.*

(e) *Disputes as to the nature and extent of the reparation to be made for any such breach of international obligation.*

*The above embrace substantially every conceivable international question, including those involving the vital interests of the country.*

*In none of these disputes is the United States permitted to sit or vote if it is a party to the dispute.*

*In all of them the unanimous vote of the members of the council may be nullified by the vote (as the league is now organized) of 12 noncouncil members of the assembly.*

(10) The assembly possesses a general jurisdiction over "all matters within the sphere of action of the league or affecting the peace of the world."

The grant of jurisdiction and authority is unlimited. Whether in such case the league must proceed by unanimous vote to make a decision binding or whether it acts by majority may be in doubt; if a majority vote is sufficient, then the powers of the league for affirmative action are tremendous and practically unlimited.

If a unanimous vote is required, then the single vote of any country could bar a unanimous decision and the case would stand, as would a case pending before the council in which that body failed to arrive at unanimous decision. That is to say, the contending nation would be at liberty to immediately go to war. There seems to be no reason why the assembly might not in all cases assert its jurisdiction with the result above indicated.

To argue that an organization possessing these great and fundamental powers is a mere "debating society" is to talk in the teeth of the fact.

IF THE LEAGUE IS CAPABLE OF PRESERVING THE PEACE OF THE WORLD, THEN IT MUST HAVE IMMENSE POWERS.

The assembly possesses the great basic controlling and creative powers to which I have adverted. It is to the league substantially what the stockholders of a corporation are to the body corporate. They can control its policy by electing its board of directors and by asserting the fundamental rights inherent in them as stockholders. To these rights I have elsewhere called attention.

THE LEAGUE.

*Its unlimited world jurisdiction.*

IN THE AGGREGATE THE LEAGUE IS GRANTED THE POWER TO CONTROL THE WORLD IN ALL INTERNATIONAL MATTERS AND IN ALL DOMESTIC MATTERS AFFECTING THE PEACE OF THE WORLD.

I come now to a discussion of the powers of the league in the aggregate, regardless of whether the particular powers are vested in the assembly or council. At the risk of repetition, I call attention again to the language of the covenant:

The *assembly* may deal at its meetings with any matter within the sphere of action of the league or affecting the peace of the world. (Art. 3.)

Notice the next:

The *council* may deal at its meetings with any matter within the sphere of action of the league or affecting the peace of the world. (Art. 4.)

Identical, word for word, except that the word "council" is submitted for "assembly."

Now listen, you who talk about debating societies——

Mr. JONES of New Mexico. Mr. President, I have been very much interested in what the Senator has been pleased to term the general powers of the league. I will ask the Senator, suppose the covenant had provided that the Senator from Missouri might on any occasion deal with any subject affecting the peace of the world. What effect would that have in the control of the United States?

Mr. REED. I do not know why the Senator asks a question like that. If it has any bearing whatever on the case, I do not get it.

Mr. JONES of New Mexico. With the Senator's permission, I will make the illustration a little plainer.

Mr. REED. If you will say that the Senator from Missouri sits as a member of the body and that that body can deal with any question that affects the peace of the world, and then if you will give him six votes like Great Britain, and the other nations one vote, I will show you what the Senator from Missouri will do. [Laughter and applause in the galleries.]

Mr. JONES of New Mexico. I am willing to assume that the Senator from Missouri has all the votes.

Mr. REED. All right.

Mr. JONES of New Mexico. Assuming that he has all the votes of the assembly and could cast them as he sees fit, I should like to inquire of the Senator how, through those votes, he could affect the sovereignty of the United States or affect the interests of the United States so far as controlling its action is concerned?

Mr. REED. My dear sir, because we have specifically agreed when we entered this league that substantially every international question that may ever arise between us and any other power shall be decided by this league, and when we surrender to a body of foreign gentlemen the right to say what the United States shall do or shall not do in great questions affecting its life, its death, we surrender its sovereignty to that tribunal, and I think if we do this we graze the edge of treason.

I have read these two clauses and I have hitherto commented on the all-embracing jurisdiction conferred upon the league. That does not mean anything, according to the Senator from New Mexico, and according to all the advocates of the league. We have driven you to a point where your only plea is impotency, powerlessness; but you forget that when you plead that you lack power, you plead that you are still-born.

Mr. JONES of New Mexico. I do not care to take the Senator's name, but we do not plead impotency. What we do plead for is that in the forum of the world discussion and conference and counsel will have a very potent effect in settling the world's questions, and while we contend that the assembly has no army and no navy and no police force, yet in the same way that the Pan American Union or The Hague conferences have influenced the world there will come great benefit to the world through this assembly, although it has neither army nor navy.

Mr. REED. In other words, we are going to meet and talk it over. In other words, this body that is to control the passions of the world and that is given this broad and general and sweeping jurisdiction can not do anything but meet and talk it over. Who can do it? What tribunal or what body of men have the power?

Mr. JONES of New Mexico. None, unless the governments, through their representatives in this league, should choose to exert power.

Mr. REED. Are you willing to put in that it is to be nothing but a debating society? If so, we can end this right now. You can not stand here in one moment claiming that you have a power great enough to control the world and all of its evil passions and in the next moment, when you are driven to the wall and demonstration is made that that power may destroy our Republic, you can not turn around and say it is only a debating society, it has not any power. There ought to be some good faith about this matter.

Mr. JONES of New Mexico. I agree with the Senator.

Mr. REED. If this thing has no power let us write it in the face of the instrument that it has no power. Let us quit haggling about words.

Mr. JONES of New Mexico. I will ask the Senator to point out what power it does have.

Mr. REED. I have been pointing it out for three hours. [Applause in the galleries.]

Mr. JONES of New Mexico. I use the word "power" in the sense of force.

Mr. REED. Let us see. Are we going to have some more quibbling? Are we going to say this thing is not a thing of power because it itself does not have an army and a navy, but it is a thing of power because its ipse dixit will set the armies and navies of the world in motion? If that is the dodge we are to have—and I do not apply it to the Senator, of course—there never was a shyster who stood before a jury in a justice court that had the impudence to make that sort of a plea. It has to be either something or nothing. It does not make any difference, sir, whether I myself am going by my own will to start 5,000,000 men marching across the earth armed to the teeth by my own direct command or whether I can by a recommendation send the same 5,000,000 men forth with poisoned gas and death in other forms.

Mr. JONES of New Mexico. May I ask the Senator if the recommendation results in that, does it not mean that the recommendation carries such a spirit of fairness and bears a proposition which is so vital to the peace of the world at that time, that all these nations will accept that recommendation and act upon it?

Mr. REED. No, no. Let me show you why. I am surprised that that question should have been asked. It means only that the recommendation shall have force in so far as the nations

want to obey it. Who might want to obey it? Germany's monarch concluded he wanted a world war, and he exercised the kind of influence about which the Senator is talking. He did not command the other nations to come forward, but he just intimated to his brother of Austria and his brother of Turkey and his brother-in-law of some other place that now was a good time to loot the world and clean it up generally, and so it appealed so much to their conscience that they immediately fell in line, just as the Senator's illustration points out.

Mr. JONES of New Mexico. Does the Senator expect the United States to fall into line under such circumstances?

Mr. REED. I do not know whether they would or not; there have been so many foolish things done. But they might fall into line to crush us, sir. The trouble with you gentlemen who want to overturn the world is that you set up a proposition of a great power and you forget it is only going to be for our benefit; you forget it may be used for our assassination. You assume that it is going to be marshaled under the banner of Almighty God, commanded only by archangels, seeking alone the good of mankind. You forget that it will be marshaled under the banners of great nations, bent upon doing exactly what England is doing now—grabbing the world—and we may be the victims of it.

But I say further than that, when the decision is rendered we are bound to respond. Have we still got to stand here and discuss that question? The United States agrees to defend the frontiers of every member of the league against attack; and, having made that agreement, are we still sitting here to argue we do not have to keep it; that we have the power to violate it, and, therefore, it amounts to nothing? I thought those who had uttered that sentiment had grown ashamed of it. To argue that the United States binds herself to abide by the decision of these tribunals, and then to say, "Oh, but we do not have to keep it; Congress can refuse to keep it in the future," is to say that the United States will break her word, regard her treaties as scraps of paper, write dishonor upon her brow, brand her soul as that of a faith breaker, and place us in the catalogue of the most despised people of the world.

So far as I am concerned, sir, if we ratify this treaty and agree to protect the frontiers of every member of the league and China shall attack Japan to get back Shantung, I will be compelled to vote, and you will all be compelled to vote, to send an army to Japan to defend against China. I will not sit here saying that I voted to ratify the treaty with a lie on my lips, with perfidy in my heart, with a contemptible purpose to break the treaty whenever I want to, for if I so act I shall brand myself as unworthy a seat at the council table of the world. The United States will not do it.

Oh, what a miserable position you find yourselves in. You come forward here pleading, "Here is a great power that will control the world." Answer: "It may hurt us." Your answer to that: "Oh, it has not any power; it is simply a debating society." Here is a mighty thing that can command the armies and the navies of the world, can put them in motion, set them sweeping overseas and marching across lands; therefore, danger. Your answer, "It has nothing but an indirect influence." Our answer, "Then your force is impotent." Your answer, "Oh, but our indirect force is quite as effective as a direct force." Mr. President, the gorge rises; I will not finish it.

I started to enumerate the powers of the league. It has power—

(2) To formulate plans for the reduction of armaments, which plans when accepted by the Governments can never be exceeded without the unanimous permission of the council. (Art. 8.)

(3) Advise touching the regulation of the private manufacture of arms, and pass upon the necessities of the members of the league not able to manufacture arms for themselves. (Art. 8.)

Will that be an indirect power, or will it deny armies to the nations of the world that may want at some time to establish independent governments? "Oh, it is only indirect; we are merely going to debate that, but are going to get it done." That is your logic. The league has also the power to—

(4) Appoint a permanent commission to spy upon the members of the league to ascertain whether they have given to other members full information as to their armaments, military and naval programs, and industries adaptable to warlike purposes. (Arts. 8 and 9.)

(5) In case of any external aggression or threat of danger, to advise upon the means of enforcing the obligations of article 10, which require members to defend each other against such aggression. (Art. 10.)

(6) To decide all disputes as to the interpretation of treaties; questions of international law; facts constituting a breach of international law; and the extent and nature of reparation to be made. (Art. 13.)

(7) Upon failure to obey decisions rendered, the council proposes what steps shall be taken to give effect thereto. (Art. 13.)

(8) To formulate plans for the establishment of a permanent court of international justice. (Art. 14.)

(9) To decide that a dispute is one of domestic or international jurisdiction. (Art. 15.)

That is in this league covenant.

(10) To decide whether a member has resorted to war in disregard of its covenants under articles 12, 13, or 15, the effect of such decision being to find the defendant guilty of an act of war.

(11) To decide that a member of the league has disregarded its covenants under articles 12, 13, and 15, and thereupon to—

Subject it—has it any power to subject a State?—to the severance of all trade and financial relations; and to prevent all financial, commercial, or personal intercourse between the nationals of the State found guilty and the other members of the league. (Art. 16.)

(12) To recommend to the Governments of the members of the league the military and naval forces and armaments they shall contribute to punish the State found guilty. (Art. 16.)

Are we going to obey, keep faith and furnish our boys, or are we going to repudiate the agreement? If we repudiate the recommendation, every other State will do so, and your league will fall to pieces. You can not have both a league of power and a league that is powerless. You can not go out and tell the American people one day—if I may drop into the vernacular, which is now permissible—that you have a prize fighter that can knock out anything that ever went into the ring and the next day or at the same time declare that he is paralyzed in both his legs and both his arms and that all he can do is to talk. [Laughter.]

(13) It has the power to declare any member of the league an outlaw. (Art. 16.)

Does that mean anything? The league tells you what it means. It means that all intercourse is to be cut off; that goods can not be shipped to you. You are excommunicated. I do not want for a minute to offend anybody's religious sensibilities, but the man who wrote what would happen to a State that was cast out of the league must have read a papal bull of excommunication written in the fourteenth century. I say that with the utmost respect for that great church. When you are excommunicated and put out of the league your nationals can not trade; trade is cut off; commerce is destroyed. This is the thing that they are going to do to us in the name of humanity, and after they have put all this economic pressure on us then they are going to recommend the naval and other forces necessary.

Let me once and for all explode this doctrine of modern humanitarianism. Humane war, if war can be humane, consists in a situation where brave men with guns in their hands stand upon the field of battle and each shoots at the other; each is there to fight and one or the other overcomes. That is war in its humane quality; but when you want war in its hellish quality, when you want the kind of war that is conceived in the womb of hell and given birth through the brains of fiends, conceive that kind of war where instead of men fighting on the field, and thus reducing one or the other to surrender, the babies at home are starved. Economic pressure is the last and final brutality of brutal war. They hope to break the line at the front by breaking the heart of the soldier at the front by pointing to him that his wife's face is pale and pinched; that from the teeth of starvation she draws back the lips of want; that the little baby at her breast is tugging at a dry font; that its limbs are wasting and that death is written on its sweet little countenance. That is what you call economic pressure, is it? That is the humane proposition of modern reformers. It is the most fiendish thing ever conceived. Poison gas is decent compared with it; the torch is respectable; the thumb screw becomes an instrument of love, and the lash only the gentle means of caressing your enemy.

Mr. JONES of New Mexico. Mr. President, I should like to inquire of the Senator if he has ever known of any war in the history of the world where the combatants did not strive in every possible way to prevent supplies going to their adversaries?

Mr. REED. I knew the Senator would get there. Of course, that has been done in wars——

Mr. JONES of New Mexico. Has there ever been a war when it was not done?

Mr. REED. And it has always been regarded as the most brutal part of war. Now, the Senator, standing with the prophesy of the millennium in one hand and in the other the dove of peace, proclaims with his lips that we will preserve the most damnable and hellish characteristic of war, and we will call it economic pressure. Why do you go back and argue for atrocities by saying that atrocities have heretofore been com-

mitted? I thought we were to have no more atrocities, but only sweet love, the lullaby of mothers mingling with the cooing of infants, the laughter upon the lips of men mingling with the songs of joy upon the tongue of childhood. And over yonder comes the glorious orb, the orb of the millennium, sending its wondrous colors into the night of ignorance and fear; and riding here in its full effulgence, riding upon the white horse of peace and of promise, is the distinguished Senator from New Mexico, the sun like a halo behind him, and in his hand he proclaims the new doctrine of the millenium: "We will win wars by starving babies to death!" [Laughter.]

Mr. President, let us see whether there is any power of war vested here.

(14) The council may take jurisdiction and decide disputes between members of the league and States not members and decide disputes between two States neither of which are members, whether the nonmember States consent or not. (Art. 17.)

(15) In the case just mentioned the council is expressly authorized to make war upon the States having the dispute. The language is:

> The council *may take such measures and make such recommendations as will prevent hostilities* and will result in the settlement of the dispute.

The right to take the measures aforesaid is the right to employ armed force and to make war. (Art. 17.)

"The council may take such measures * * * as will prevent hostilities." There is no limit to that. What are those measures? The international army that you know is going to be formed, the nucleus of which is now in Europe, where, according to the arrangement we have made, we have got to keep our troops for 15 years. How long do you suppose it will be, with the good internationalists at the helm, until we will be contributing? Why did the Secretary of War come before the Military Affairs Committee and testify that he had to have 500,000 troops? We never had to have them before. Why did the Chief of Staff swear that he had to have that 500,000 troops in order to comply with our obligations under the league? And why did Josephus Daniels ask for nearly a billion dollars to build fighting ships when there is to be no more war? How can you go out to the people of this country—how dare you go to the people—and tell the mothers that there will be no more war if this league is created, yet asking for the mightiest Navy that ever was constructed under any one order?

Mr. JONES of New Mexico. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Missouri yield to the Senator from New Mexico?

Mr. REED. I do.

Mr. JONES of New Mexico. If we do not have this league of nations, does not the Senator believe that we will have to have a large Army and a large Navy, and much larger than we would have to have if we did not have this league?

Mr. REED. Not at all, sir. Let me puncture that balloon. [Laughter.] It has floated around here long enough. Why will we have to have it? We got along here in this world very well for a long while with an Army of 25,000, without any Navy at all, and we built a few ships. Then they increased our Army, for our population had enormously increased, and we had what amounted to about a police force. In the days of Roosevelt and Taft we had an authorized Army of 75,000 to 85,000. Did we get along all right? Yes. Did anybody come over here to destroy us? No. Who is going to come now and destroy us?

Now, let us be honest. Let us be fair to the American people. Anyway, let us be fair to ourselves. A man may lie to his neighbor; he may lie to his wife; there may possibly be some reason for both at times [laughter]; but nobody ever ought to lie to himself. Who is going to destroy us?

Is it going to be Austria? We have rent her limb from limb, and have left her a dismembered State. She naturally might want to lick us, but what is she going to do it with? We have taken her guns. We have disarmed her.

Germany? Now, I do not think we need be afraid of Germany. There has been a good deal of talk about "putting up or shutting up," and I suppose it is temerity on the part of anybody, after having been challenged to "put up," if he dares utter a sentence; but I say, while I do not want to practice cruelty on the German people at all, that Germany ought to have been dismembered just as Austria was. She was put together about 50 years ago for the purpose of making a great war power. She embraced, I think, 26 principalities, independent States, and kingdoms, and she could have been taken apart for the same reason; but I waive that. She is disarmed. She is not allowed to make any guns. They have taken her coal mines. They have taken her ships. Is Germany to come over here and destroy us? And if she does, are England and France, that we rescued, going to stand there and see her come here? And if she does come, what will be her fate? Now, I assume that we are going to have sense enough next time to have some guns; and if you have the guns, the experience of this war has shown what will happen.

Well, Germany—anybody that is afraid of Germany for the next 50 years either reckons upon the fact that our associates over there are going to turn in and help her or he reckons without very much judgment.

Then who is going to do it, sir? Is it going to be England? The one great power that might hurt us is England. I am not so much of an Anglomaniac that I am sure she might not attempt it under some circumstances; but would England, with the blood of our sons yet fresh upon her banners, bespattered there by the shell and shrapnel fire of Germans, come over here to destroy us? If so, I want no partnership with her in the league of nations. [Applause in the galleries.]

Would France come—France, whose soil is made sacred by the dead bodies, the decaying dust of 50,000 American boys who went to their death with cheers upon their lips in the defense of France more than in the defense of ourselves? Will France come to pay us back in that coin of perfidy and dishonor which she would deal out to us were she to attack us?

Well, then, who will attack us? There remains but one possible nation, and that is Japan; and you, by this infamous treaty, propose to ratify the turning over to Japan of 40,000,000 Chinamen and to allow her to keep 20,000,000 Koreans, thus raising her for the first time in the history of the world to a great international power. Who is going to come over here and make it necessary to have this mighty army and this navy? And if Japan does ever come, to quote the phrase of another, we will welcome her with bloody hands to hospitable graves.

What is going to make this great army necessary? Is it true, now, that if we do not enter the league of nations France and Japan and Great Britain will join in a conspiracy to destroy us? If that be the quality of their civilization, if that be the character of these nations, then I join in the prayer of Thomas Jefferson: "Would to God that the Atlantic Ocean were a sea of fire, separating us forever from these other lands." If that be the kind and character of nations you are inviting into this partnership, then I say, pray God to forgive you for ever thinking of inviting them into a council with the United States.

These bugaboos will pass away. Of course, we will have some guns, and we will train our boys some, and we will have some ships; and if I were as sure of Great Britain's love and friendship as you gentlemen who advocate this league, I would not build the ships; but I am not quite sure of Great Britain.

Mr. JONES of New Mexico. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Missouri yield to the Senator from New Mexico?

Mr. REED. I do.

Mr. JONES of New Mexico. Then the Senator believes we will not need an army and navy, because the millennium has already arrived?

Mr. REED. Indeed I do not. I do not think we need this great army and navy because the conditions are to-day substantially what they were before the war, except that Germany has been whipped; England and France are bankrupt; the only nations that can hurt us are comparatively less powerful than they were before, and we do not need to have the millennium, or all go half crazy, and dream dreams, and see visions, and catch at things in the air [laughter] in order to escape the burden of great military establishments in this country.

Let me tell you something. There was a time when a lot of the people in the world—and I believe that is the reason why we got into this war—believed that the Yankee, as they call us, was a fat, sleek, overfed lounge-lizard; that he would not fight; that he could not fight; that he was chasing dollars, and had no spirit in him that made it possible for him to go out and die.

And so Germany threw the glove in our face. But that mistake will not be made again for a century of time. [Applause in the galleries.] They found out you can take a boy off an American farm and land him in France, and in two weeks' time he could go over the top with the best of them. They found out these soldiers did not need the discipline of camp and of military establishment. They already had the discipline of American citizenship. They found out that these men could laugh in the face of death, and that they could go down into the shadows with a smile upon their lips. They found out that we can raise 10,000,000 men, if we have to, and that all the powers of earth and hell can not whip us on our own soil. [Applause in the galleries.]

I am not scared about this thing.

I want to finish this speech. I am nearly through. I wish I had not permitted an interruption, because I have made the speech interminably long.

(16) To advise the reconsideration of treaties. (Art. 19.)

(17) To advise regarding the changing of international conditions whose continuance might, in its opinion, endanger the peace. (Art. 19.)

(18) To establish mandatories and determine what States shall be placed under tutelage and guardianship, and regulate the conditions and laws under which millions of their inhabitants shall live. (Art. 22.)

(19) As members of the international labor organization provided for in part 13 of the peace treaty, it undertakes in every part of the world, including the United States, to regulate the hours of work; the labor supply; the prevention of unemployment; the provision of adequate living wages; the protection of the worker against sickness, disease, and injury; the protection of children, young persons, and women; to secure provision for old age and injury; protection of the interests of workers when employed in countries other than their own; to secure recognition of the principle of freedom of association; and to bring about the organization of vocational and technical education and other measures. (Art 23; and pt. 13, art. 387.)

(20) It undertakes general supervision over the traffic in women, children, opium, and other dangerous drugs. (Art. 23.)

(21) It undertakes the supervision of the trade in arms and munitions with countries which, in its opinion, should be regulated. (Art. 23.)

(22) It undertakes the regulation of communication and transit of the commerce of all members of the league. (Art. 23.)

(23) It undertakes the prevention and control of disease. (Art. 23.)

(24) It assumes general jurisdiction and control over all international bureaus and commissions now established for the regulation of matters of international interest. (Art. 24.)

(25) It agrees to promote the establishment of Red Cross organizations to prevent disease throughout the world. (Art. 25.)

And now, on top of all these powers and as a capsheaf, I call attention to article 11, which provides:

Any war or threat of war, whether immediately affecting any of the members of the league or not, is hereby declared a matter of concern to the whole league, and the *league*—

Not the States, but the league—

shall take *any action that may be deemed wise and effectual* to safeguard the peace of nations. In case any such emergency should arise, the *secretary general* shall, on the request of *any member of the league*, forthwith summon a meeting of the *council*.

It is also declared to be the friendly right of each member of the league to bring to the attention of the *assembly or of the council any circumstance whatever affecting international relations which threatens to disturb either the peace or the good understanding between nations upon which peace depends.*

What I want to drive home is that the true construction of this article (c), its purpose and effect, was disclosed in the speech of the President at Indianapolis on September 4. He said:

Article 11 is my favorite article in the treaty. * * * *At present we have to mind our own business, but under the covenant of the league of nations we can mind other peoples' business.*

Very true, but at the same time we acquire the right under article 11 to "mind the business" of the other nations of the world we grant to them the right to mind our business.

When we enter the league the provisions of the covenant bind us the same as they bind all other nations. When they grant to us the right to "attend to their business," we likewise grant to them the right to "attend to our business."

When George Washington compelled Cornwallis to haul down the flag of Great Britain at Yorktown he established the right of the American citizens to attend to the business of America.

When Woodrow Wilson left the peace table at Versailles he had sought to grant the right to attend to America's business to the representatives of 31 alien nations.

Where Washington fought to establish the right of this Nation as a sovereign to control its own affairs, Woodrow Wilson counsels with the representatives of kings to transfer the sovereignty Washington gained to a league which they will dominate.

Dropping into common phraseology, and according to the President, when America acquires the right to "stick her nose" into the "business" of 31 alien States, she gives the right to 31 alien States to "stick their 31 alien noses" into the business of the United States. [Laughter.]

The man who is willing to give to any nation or assemblage of nations the right to mind the business of the American people ought to disclaim American citizenship and emigrate to the country he is willing to have mind America's business for her.

In this connection and as showing the bent of the President's mind, I quote the following from his speech at Kansas City on September 6:

I have, let me say, without the slightest affectation, the greatest respect for the United States Senate; but, my fellow citizens, I have come to fight for a cause. That cause—the league of nations—*is greater than the Senate. It is greater than the Government.* It is as great as the cause of mankind.

I decline to help set up any government greater than that established by the fathers, baptized in the blood of patriots from the lanes of Lexington to the forests of the Argonne, sanctified by the tears of all the mothers whose heroic sons went down to death to sustain its glory and independence—the Government of the United States of America. [Prolonged applause on the floor and in the galleries.]

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## APPENDIX.

### WHAT THE LEAGUE OF NATIONS MEANS FOR AMERICA.

[An address in Denver before the Colorado Bankers' Association at its annual convention, Sept. 12, 1919, by Lee Meriwether.]

"To every man there comes at some time in his life one moment bigger than any of the others, one supreme moment when a great decision must be made, a decision which may make or mar his career. So, too, it is with nations, and such a moment now confronts the American people. A grave problem faces us. If that problem is not wisely decided, the freedom we have thus far had from Old World wars will vanish forever. The splendid advantages resulting from our national youth and from our geographical position, 3,000 miles distant from the nearest of Europe's quarrelsome kingdoms and empires, will be thrown away; instead of being left free to decide for ourselves when it is our interest and duty to incur the terrible sacrifices always incident to war, America will be bound by solemn treaty to take part in any war that may break out in any part of the world. It will not be for the American people to say that American sons shall fight and die in foreign wars. Article 10 of the league of nations covenant expressly binds us to 'preserve the territorial integrity' of more than 40 foreign nations from 'external aggression'; and the same article says that the council of the league shall advise us 'upon the means by which' our 'obligations shall be fulfilled.' Mark well the word 'shall.' The league council, not the American people, decides when the American people must wage war, how many American lives shall be sacrificed, and how many American dollars shall be spent.

"For 125 years, by following Washington's wise advice to mind our own affairs, to let other nations mind theirs, and steadfastly to avoid entangling foreign alliances, America has waxed peaceful, powerful, and prosperous. In the 105 years ending in 1917 Europe fought one bloody war after another, but not into a single one of her more than 60 wars did it become either our duty or interest to enter. In 1917 an exceptional crisis forced us to fight a brutal military autocracy that had insulted our flag and murdered our citizens on the high seas of the world. Because we were obliged to wage this one war out of 60 wars that Europe fought in the nineteenth century it is now proposed to sign a treaty that binds us to take part in every future war that may be fought in any part of the world. And this regardless of whether those future wars have even a remote connection with American rights or interests.

"To justify this astounding policy men of high rank and official power preach strange doctrines and propound strange questions. They ask if we want to break the heart of Europe? Let us ask them if they want to break the heart of America, if they want to barter away the independence of America? No man wants to break the heart of Europe, but frankly, if forced to make a choice I would rather break the heart of Europe than crush the spirit of America and barter away the independence of my native land.

"The men urging us to abandon the policy of minding our own business, the men who want America to meddle in Europe's affairs, give no logical reasons for their amazing scheme. They deal only in glittering generalities. They support their position only by bold assertions. They talk only of visions and voices in the air.

"My friends, I, too, hear voices in the air—the voices of Washington, of Lincoln, of McKinley, of Grover Cleveland, of that great American, Theodore Roosevelt. I hear the voices of thousands of Americans who gave their lives that our country may live free and great and powerful. And these voices are beseeching me, they are beseeching you, my countrymen, to preserve America's independence. They beg you to keep out of Europe's race and religious wars. They implore you not to give away with the pen what Washington won with the sword. Whatever others may do, I shall heed these voices rather than the voices of internationalists who talk so much of the 'hearts

of men everywhere' that they forget the hearts of men in America; of dreamers who, to save the heart of Europe from breaking, are willing to break the heart of America; of visionary idealists who are willing to see America's sons fight and die in the wars of foreign lands with whose affairs America is not even remotely connected.

"The men who urge America to abandon Washington's advice to keep out of entangling foreign alliances, the men who want America to embark upon strange and stormy seas the opposite shores of which may be so rockbound as to dash our ship of state to destruction—these men deal in abuse rather than in appeals to reason. They denounce as pygmy minds with narrow vision all who prefer common sense to their visions and their voices in the air. Though they denounce my mind as pygmy and my vision as narrow, that shall not deter me from telling you frankly that my thoughts have ever been, and ever shall be, of my own people and of my own native America.

"Three years ago I went to France a nationalist; when I came back a few months ago I was more of a nationalist than before. No matter how blind a man may be, he can not remain three years in the Old World amid 57 varieties of peoples, 57 different races and religions, each race, each religion the age-long cause of uncounted feuds and wars and not become more of a nationalist, more of an American, than ever. When my war work in France ended and the clang and clamor of Europe's clashing interests faded from my ears; when at last I turned my back upon the many-tongued nations, each of them greedily grabbing the spoils awarded them as victors in a World War; when we entered New York Harbor and suddenly the Statue of Liberty towered high above us—ah, my friends, I confess to you that statue then seemed to me the most beautiful sight my eyes had ever beheld, and I understood what the soldier by my side meant when he exclaimed to the Goddess of Liberty:

"'Old girl, I love you; but if ever you want to see me again you'll have to turn your head and look toward the shore!'

"That soldier was content to remain the rest of his life in America. If another military colossus murders our citizens and insults our flag as Germany did, that soldier will be ready to cross the seas and fight again. But he will never be ready to cross the seas to fight in a war between foreign nations about controversies that do not concern either the interest or the duty of America. Where there is one world war in which America must perforce take a part, there are scores of small wars in which there is no reason on earth why we should interfere, and that soldier knows the league of nations covenant, as now drawn, will force us into those small wars, because article 10 of that covenant in express terms binds America to 'preserve as against external aggression the territorial integrity * * * of all members of the league.'

"If anybody attacks something you have pledged your honor to 'preserve,' the only way you can keep your pledge will be to fight the fellow who makes the attack. For instance, should China try to recover Shantung, which was carved by the sword out of her heart and given to Japan, not because Japan has a right to own a part of China but because Japan is strong and China is weak, that will be 'external aggression' by China against Japan—and article 10 binds us to preserve Japan's territorial integrity from 'external aggression.'

"Is it possible democratic America wants to fight for a despotic empire's 'right' to retain possession of another country's land; and that, too, of a country that is America's friend, of a country that stood by America's side in the fight against Prussian autocracy? China furnished men, ships, and money to help defeat Germany, and we reward her by assenting to Japan's forcibly taking from China one of her richest Provinces. Is not that shameful enough without pledging ourselves to use our fleets and armies to protect Japan if ever China seeks to undo the wrong done her? Suppose the Paris peace conference had given England New York; what would be thought of France if she not only assented to that crime, but if she also signed a treaty pledging the use of French armies and French fleets to fight us if we ever tried to take New York back again and replace it among our list of American States? Such a thing is, of course, unthinkable; the might and majesty of the American Republic is now known to all the world, and peace commissioners, when they rob a country of a Province, are careful not to select a rich and powerful Nation like ours. But the principle is the same. The Paris commissioners had no more right to give a Province of China to Japan than they had to give an American State to England. And so, fellow citizens, in spite of the great respect I feel for our President, I dare say to you, in first assenting to the rape of China and then in asking us to accept article 10, which binds America to guarantee Japan in the permanent possession of her ill-gotten spoils, President Wilson made a frightful mistake.

"Recently Archbishop Glennon, of St. Louis, said:

"'Every act of conquest, every acre of ground stolen, every land looted and taken over by the looter comes now, through article 10, for the world's benediction and protection.

"'And not only do we give through this article our approval and benediction to all the successful crimes of history, but we guarantee protection to the criminals!'

"Splendid words! Splendid archbishop!

"I am not a Catholic, but I am an American and I recognize, I admire, I love a patriot when I see him, regardless of his race, creed, or religion. America is fortunate in owning such patriots. And America is fortunate in having a Senate which dares do its duty in the face of popular clamor and despite the threats of men of exalted place and power. Those of us who remember our history recall that 20 centuries ago there was a republic whose dominion stopped only at the limits of the then known world. But that great republic became a despotism and the Roman Senate degenerated into a bunch of rubber-stamp puppets because it centered in Cæsar's hands, one after the other, all the powers of the Roman State.

"Thank God, my countrymen, that America's Senate scorns to make of itself a rubber stamp, that it refuses to make our Republic a one-man Government by placing in the President's hands all the powers of the American State. Though denounced as men who ought to be hanged, though by turns cajoled and threatened by the Executive power of our Government—a power far more absolute than that of many a kingdom or empire—the majority of our Senators dares to vote as their immortal reason and conscience bid them, and not as they are commanded to vote by a would-be president of the world.

SHALL AMERICA FIGHT THE BATTLES OF THE WORLD?

"Article 10 pledges us to 'preserve as against external aggression the territorial integrity' of all the nations which are now, or which may hereafter become, members of the league. That is, if any one of forty-odd foreign nations is attacked anywhere by anybody about anything, wholly regardless of the merits of the controversy, article 10 pledges America to fight for that nation. Are American mothers willing to make this pledge? Are they willing to sacrifice their sons to preserve from attack two score of foreign lands, all of them remote from our shores, many of them absolutely of no concern to either American duty or American interests? No matter how despotic a nation may be, no matter how righteous may be the effort of a people to break away from a despot's sway, if at any time in any land a fight for freedom is made, not only does article 10 pledge America to refrain from helping the patriots, as France helped George Washington's armies, but if any other nation helps them that will be 'external aggression' against the tyrant, and America will be obligated to use her fleet and Army to crush the patriots and help the tyrant.

"Fully to realize what frightful injustice article 10 is capable of working, let us apply it to American history.

"In 1776 had France been a member of a league containing such a pledge, instead of being free to help the American Colonies, she would have been in honor bound to help England the moment Von Steuben, Dekalb, Pulaski, Kosciusko, and other European lovers of liberty offered their swords to George Washington. Those men committed external aggression upon England's territorial integrity, whereupon, under her pledge to preserve England's territorial integrity, France automatically would have been required to use her fleet and army to fight the American Colonies instead of to help them.

"In 1898 we helped Cuba free herself from Spain, but had we then been a member of a league containing article 10 we would have been bound to stand aside while Spain crushed the Cubans. If, our hearts melted at the sight of suffering inflicted by Spanish tyranny, we had disregarded our treaty obligations and in spite thereof had gone to the aid of the Cuban patriots, then England, France, and every other member of the league would have been bound to attack the United States. For only by attacking us could they have fulfilled their pledge to preserve Spain's territorial integrity from external aggression. Our aid to the Cubans certainly was "external" aggression upon Spain; it resulted in Spain's losing a part of her territory—Cuba. But does any American regret the aid given to the islanders who fought so long for freedom? Does any American wish that in 1898 America had been a member of a league which would have obligated her to preserve Spain's territorial integrity?

"Do the proposers of the Paris plan think the time will never recur when a people may again be as right in fighting for free-

dom as were the American Colonies and the Cubans? And when that time comes again will Americans wish to use their fleet and Army to preserve the territorial integrity of the State, perhaps despotic State, against which the patriots of a future day will be struggling for freedom? Will they not rather wish to do as our fathers did—extend a helping hand to the patriots? The world may well wish to preserve the territorial integrity of a peaceful little State like Belgium when attacked by a military collosus like Germany, but what liberty lover will wish to preserve the territorial integrity of a despotic empire whose people demand liberty? Article 10 does not discriminate between a France helping American patriots, or an America helping Cuban patriots, and a Germany attacking Belgium. Technically, in 1776, France was as guilty of external aggression against England as in 1914 Germany was guilty of external aggression against Belgium. But morally the two cases are as wide apart as the poles, and article 10 ought to recognize that difference instead of regarding them both in the same light, and imposing the same penalties for a French aggression upon England for the noble purpose of helping the American Colonies in 1776 as for a German aggression upon Belgium in 1914 for the wicked purpose of gaining despotic mastery of the world. Article 10 will prevent a future France from helping a future infant nation win liberty from a future kingdom that may be as despotic as the Tory England of 1776.

"Article 10 is further open to the objection of being one-sided. It is as if a bankrupt gambler should say to a man who has prospered because he has worked hard and lived justly: 'You guarantee me and I will guarantee you.'

"Fine, surely, for the gambler, but is it fine for the other man? For centuries Europe's states have fought and persecuted one another in race and religious wars. Our ancestors got so tired of their eternal wars, they quit Europe and founded homes in a new world, where by minding their own business they have grown great and prosperous. But Europe kept on with feuds and fights; in the last century there was a war in Europe on an average of every other year—more than 50 wars in 100 years. Europe became bankrupt. And so now it says to us: 'You guarantee me and I will guarantee you.'

"With colonies all over the world England is liable to get into a row anywhere at any time. The United States, compact and geographically isolated, in all her history has never been attacked except by one power—England—and that was a century ago, when we were small and feeble. There is no reasonable probability that any state will again cross thousands of miles of ocean to attack the powerful people we have now become, and surely America has nothing to fear from Mexico, Costa Rica, or any other of our near neighbors. Therefore, in return for preserving us from dangers which do not exist we are asked to agree to fight in any part of the world where any of England's possessions—loot acquired in the wars of three centuries—may be made the subject of 'external aggression.' Suppose Uncle Sam and Miss Britannia are in a ballroom where people constantly trip over Miss Britannia's long train dress, and Miss Britannia says: 'Sam, if you will fight every man who steps on my long train gown I'll fight every fellow that steps on your pants.' Would that be fair play? Would Sam agree to such an arrangement simply because Miss Britannia called it 'reciprocal'?

SHALL AMERICA NOT ONLY ASSENT TO SHADY, SECRET BARGAINS, BUT ALSO SPEND AMERICAN MONEY AND SACRIFICE AMERICAN LIVES TO MAKE THOSE BARGAINS A PERMANENT SUCCESS?

"In February, 1917, after our diplomatic relations with Germany had been ruptured, when it was certain we soon would be in the war, Japan said to England:

"'We will let you take all the islands in the Pacific Ocean south of the Equator if you will let us take all the islands north of the Equator, and also the Chinese Province of Shantung containing 30,000,000 people and rich lands, railroads, and mines.'

"England agreed, and so at the Paris peace conference, despite the raw injustice of the deal, despite the fact that President Wilson himself declared it immoral and unjust, it was consummated; and now America is asked not only to sanction the deed but to 'preserve' the spoils of that secret bargain to the two nations who engaged in it. Shantung is as much China's to-day as it was before the Paris peace commissioners gave it to Japan, and while America may not care to fight Japan in order to compel her to return stolen goods, surely it would be infamous were America to help crush China if, as is probable, she should some day seek to drive the Japanese out of China back to Japan where they belong. Article 10 pledges America to do precisely this infamous thing; hence for this reason if no other the Senate should refuse to ratify the league of nations covenant as it now is drawn.

EVEN AMERICA'S RIGHT OF SELF-DEFENSE IS RESTRICTED BY THE LEAGUE.

"Under article 8 of the league covenant the representatives of foreign nations advise America what size fleet and army she may have; and, once the size is agreed on, it can never be increased except by the unanimous consent of those foreign nations.

"Suppose, because of frightful conditions in Mexico, or because of any other reason, an increase in the size of the American Army becomes necessary; as things now are it is the American people who decide that question, and add to their armed forces as they think their dignity and safety require. But under article 8 America must go hat in hand and ask the permission of eight foreign gentlemen sitting in a world capital at Geneva, Switzerland. And if a single one of those representatives of European and Asiatic kingdoms and empires says 'No,' then America must come home again, like a whipped cur with its tail between its legs, powerless to defend itself, powerless to add a single soldier to its Army or a single ship to its fleet because, forsooth, one of eight foreign gentlemen in Geneva refuses his gracious consent! Is it possible any red-blooded American can approve this shameful abdication of his country's sovereignty? Can any patriotic American approve a treaty which thus puts our proud Republic of 100,000,000 people at the mercy of any one of eight foreigners, representatives of kingdoms and empires, none of which loves us over well, and some of which would gladly see the American eagle plucked of its feathers?

AMERICA CLASSED BY THE LEAGUE WITH HAITI AND HEDJAZ.

"Article 3 gives Great Britain six votes in the league's assembly, America one. Even in passing on American questions Great Britain will have six votes to our one. We, with a hundred million population, are given only the same voting power as is given the Negro Republic of Liberia, in Africa; the nondescript kingdom of Hedjaz, in Asia; and the semisavage island of Haiti, in the Carribean Sea! I admire the many splendid pages written in history by England, but why give her, why give any foreign nation six times the voting power in the assembly of the league of nations that is given our own Republic?

"My countrymen, I assert—and I weigh my words as I speak—that it is a shameful betrayal of America's greatness and glory to give England six votes to our one, and to rank our Republic, with its hundred millions of the most civilized, intelligent people on earth, alongside the half-baked, semicivilized black and brown republics, kingdoms and republics on the continents of Europe, Asia, and Africa, and on all the islands of the Seven Seas! But Great Britain is given at the start six votes, and, because of her far-flung Empire, of her influence in all parts of the globe, she will dominate the votes of a number of other nations.

"The vision-voices-in-the-air statesmen answer this in two ways: First, they say India, Canada, New Zealand, Australia, and South Africa will vote as individual entities, not as parts of the British Empire, and not as Great Britain wishes them to vote; and, second, they say it really does not matter how many votes Great Britain has, since everything must be unanimous, and one vote is as good as a dozen to block any move or prevent any policy that a nation does not like. Were this second answer founded on fact, it would mean that this league-of-nations scheme, which is heralded as the greatest achievement of man since Magna Charta was wrung from King John at Runnymede, is in reality an impotent instrument; it would mean that the single voice of a half-savage Asiatic kingdom like Hedjaz or a black island Republic like Haiti could veto and prevent the efforts of all the great nations of the earth to effect some vital reform. But the answer is not founded on fact.

"On many vital questions a majority of the votes cast in the assembly of the league of nations is sufficient to adopt or reject a given policy. This being so, it is obvious that Great Britain will dominate and control the assembly because of her six votes to start with, and because of her great influence over most of the other nations represented in the league. France could not remain a great power if England were hostile to her; Italy, which projects like a great boot into the Mediterranean, has 1,500 miles of coast line to defend. Were England hostile to Italy the Italian nation's supply of food and coal would be cut off and the people would both starve and freeze. In any controversy between England and the United States, no matter how right Italy and France may believe the United States to be, is it certain they will be willing to incur the enmity of a near-by and powerful nation merely to do abstract justice to a distant country from which they have nothing either to fear or to hope? They may do so, but so may the friend and

neighbor of your opponent in a lawsuit decide the case impartially. But what would be thought of a lawyer who accepted as a juror the son or brother, or even an intimate friend, of his client's opponent? And yet our objection to giving England six votes as against America's one is met with the reply that England's colonies and dominions will vote to suit themselves and not as England wishes them to vote! On matters concerning only themselves no doubt they will vote to suit themselves, but where there is a controversy between England and America that does not affect any of England's dominions, to doubt that those dominions would be partial to England is to ignore the commonest principles which govern men, and which will continue to govern them as long as it is human nature to think of yourself, of your family, and of your friends before you think of strangers whose welfare is less dear to you and whose good or ill will is of less importance to you. Applaud England, if you will, for the great work done by her in the war, but for our own sake and our posterity's sake let us not give back to England the independence we forced from her at the point of Washington's sword. And that, my friends, is what we shall be doing if we accept this English-drawn covenant which gives England six votes at the head of the table, while the great American Republic is seated at the foot of the table alongside Hedjaz, Haiti, Liberia, and the other petty nations of the world.

"When, a few years ago, Japan connived with Mexico to obtain a naval base in Magdalena Bay south of California, our enforcement of the Monroe doctrine caused Japan to withdraw. Had the league of nations been then in force, the matter would have been referred to the council at Geneva, Switzerland, a council dominated by Great Britain, herself anxious to get a footing in Mexico, where there are oil fields capable of furnishing fuel to the British Navy for centuries. Is it likely such a council would respect our Monroe doctrine? But even if a square deal could be obtained from the council, under article 15 either Japan or Mexico would have the right to refer the dispute to the assembly, a body in which Haiti, Siam, Liberia, and the other 'half-baked' backward nations of the earth each have a voting power equal to that of the United States!

"Twenty years ago, when England trumped up a pretext to seize Venezuela, the strong, rugged President then in the White House lost no time asking European and Asiatic nations to make England behave. Grover Cleveland politely but firmly told England to get out of Venezuela, and England got!

"When Germany harbored designs upon South America and sought a footing where her guns might dominate the Panama Canal, Roosevelt did not ask the consent of eight men representing European and Asiatic nations to tell the Kaiser to stay on his own side of the ocean. Roosevelt bluntly told the German ambassador if the Kaiser did not abandon his designs upon South America, Dewey would go with the American Fleet and shoot the Kaiser out of South American waters!

"In 1866, when France installed an emperor in Mexico, America did not seek Europe's and Asia's consent before telling France we did not want an empire set up across our Texas border. We told France to get out or we would put her out!

"If ambitious European and Asiatic potentates again threaten our national safety by such encroachments, shall we settle those vital American questions ourselves, or shall we submit them to an executive council wherein America will have but one vote, and where the other eight votes will be cast by representatives of Old World nations, whose interests are different from and often opposed to ours? The best of European and Asiatic powers love America none too well; the best of them would not be averse to destroying our predominance in the Western Hemisphere; the best of them, if it could, would not hesitate to plant its flag on American soil.

"It is said America need not worry over the fact that opposed to her one vote will be eight votes of European and Asiatic nations, because the Paris plan confers no real power upon the executive council of the league; that the council may only 'advise' and 'recommend.' In several of the 26 articles very specific and very serious powers are conferred upon the executive council. But apart from those articles, and considering only articles 10 and 16, which say the executive council shall 'advise' and 'recommend' what 'effective or naval forces' shall be used to protect the pledges made by the States members of the league, let me observe that a treaty is not needed to confer the power to 'advise' or 'recommend.' Anyone has the right to recommend anything to anybody. If these articles merely confer a right which everybody in the world already has, then they are superfluous. Of course, the fact is that article 10 binds each and every nation in the league, at least morally, to do what the council advises. If this is not the case, if our promise to preserve the territorial integrity of other States does not mean that American armies and fleets will fight for those States if and when they are attacked; if our pledge will be fulfilled merely by writing a note telling Russia, Germany, or whatever power attacks a fellow State member of the league that such an attack is naughty—if that is all our promise means, then, of course, the Paris plan is not subject to the objection that it may involve America in wars regardless of America's wishes and regardless of the merits of the particular case. But if that is all the plan means, then the pledge to preserve other nations' territorial integrity will not be worth much either to them or to ourselves. And if that is all it means, the fact should be precisely stated, for lack of a precise statement as to whether a State did or did not have a right to secede the Constitution of the United States led to a civil war. But it is absurd to say article 10 would not bind America to fight for foreign nations. The language is too plain to dispute. Moreover, President Wilson himself stated at the recent White House conference with the Senate Foreign Relations Committee that under article 10 the United States will be under the 'strongest possible moral compulsion' to fight for any State member of the league that becomes hereafter the subject of 'external aggression.' What America is morally bound to do America will do. So the question is this: Shall we accept a treaty which means that American boys must fight and die for foreign lands whenever any one of those foreign lands is attacked by another nation? Speaking for myself, I shall always be willing to fight for America, and may sometimes be willing to fight for foreign nations, but when I fight for foreigners I want to be sure their cause is a just one. I do not want to fight on Japan's side if some day China tries to take back from Japan her stolen Province of Shantung. If compelled to fight in a Chinese-Japanese war, I would choose to fight for rather than against China. Article 10, however, leaves America no choice; in advance it pledges America to fight for Japan despite the fact that President Wilson and all of the American peace commissioners have recognized the injustice of giving Shantung to Japan and have protested formally against the wrong.

ARE WORLD CONDITIONS SO CHANGED THAT AMERICA CAN NO LONGER KEEP OUT OF EUROPE'S WARS?

"They who say the world is now so small that America can not stay out of Europe's troubles forget that in the recent war, as in all other wars for a thousand years, the English Channel enabled England's fleet to save England from invasion; and the English Channel is only 20 miles wide. With 3,000 miles of ocean to our east and 8,000 miles of ocean to our west, we, with our great population and resources, are practically invulnerable. Where is there in all the world a nation which has the power, even if it has the desire, to cross thousands of miles of water and conquer 100,000,000 people? There is no such nation, yet in order to escape a danger which does not exist some people urge America to pool its fortunes with the bankrupt States of Europe and Asia. If we follow this advice, America will lose the splendid advantage of her national youth, of her freedom from ancient feuds, of the vast benefits resulting from her geographical position—and gain what? A partnership in the jealousies, in the race and religious hatreds, in the age-long quarrels of the Old World! The world so small that America can no longer keep out of Europe's troubles? Why, for one European war big enough to involve America there were in the nineteenth century 50 European wars into which neither our duty nor our interest required us to enter. In 1812 England dragged us into the Napoleonic wars; in 1917 Germany forced us into the recent World War. But between 1812 and 1917 America enjoyed a profound peace, so far as European wars were concerned. Was this because there were no European wars? No; in the 105 years between 1812 and 1917 Europe had scores of wars. France blazed with revolution in 1830, as did all Europe in 1848. In 1856 England, France, Italy, Turkey, and Russia shed rivers of blood in the Crimea. There were frightful wars in two-thirds of Europe's States in 1864, 1866, 1870, and 1876. In 1897 Greece and Turkey cut each other's throats, and in 1899 England assaulted and crushed two small republics in South Africa. In 1905 Japan and Russia went to war, as did Serbia, Bulgaria, Greece, and Turkey in 1912, and again in 1913.

"If it be said none of these wars would have happened had there been a league of nations, we may admire the sincerity but we will hardly respect the judgment of the man who thus argues. Race antipathies being what they are, nations being so prone to resort to force to grasp what greed suggests, the man who asserts that a paper agreement to be good will make

men good must be either ignorant of history or must have a faith as beautiful and, alas! as groundless as is the faith of a child in Santa Claus.

"A striking illustration of this fact has occurred in our own time. In 1878 the congress of great powers at Berlin decreed, among other things, that the two Balkan States of Bosnia and Herzegovina should be free. Austria was to be their 'mandatory,' but all the powers of Europe solemnly promised to preserve the independence of those two Provinces. Thirty years passed; then without a word of warning Austria annexed Bosnia and Herzegovina and raised above their soil the Austrian flag. I happened to be traveling in those Provinces at the time Austria thus defied the great powers; Austrian soldiers were everywhere; the air was thick with rumors of war; Russia growled, England, France, and the other powers protested, but there was no war. Were it possible to turn an X-ray on the Austrian cabinet just before it decreed the annexation of the two forbidden Provinces we would find some of the more timid, or the more law-abiding, members of the cabinet saying to Baron Burian, the prime minister, 'All the great powers are pledged to protect Bosnia and Herzegovina; Austria can not stand up against all the great powers; therefore your policy, Mr. Prime Minister, will bring us not two Provinces, but a disastrous war.'

"Whereupon Baron Burian answered:

"'Gentlemen, much water has passed under the mill since 1878. Since then England and France have stood face to face at Fashoda, in Africa, on the verge of war. Italy has had her hands badly burned in Tripoli. The Russian bear's claws have been clipped by Japan. Do you think those countries have nothing better to do than go to war about a couple of Balkan Provinces? Nonsense. They will not do it. They have too much sense to wage war about a matter that in no way affects their own interests. Now, while they are busy trying to settle disputes that have arisen between themselves, now while they are harrassed by domestic problems that have arisen within their own borders—now, gentlemen, is the time for Austria to seize these rich Provinces. We can do so safely. The powers will grumble, but they will not incur the stupendous sacrifices of war merely to keep a foolish pledge made 30 years ago at Berlin.'

"The event proved Burian was right. The powers did grumble, but they did not declare war, and Austria retained possession of the two Balkan Provinces. Will not history repeat itself? President Wilson urges that Fiume be denied to Italy and given to the new Slavic nation, but will that lessen by a hair's breadth Italy's conviction that of right Fiume should be Italian? Six hundred years ago, in his 'Divine Comedy,' Dante said the steep mountain chain rising north and east of Fiume is Italy's natural boundary line. For six centuries Italians have believed with Dante that Italy's safety depends upon her control of the Adriatic's eastern shores, that only by such control can Italy safeguard herself. Every now and then during the past dozen centuries Venice, Ravenna, Bari, Brindisi, and other Italian cities have been plundered by the Slavs, the Turks, and the other fierce peoples of the East who poured through the Balkan mountain passes, descended to the Adriatic, crossed its narrow channel, and brought fire and sword to the Italian people. Will a mere paper decree, that hereafter men must be good and not attack their neighbors, convince Italy that she need fear no more attacks by her only half-civilized eastern neighbors? Certainly not; therefore what sensible man believes the decision of the Paris peace commissioners has changed the six-century old conviction of the Italian people that Italy ought to control the Adriatic Sea? If some years hence a future Italian prime minister follows Baron Burian's example—proposes to his colleagues to seize Fiume, which in 1919, according to the Italian view, was so unjustly awarded to the Slavic nation, will not that future cabinet discussion be a duplicate of the 1908 cabinet debate in Vienna? Shall we not hear one of the Italian cabinet say: 'Mr. Prime Minister, the league of nations is pledged to preserve the Slavs from external aggression. To seize Fiume will be external aggression, which according to article 10 means all the world will jump on us. Surely you do not imagine Italy can withstand all the world?'

"And we can hear the future Baron Burian reply:

"'Gentlemen, much water has passed under the mill since 1919. Trade disputes have arisen between France and England. Japan is not now pulling England's chestnuts out of the fire; she is too busy digesting the Provinces she stole from China. As for America, she accepted the sacrifices of war in 1917 because a military giant sank her ships and murdered her citizens; also because America knew if the German giant mastered Europe he would next try to master America. America had to get into that war, but America has no interest in Fiume; she is busy with troubles of her own, so you may rest assured, gentlemen, she will not accept the tremendous sacrifices of war merely to preserve Fiume to the Slavic nation.'

"When this or some similar crisis occurs will America forswear her promise to protect the Slavs from external aggression? Or will she send her fleets and armies across the ocean to fight Italy and prevent her from realizing her aspiration of 600 years? One of these courses she must pursue if she signs a treaty containing article 10, but the adoption of either course would be extremely unwise, extremely unfortunate for our national honor and for our welfare as a people.

"In 1787 some men feared the Federal Constitution would be a failure; their fears proved unfounded. Therefore fears that the league of nations will not work are unfounded.

"Thus argue the brilliant statesmen who see visions and hear voices in the air. Let us see if this argument squares with common sense. Once, when Uncle Sam proposed a partnership with Tom and Jerry, Mr. Doubting Thomas said all partnerships are doubtful affairs and predicted this one would not work. Uncle Sam said: 'Of course partnerships are uncertain, but Tom and Jerry are friends whom I have known for a long time. They live near me, and the interests we have in common will move us to bear and forbear when differences arise between us.'

"The partnership was formed, and even though they all knew each other and had interests in common it came near failing; in fact, they fell out with one another and fought like cats and dogs for four years. However, on the whole, the venture proved successful. Then, later on, Uncle Sam was invited to form a partnership, not with men he knew or whose interests were identical with his, but with a job lot of fellows who spoke 57 different languages, professed 57 different religions, and lived in remote parts of the world. Some of them were only half civilized, many of them were jealous of Sam's prosperity, and all of them were either anxious to borrow his money or to get a foothold on some part of his big farm. Will Uncle Sam be considered wise; will he be suspected of having even ordinary common sense if to this invitation he replies:

"'There is no use for anybody to warn me against entering this partnership. In 1787 Doubting Thomas said a partnership with my friends and neighbors would not work. Well, it did work, so now I believe in being partners with anybody and everybody in the world. I will not even draw the line at fellows like John Bull, who speak my language and have had some experience in business affairs. I mean to tie up with fellows of all races, religions, and languages; with fellows who are civilized, half civilized, and savage. If I can get along with Americans, why can not I get along with the wandering Arabs of Hedjaz, with the black voodoo worshippers of Haiti, with the turbulent Turk, with the inscrutable Japs, with the groveling creatures of all the backward countries of Europe, Asia, and Africa?'

"If Uncle Sam talks like this, no doubt he will thereby qualify as a vision-voices-in-the-air statesman, but what will be said of his sanity? And what will happen to his new partnership? Will he not quickly learn that the success of a partnership depends upon the character of the partners and the mutuality of their interests?

"The dreamers also say: 'Individuals no longer settle their own disputes; they refer them to courts of law. Why, then, may not nations settle their disputes by law instead of by arms?'

"Arbitration between nations is a splendid thing. By all means aim at that ideal; but it would be a fatal fallacy to disarm our Nation, make it as powerless as China, and trust to some untried world court to secure the rights, the happiness, and the prosperity of the American people. Those who, because individuals disarm themselves and settle private controversies in a law court, think, therefore, nations may do the same, lose sight of the limitations of human nature and human capacity. By expanding his plant and employing 40,000 men, Mr. Ford increased his factory efficiency. Because of this will anyone say the greater the plant and the more men employed the greater will be the factory's efficiency? Forty thousand may not be the limit to which man may go without reaching the point where size will be a drawback instead of an advantage, but that there is a limit somewhere can not be doubted. Certainly no man nor set of men can successfully manage a hundred million employees. Just where the limit lies I shall not venture to say, but certainly somewhere between Mr. Ford's 40,000 and a hundred millions there is a point where the plant would break of its own weight, a point where it would be physically and mentally impossible for any finite human in-

tellect to grasp all the details and coordinate them into a successful whole.

"The American people have succeeded beyond their expectations, and despite the prophecies of Mr. Doubting Thomas, in welding 48 States together. Does it follow that they can weld the whole world together? A citizen of one American State may say, 'The other 47 States are in the same boat with my State. We all speak the same language and have the same general interests; hence there is a good chance that we may get along together.'

"The citizens of the other American States feel the same way about it, and, barring one question which all the courts in America were not able to settle, a question that only four years of bloody civil war were able to settle, the plan has worked well. But because you can get along with friends and neighbors, does it follow that you can get along with a thousand fellows you never heard of, fellows some of whom are only half civilized, many of whom are greedy and grasping, all of whom are remote from you and opposed to you by reason of age-long race and religious passions and prejudices? You are willing to submit your private grievances to a Chief Justice of the United States, because you know him. Because, too, if he proves inefficient or unjust you can impeach him and choose a Chief Justice who will be efficient and just. But what will Americans know of the supreme judges of the world? Who will choose those judges? If they prove inefficient or unjust America can not remove them. Who can? And how can they enforce their decisions? Suppose a question of immigration arises. No country in the world has anything to fear from American immigration, but there is hardly one of the densely populated countries of Europe and Asia that does not look longingly at America's vast expanse of almost virgin land. A dispute arises, say, over the right of Japanese to settle in California. America claims this is a domestic question; Japan says it is not. The supreme court of the world is called on to decide the dispute. The judges of that court are composed of men from European and Asiatic kingdoms as anxious as is Japan to have the right to send emigrants to America. If they decide the dispute in Japan's favor, shall America abide by the result, as an individual abides by a decision of the Supreme Court at Washington?

"My friends, I have not time to make, nor have you the patience to hear, a detailed argument of this phase of the question; what I have said, however, may suffice to indicate the fallacy and the danger of settling great questions of State on lines of pure theory, leaving out of the account the limitations of human nature. The individual does well to throw away his gun and let local courts settle disputes which arise with his neighbors; a county does well to join with other counties and let county disputes be settled by a State supreme court.

"The 48 American States do well to let their disputes be decided by a Supreme Court at Washington. For we are all Americans; we all live in one country; we know one another and have national interests in common. But because these things are so, it does not follow that there is no limit to the principle. I am content that my home State, Missouri, shall be subordinate to the United States, but not in the present state of civilization, or rather lack of civilization, would I be willing to see our proud Republic, with its hundred million of the most intelligent people on earth subject to a world supreme court at Geneva, Switzerland, as Missouri is subject to the decrees of the Federal Supreme Court at Washington. The proposal to let Costa Rica, Siam, Liberia, Hedjaz, and a score of other semicivilized, and even savage, nations have a voice, however small, in the affairs of the American Republic—such a proposal is monstrous and should, and I believe will, be indignantly rejected by the United States Senate.

"Once it was my fortune to walk from one end of Europe to the other. I came to know the hot-blooded men of Spain and Portugal and the peasants of Italy, Bulgaria, Turkey, and Russia. I hobnobbed with the fierce mountaineers of Montenegro. And these experiences over all Europe during nearly two years gave me some understanding of the racial and religious hatreds which sway millions of people in the old world. Antagonisms a thousand years old still divide one State from another; yes, divide one section from another section of the same State. To-day, as for centuries past, the Spaniard of Catalonia hates the Spaniard of Andalusia, and only a few months ago wanted to secede from Spain and was prevented from doing so only by force.

"Since Cæsar threw his bridge across the Rhine French and German have regarded one another with distrust and suspicion. In Greece I have talked with men whose one aim in life seemed to be to cut a Bulgarian's throat, while in Bulgaria men have told me they regarded all Greeks as rascals and robbers. In parts of Dalmatia I noticed many men go armed to the teeth because in a space smaller than Denver is a confusion of tongues like unto that of the Tower of Babel. Each man thinks his race ought to prevail. The Slavs have history to prove they should rule, but the Italians have history to prove that Dalmatia was Italian when Diocletian left Rome to raise cabbages in the palace gardens at Spalato! Against both Slavs and Italians are the German-Austrians, who oppose their history. And so between the lot of them no man feels safe in leaving home unless armed with guns and daggers!

"Looking back upon my life with Europe's common people it is not possible to believe that any mere paper agreement to keep the peace will still the passions and prejudices or eradicate the selfishness of these many-tongued nations. And so this question arises: Is not America to be congratulated on following Washington's advice to avoid permanent foreign alliances? Had we not followed that advice, had we been a member of a league obligating us to intervene in Europe's wars, then instead of a century of profound peace—so far as Europe's wars are concerned—is it not certain America, like Europe throughout the nineteenth century, would have been involved in one war after another?

"In 1815 after Europe had been weltering in war for 20 years, the last three of which found the United States drawn into the turmoil, mankind longed for peace, as it longs now. And then, as now, a league of nations was proposed to abolish war. But the American statesmen of that day, while acknowledging the lofty idealism of the scheme, realized that human nature can not be changed over night, that men can not divest themselves of selfishness merely by adopting a resolution to follow the golden rule. And so our statesmen of that day declined to enter the league formed in Europe at the conclusion of the Napoleonic wars. Thomas Jefferson wrote to Thomas Leiper in 1815:

"'The less we have to do with the amities or enmities of Europe the better.'

"A few years earlier, in 1795, Washington wrote to Governeur Morris that America's policy should ever be to 'maintain friendly terms with, but to be independent of, all nations on the earth.'

"In some quarters it is now the fashion to regard Washington and Jefferson as old fogys, fit to take part in the politics of their day, but not qualified to advise the big country we have become. Those who think thus need to be reminded that fundamental principles are not changed by an increase in census returns, and that it may be as dangerous for us to mix in European intrigues to-day as it was in Washington's time. The leagues and alliances of Europe often change more swiftly than the scenes in a kaleidoscope. The friends of to-day may be the foes of to-morrow.

"England, which dealt a deadly blow to France at Waterloo, soon after Waterloo fought by France's side in the Crimea; Russia, which joined hands with Germany to crush Napoleon, later joined hands with Napoleon's country to crush Germany, and then still later repudiated her alliance with France, raised the red flag, and now stands against the world. Italy, for 20 years Germany's ally, changed front overnight and lined up with Germany's foes. In 1912 Bulgaria and Serbia smote Turkey hip and thigh, but three years later Bulgaria, side by side with Turkey, moved against Serbia, her former ally!

"History repeats itself. Within a few years there may be an entire regrouping of the Old World nations. Russia and Germany may be drawn together. Japan may find it to her interest to line up with the power controlling Siberia. And who can say that China will not awake from her slumber and join hands with the people of her own race and color, the Japanese? When these things come to pass it will be a tragic day for America if she is then a member of a league that will obligate her to submit vital American questions to the decision of eight European and Asiatic gentlemen sitting in Geneva.

"Those who think the world has so changed as to make it necessary for us to look to Europe and Asia for protection overlook the lesson just taught Germany. But if a few timid Americans overlook that lesson, history will not follow their example. Europe's kings and potentates now know our power as they never knew it before. And not in this generation will one of them sink another American ship or murder another American citizen. Future protests against violation of American rights will not be thrown into the wastebasket, as William of Prussia threw the submarine notes of President Wilson. For the whole world now knows the might and majesty of this great Republic.

"And so, having accomplished what we set out to do, having thrashed the insolent autocracy which flouted us, sank our ships, and drowned our women and children, if we now

leave Europe to settle her own affairs while we attend to ours on this side of the ocean, will not that be better alike for Europe and America? Problems await us not only at home but in States to the south of us all the way to the end of South America, and one need not be a pro-German in order to believe that the work cut out for America in the Western Hemisphere is a big enough job for any one nation. Speaking for myself, I confess I am earnestly opposed to fishing for trouble in European waters. And I am opposed to America accepting 'mandatories' for distant lands, such as Syria or Armenia.

WHAT DOES A MANDATORY REALLY MEAN?

"Fine phrases may conceal but they do not change facts, and the cold, costly fact is that acceptance of mandatories will impose upon the American people enormous losses in life and money. International mandates, international decrees do not enforce themselves. Fleets and armies are needed for that; and, in my judgment, if we adopt this policy we shall not only incur grievous burdens of taxes but we shall also sow seeds of discontent which may result in a harvest of radical agitation.

"It is one thing to ask men to leave home and fireside to cross the seas and fight a military empire that has sunk our ships and murdered our women and children. It will be a very different thing to ask men to cross the seas to do police duty in a foreign land whose affairs do not concern us, whose name is hardly known to us, whose people can by no possibility ever be a menace to us.

"We gave our sons freely, we submitted freely to a huge load of taxation, we denied ourselves many comforts of life so as to repel and punish Germany's brutal violation of our national rights. But if, instead of calling on men to fight such a foe for such a reason, the Washington Government goes into our homes, our workshops, our farms, our office buildings and says to our sons:

"'Take off that civilian suit. Don this uniform and cross the ocean. You must march over Syria's burning sands. You must fight in Bulgaria, perchance die in Armenia—not because America fears those countries. They do not threaten us, as Germany did; they are too weak ever to threaten us. But we are bound by treaty to police those countries and impose upon them our government.'

"If this be said, what will the answer be? Will not discontent reign in homes from which sons are snatched to fight in foreign lands, not to protect America, but for the sole benefit of those foreign lands? Will not a protest arise from the American people when they realize the terrible burden of taxation involved in that word 'mandatory'? The word may sound sweet, but it means that American blood and American money will be spent in trying to compose the quarrels and jealousies of Europe and Asia!

"Has America no problems of her own, that she should devote her time, her energies, her resources to policing distant lands? Without criticizing what has been done as a war measure, without disapproving the aid given during the war to struggling, war-worn peoples in Europe, is it not permissible to suggest that the time has come when a halt should be called to Uncle Sam's playing Santa Claus to foreign nations?

"When I think of the army of unemployed in America; of the tens of thousands of children forced by poverty to work in shops and mills, children who should be in school or in God's sunshine; of the deep mud through which American farmers haul their crops to railway stations; when I reflect that France has a hundred miles of rock roads to Missouri's one; that in my home State are swamp lands which might be reclaimed, but are not because we haven't the money to do it; when I think of the vast area of valley lands devastated almost annually by the flooding of the Mississippi River because we haven't the money to build levees; when I think that in the West there is a territory capable of affording comfort and happiness to millions of men, but which is an arid desert because we haven't money enough to build dams and dig irrigating canals—when I think of things like these it is difficult for me to understand how any well-informed man can look on America as a superstate, with no problems of its own, and with unlimited resources from which it can give freely to all the rest of the world.

"A league of nations which would preserve peace without impairing America's sovereignty, without obligating America to intervene in foreign wars, not if and when America thinks it her duty to intervene, but as she may be 'advised' to do by eight European and Asiatic gentlemen sitting around a table in Geneva, Switzerland—such a league might merit approval. But a league which excludes from the planning of its covenant such highly civilized countries as Holland, Norway, Sweden, and Switzerland, while admitting such countries as Haiti, Liberia, and Hedjaz, excites distrust to begin with. When a careful study of its articles reveals the fact that it is not a league to preserve peace but, on the contrary, is a league to project America into all of Europe's future wars, whether or not American interests and American duty are concerned—when that is proved to be the kind of league we are asked to accept, there must be this emphatic answer:

"America will stand true to the principles of Washington, of Jefferson, and of all her other Presidents down to and including the Woodrow Wilson of April 13, 1916, who said on that day:

"'God forbid that we should ever become directly or indirectly embrolled in quarrels not of our own choosing and that do not affect what we feel responsible to defend.'

"The Woodrow Wilson who said on May 16, 1914, at the unveiling of the John Barry statue:

"'We can not form alliances with those who are not going our way; and in our might and majesty and in the confidence and definiteness of our own purpose we need not and we should not form alliances with any nation in the world.'

"My countrymen, I conclude, as I began, with the reminder that America has grown great and powerful by following the wise advice of Washington—advice that has been given by every one of America's Presidents not excepting our present Chief Magistrate, for not until his return from a long sojourn among the potentates and prime ministers of Europe and Asia did President Wilson repudiate the principles that have made our country peaceful and powerful. Washington and Wilson—(up to 1916). Two great Presidents! Let us continue to stand on the splendid platform they constructed, and so perpetuate the glory and greatness of the American Republic."

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President Wilson was reelected in 1916 on a platform denouncing the league of nations.

The following quotations are taken from Democratic campaign textbook of 1916, which was the official organ of the party:

"Gov. Glynn's speech sounds party's battle summons.

"* * * For the America of to-day and for the America of to-morrow, for the civilization of the present and for the civilization of the future, we must hold to the course that has made our Nation great; we must steer by the stars that guided our ship of state through the vicissitudes of a century.

"* * * What the people must determine through their suffrage is whether the course the country has pursued through this crucial period is to be continued; whether the principles that have been asserted as our national policy shall be indorsed or withdrawn.

"* * * The President of the United States stands to-day where stood the men who made America and saved America. * * *

"If Washington was right, if Jefferson was right, if Hamilton was right, if Lincoln was right, then the President of the United States is right to-day. * * *

"And whom, we ask, will the policy of our opponents (Republicans) satisfy, and for how long? Fighting for every degree of injury would mean perpetual war, and this is the policy of our opponents, deny it how they will. It would not allow the United States to keep the sword in the scabbard as long as there remains an unrighted wrong or an unsatisfied hope between the snowy wastes of Siberia and the jungled hills of Borneo. It would make America as dangerous to itself and others, as destructive and as uncontrollable as the cannon in Victor Hugo's tale of '93. It would give us a war abroad each time the fighting cock of the European weather vane shifted with the breeze. It would make America the cockpit of the world. It would mean the reversal of our traditional policy of government. * * * It would make all the other nations the wards of the United States and the United States the keeper of the world. What would become of the Monroe doctrine under such a policy? How long do our opponents suppose we would be allowed to meddle in European affairs while denying Europe the right to meddle in American affairs? The policy of our opponents is a dream. It never could be a possibility. It is not even advanced in good faith. * * * In a word this policy of our opponents would make the United States the policeman of Europe. Rome tried to be policeman of the world and went down. Portugal tried to be policeman of the world and went down. Spain tried and went down, and the United States proposed to profit by the experience of the ages and avoid ambitions whose reward is sorrow and whose crown is death * * *."

This reads like the speech of one of the men who has recently been denounced as a "contemptible quitter." Or like one of those who has been called "pygmy-minded." Or "a dream of a man living in a forgotten age."

As a matter of fact, it is the warp and woof of the Americanism plank of the platform upon which President Wilson was elected.

LETTER OF AUGUST 19, 1919, BY ED E. YATES, OF KANSAS CITY, MO., ON THE LEAGUE OF NATIONS.

"No Democrat can, by any possibility, stand for the league pact and treaty.

"As a document it is distinctly un-American.

"The whole runs flat against the teachings of the fathers, who were never internationalists, but always Americans. Friendship for all, entangling alliances with none, is made to read friendship for some, entanglements world wide—national liberty surrendered and our engagements with foreign powers become the paramount thing in our national life.

"That is not all.

"It is inconceivable that any Democrat can condone, as he must if he indorses the league, every act of spoliation, every rape of peoples, territory, and liberty; every crime that has been committed in the name of civilization, with which the national life of our allies is replete. Yet he must do all these things if he goes in for article 10. If we stand pledged to maintain the status quo of nations, then logically the status quo is right, no matter how much larceny, blood, crime of high and low degree may have been involved in the origin of the thing. Moreover, it annihilates the dream of future freedom for peoples now under dominion of world powers; for how can tributary people or a colony—an underling nation—hope for national life without aggression of some sort from without? And is it not conceivable that such aggression might not only be meritorious, but conditions might impose an obligation to help it along which no liberty-loving citizen would desire to ignore. The wholesale condonation of the national crimes of some of our allies, it is hardly necessary to say, if carried to the conclusion where the advocates of the league of nations should be required to take it, would utterly repudiate the means by which American independence was obtained, as well as the beneficent results.

"Why abandon a national policy always followed that has given virility and esprit to our Republic at all times in favor of one of entanglement, a policy which spells emasculation for all national spirit? Really, to my mind, the only people who give a possibly plausible reason for support of the pact are the remnant of Mr. Wilson's old peace pact. They say, 'Let's try it; if it only averts a war in a decade, it will have benefited mankind immeasurably.' Just so! This reason looked at, however, falls little short of senility, for the kindergarten classes will naturally inquire, 'What greater reason have we to suppose that the league will avert war rather than produce it?' A historic, philosophic investigation of the probabilities of the matter, I think, would justify one in selling pools either way at practically the same price.

"Be this as it may, why should we, the richest, the most powerful, Nation in the world promise subservience to other powers in advance—'sight unseen,' as we used to say? There may be a reason, but to take up the vernacular, 'you may search me'!

"Shall we underwrite the present foreign territorial conditions to the full extent of our boy power and money resources? Mr. Wilson says, 'Yes.' But his reasons are wholly illogical, sentimental, dreamy, and, what is weightier than all, smack too much of Old World greed and selfishness and too little of that which has made us a Nation 'set apart.'

"Mr. Wilson, if he succeeds in this policy, should be deified as the god of fate, for he and his cult teach that world conditions should be left where chance has chucked them. Why should any strive or look up for better things; have not the fatalists headed by this new leader decreed that whatever is is right? So kick not against the pricks, but accept the lot fate has allotted and be thankful it is not worse. All islands and continents held in leash cry against so damnable a doctrine.

"This touches but one phase of the question."

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

The PRESIDENT pro tempore. The Senator from Arizona will state it.

Mr. ASHURST. I am not stirred by sentiments of envy at the applause these eloquent speeches bring out, but I appeal to Senators like Senator LODGE, Senator HITCHCOCK, and other men who are statesmen and leaders to assist in preserving order in the Senate. No one here could admire more than I do the courageous speech just made by the Senator from Missouri. Whether the occupants of the galleries agree with him or not, whether we agree with him or not, we are bound to agree that he enriches the annals of the Senate when he speaks. Would you, occupants of the galleries, go into the Supreme Court and there applaud a decision? You would not. Yet we are here called upon to pass upon a greater cause than the Supreme Court ever had under its jurisdiction. We are passing upon the destiny of nations and of men. [Manifestations of disapproval in the galleries.] I see that you do not even agree with these statements. I am simply saying this for the dignity and honor of the Senate. The debates on this subject are going to wax warm. Before this debate is concluded we are going to have scenes here that will call into requisition the coolest nerve of men in order that we may keep order. Let the occupants of the galleries help us. We need their assistance and we need the presiding officer's help. The occupants of the galleries are our guests; they are invited here; they should assist in preserving order.

I have said this much in the hope that the honor of the Senate may be maintained; for what demagogues may say outside and what men may do outside to intimidate a Senator, let there be here a serene atmosphere, unmoved and uninfluenced by the occupants of the galleries, who, I am sure, do not appreciate that it is against one of the oldest rules of the Senate to express approbation or disapprobation of the speakers.

Mr. LODGE. Mr. President, in order that we may return to the serene and calm atmosphere described by the Senator from Arizona, I move, as in legislative session, that the Senate adjourn.

The motion was agreed to; and (at 6 o'clock p. m.) the Senate adjourned until to-morrow, Tuesday, September 23, 1919, at 12 o'clock meridian.

## HOUSE OF REPRESENTATIVES.

MONDAY, *September 22, 1919.*

The House met at 12 o'clock noon.

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

O Lord God our Heavenly Father, source of every blessing, we thank Thee for the preservation of our lives, a new day with its hopes and possibilities.

Cleanse us, we beseech Thee, from all guile. Imbue us plenteously with heavenly gifts, that we may hallow Thy name in all that we undertake. In the spirit of the Lord Jesus Christ. Amen.

The Journal of the proceedings of Saturday, September 20, 1919, was read and approved.

AMENDMENT OF FOOD-CONTROL ACT.

Mr. CAMPBELL of Kansas. Mr. Speaker, I submit a privileged report from the Committee on Rules.

The SPEAKER. The gentleman from Kansas submits a privileged report from the Committee on Rules, which the Clerk will report.

The Clerk read as follows:

Mr. CAMPBELL of Kansas, from the Committee on Rules, submits the following report:

The Committee on Rules, to which was referred House resolution 304, submit a privileged report on said resolution with the recommendation that the resolution be agreed to.

House resolution 304.

*Resolved*, That immediately upon the adoption of this resolution it shall be in order to take from the Speaker's table H. R. 8624, the same being "An act to amend an act entitled 'An act to provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of food products and fuel, approved August 10, 1917,'" disagree to all Senate amendments, and send the same to conference without intervening motion or debate.

Mr. CAMPBELL of Kansas. Mr. Speaker, the resolution is for the purpose of getting the bill amending the Lever Act to conference. This bill amending that act has been delayed for some time, and it is thought that in the interest of the public good the matter should be sent to conference at once. This resolution is to accomplish that purpose.

Unless there is request for further debate of the resolution by some one else, I will yield five minutes to the gentleman from Massachusetts [Mr. TREADWAY].

Mr. JOHNSON of Kentucky. I would like to have about 45 minutes if I could get it.

Mr. CAMPBELL of Kansas. I yield to the gentleman from Massachusetts.

The SPEAKER. The gentleman from Massachusetts [Mr. TREADWAY] is recognized for five minutes.

Mr. TREADWAY. Mr. Speaker, the rule that the committee has brought in probably is perfectly in keeping with the program, but I want again to call to the attention of the House the inconsistency of the procedure which we are undertaking.

The bill before us is "To provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of food products and fuel." That is applicable throughout the United States, and was reported by the Committee on Agriculture and passed both branches with various minor amendments. There was