tificate of indebtedness of the United States No. 3240, for $10,000, which has been lost; to the Committee on Claims.

By Mr. JOHNSON of Kentucky: A bill (H. R. 10599) granting an increase of pension to Thomas J. Stevens; to the Committee on Pensions.

Also, a bill (H. R. 10600) granting an increase of pension to Nancy Jane Howard; to the Committee on Invalid Pensions.

By Mr. KELLEY of Michigan: A bill (H. R. 10601) for the relief of John Burke; to the Committee on Military Affairs.

By Mr. LANGLEY: A bill (H. R. 10602) granting an increase of pension to Thomas Flinchum; to the Committee on Pensions.

Also, a bill (H. R. 10603) granting a pension to Frank H. Gullett; to the Committee on Pensions.

By Mr. MICHENER: A bill (H. R. 10604) granting a pension to Lucinda Welch; to the Committee on Invalid Pensions.

By Mr. RICKETTS: A bill (H. R. 10605) granting an increase of pension to Henry Gompf; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10606) granting an increase of pension to William T. Stevens; to the Committee on Invalid Pensions.

By Mr. STRONG of Pennsylvania: A bill (H. R. 10607) granting an increase of pension to Robert R. Reardon; to the Committee on Invalid Pensions.

By Mr. CURRY of California: Resolution (H. Res. 390) for the relief of Benjamin F. Jones, brother of Henry T. Jones, late an employee of the House of Representatives; to the Committee on Accounts.

## PETITIONS, ETC.

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

By Mr. BURROUGHS: Petition of Manchester Council No. 92, Knights of Columbus, Manchester, N. H., Thomas F. Durning, grand knight, and A. J. Connor, recording secretary, advocating the continuance of the activities of the various welfare societies doing Army welfare work and in opposition to the intention of the War Department to delegate this work to itself; to the Committee on Military Affairs.

By Mr. NOLAN: Petition of Muller & Raas Co. and Woodin & Little, of San Francisco, Calif., opposing House bill 8315; to the Committee on Interstate and Foreign Commerce.

Also, petition of Building Association League of Illinois, Quincy, Ill., favoring passage of Senate bill 2492 and House bill 6371; to the Committee on Appropriations.

Also, petition of Ripon Parlor, No. 72, Native Sons of the Golden West, favoring restriction of oriental immigration; to the Committee on Immigration and Naturalization.

By Mr. O'CONNELL: Petition of American Train Dispatchers' Association, Railroad Yardmasters of America, Roadmasters and Supervisors' Association, Railway Traveling Auditors' Association, and National Order of Railroad Claim Men, concerning railroad legislation; to the Committee on Interstate and Foreign Commerce.

Also, petition of Foster-Milburn Co., of Buffalo, N. Y., commenting on Senate bill 3011; to the Committee on Interstate and Foreign Commerce.

Also, petition of National Equal Rights League, favoring abolishment of so-called "Jim Crow" cars; to the Committee on Interstate and Foreign Commerce.

Also, petition of New York Harbor district council, opposing House bill 10453; to the Committee on Interstate and Foreign Commerce.

By Mr. RAKER: Petition of J. M. Thompson, A. W. Martin, J. F. Fisher, Abraham, Stochett, Mrs. L. Gant, L. E. Ganott, Austin P. Morris, Fred R. Johnson, M. J. Campbell, Alice Reese, L. Madison, Mrs. L. Garrutt, S. E. Barnett, Miss M. T. Ross, T. J. Wilson, jr., L. E. Mason, W. D. Harris, E. Noble, L. B. Porter, F. R. Jackson, W. A. Butler, Mrs. Mary B. Stewart, W. T. Knowles, Miss Belinda Davison, Mrs. L. Dyson, and Morris Meadow, all of San Francisco, Calif., urging investigation of the race riots and lynchings here in America; to the Committee on the Judiciary.

Also, petition of Juda Bros., and Miller Raas Co., both of San Francisco, Calif., opposing House bill 8315; to the Committee on Interstate and Foreign Commerce.

Also, petition of Chamber of Commerce of the State of New York, urging the construction of a ship canal across New Jersey; to the Committee on Railways and Canals.

Also, petition of Chamber of Commerce of the State of New York, urging protection to American citizens and investments abroad; to the Committee on Foreign Affairs.

Also, petition of Montana Joint Stock Land Bank, of Helena, Mont., opposing any repeal or amendment to the Federal farm-loan act; to the Committee on Banking and Currency.

Also, petition of California Wine Growers' Association, of San Francisco, Calif., urging appropriation and authority to carry on experiments in vineyards in California; to the Committee on Agriculture.

Also, petition of Williams, Dimond & Co., San Francisco, Calif., opposing Esch-Pomerene bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of Western Forestry and Conservation Association, of Portland, Oreg., relative to forest protection and conservation; to the Committee on Agriculture.

Also, petition of Walter M. Field & Co., of San Francisco, Calif., opposing Esch-Pomerene bill; to the Committee on Interstate and Foreign Commerce.

By Mr. RANDALL of Wisconsin: Resolution of the Rotary Club, of Racine, Wis., favoring universal military training and the selection of Camp Custer, Mich., as a permanent military training camp; to the Committee on Military Affairs.

By Mr. SINCLAIR: Petition of Northern Pacific System, Division No. 54, Order of Railway Telegraphers, protesting against involuntary servitude such as is contemplated under pending antistrike legislation for railroad employees, and urging two years' extension of the period of Government operation of railroads; to the Committee on Interstate and Foreign Commerce.

Also, petition of Vinton Gregg and other citizens, of Gladstone, N. Dak., indorsing the Plumb plan of public ownership and democratic control of railroads, urging two years' extension of Government operation meanwhile, and protesting against the Esch-Pomerene bill and the Cummins bill; to the Committee on Interstate and Foreign Commerce.

# SENATE.

## MONDAY, *November 17, 1919.*

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

Almighty God, we come before Thee as we face the tremendous responsibilities of this office and the far-reaching implications of the questions that press upon us for decision. Thou hast guided us from our smallest beginnings up until this good day. We lift our hearts to Thee that we may have the vision of the fathers, with a deep understanding of the influence of all that we do this day and always in the Senate; that we may have an eye single to Thy glory and by our united effort advance the interests of the people of this country and of the world. For Christ's sake. Amen.

### TREATY OF PEACE WITH GERMANY.

The VICE PRESIDENT. The Chair lays before the Senate the treaty of peace with Germany.

The SECRETARY. Treaty of peace with Germany, Document No. 85.

### SEDITIOUS ACTS AND UTTERANCES.

Mr. NELSON. There is a communication from the Department of Justice on the table that I ask may be referred to the Committee on the Judiciary.

The VICE PRESIDENT. Is there objection? There being no objection, the Chair lays before the Senate the response of the Attorney General to the resolution of the Senate of October 17, 1919.

Mr. POINDEXTER. I ask that the communication and accompanying papers be printed and referred to the Committee on the Judiciary.

Mr. NELSON. That was my motion, that it be printed and referred to the Committee on the Judiciary.

The VICE PRESIDENT. It will be so ordered.

### CALLING OF THE ROLL.

Mr. SMOOT. I ask unanimous consent to present certain petitions. I will state that——

Mr. LA FOLLETTE. I object.

The VICE PRESIDENT. There is objection.

Mr. CURTIS. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

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

| | | | |
|---|---|---|---|
| Ashurst | Calder | Cummins | Elkins |
| Ball | Capper | Curtis | Fernald |
| Bankhead | Chamberlain | Dial | Fletcher |
| Beckham | Colt | Dillingham | France |
| Brandegee | Culberson | Edge | Frelinghuysen |

| | | | |
|---|---|---|---|
| Gay | Kirby | Owen | Smith, S. C. |
| Gerry | Knox | Page | Smoot |
| Gronna | La Follette | Penrose | Spencer |
| Hale | Lenroot | Phelan | Sterling |
| Harding | Lodge | Phipps | Sutherland |
| Harris | McCormick | Pittman | Swanson |
| Harrison | McCumber | Poindexter | Thomas |
| Henderson | McKellar | Pomerene | Townsend |
| Hitchcock | McLean | Ransdell | Trammell |
| Johnson, Calif. | McNary | Reed | Underwood |
| Johnson, S. Dak. | Moses | Robinson | Wadsworth |
| Jones, N. Mex. | Myers | Sheppard | Walsh, Mass. |
| Jones, Wash. | Nelson | Sherman | Walsh, Mont. |
| Kellogg | New | Shields | Warren |
| Kendrick | Newberry | Simmons | Watson |
| Kenyon | Norris | Smith, Ariz. | Williams |
| Keyes | Nugent | Smith, Ga. | Wolcott |
| King | Overman | Smith, Md. | |

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

RAILROAD CONTROL.

Mr. CUMMINS. I ask unanimous consent to present a supplemental report to accompany the bill (S. 3288) further to regulate commerce among the States and with foreign nations and to amend an act entitled "An act to regulate commerce," approved February 4, 1887, as amended. I also ask that the report heretofore presented by me on the bill be withdrawn, and that the entire matter be printed as one report.

The VICE PRESIDENT. Is there objection? The Chair hears none. The supplemental report will be received and printed.

PETITIONS AND MEMORIALS.

Mr. CURTIS. I ask unanimous consent to present several petitions for proper reference and some amendments to the railroad bill to be printed and lie on the table, and also several bills.

The VICE PRESIDENT. Is there objection? The Chair hears none.

Mr. CURTIS presented memorials of sundry citizens of Arkansas City, Dodge City, Pittsburg, Chanute, Horton, Parsons, and Hallowell, all in the State of Kansas, remonstrating against the passage of the so-called Cummins bill, providing for private ownership of railroads, which were ordered to lie on the table.

He also presented a petition of sundry teachers of the city schools of Parsons, Kans., praying for the establishment of a Department of Education, which was referred to the Committee on Education and Labor.

He also presented a petition of Lincoln Post, No. 1, Grand Army of the Republic, Department of Kansas, of Topeka, Kans., and a petition of sundry citizens of Iola, Kans., praying that an increase in pensions be granted to veterans of the Civil War, which were referred to the Committee on Pensions.

He also presented a memorial of Local Lodge No. 277, Brotherhood of Railway Carmen of America, of Parsons, Kans., remonstrating against the deportation of certain Hindus, which was referred to the Committee on Foreign Relations.

He also presented a resolution adopted by the Central Labor Union, of Chanute, Kans., favoring an appropriation to build homes for laboring men, to be sold on the monthly payment plan, which was referred to the Committee on Appropriations.

He also presented a memorial of the Central Labor Union, of Parsons, Kans., remonstrating against universal military training, which was referred to the Committee on Military Affairs.

He also presented a petition of Local Lodge No. 751, Brotherhood of Railway Carmen of America, of Topeka, Kans., praying that all coal operators' charters be revoked, and that the Government take over and operate the coal mines in the United States and Alaska, which was referred to the Committee on Education and Labor.

He also presented a petition of the county commissioners and township trustees of Brown County, Kans., praying that they be granted their full quota of building equipment, tractors, trucks, etc., in the construction of roads, which was referred to the Committee on Military Affairs.

He also presented a petition of sundry patients of the Agnes Memorial Sanatorium, of Denver, Colo., praying for the passage of the so-called Sweet bill, providing for lump-sum payments of war-risk insurance, which was referred to the Committee on Finance.

Mr. MOSES. I ask unanimous consent to introduce a bill and to present several petitions.

The VICE PRESIDENT. Is there objection? The Chair hears none.

Mr. MOSES presented a petition of the advisory board of the New Hampshire department of agriculture, praying for the enactment of legislation to provide a remedy for un-American and revolutionary methods used by labor unions, which was referred to the Committee on Education and Labor.

He also presented a petition of the Friends of Irish Freedom, of Detroit, Mich., praying for the independence of Ireland, which was referred to the Committee on Foreign Relations.

BILLS INTRODUCED.

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

By Mr. CURTIS:

A bill (S. 3432) granting a pension to Joseph Gallaway (with accompanying papers);

A bill (S. 3433) granting an increase of pension to Mary Philer (with accompanying papers);

A bill (S. 3434) granting an increase of pension to Amos Wilson (with accompanying papers);

A bill (S. 3435) granting a pension to Sarah A. Eddy (with accompanying papers); and

A bill (S. 3436) granting an increase of pension to J. N. Bates (with accompanying papers); to the Committee on Pensions.

By Mr. MOSES:

A bill (S. 3437) granting an increase of pension to Cora M. Converse (with accompanying papers); to the Committee on Pensions.

By Mr. CAPPER:

A bill (S. 3438) granting a pension to Duff Herrington (with accompanying papers); to the Committee on Pensions.

By Mr. BRANDEGEE:

A bill (S. 3439) granting an increase of pension to Henry M. Adams;

A bill (S. 3440) granting a pension to Harriet N. Sclipp;

A bill (S. 3441) granting an increase of pension to David W. Smith (with accompanying papers);

A bill (S. 3442) granting a pension to Emily A. Netson;

A bill (S. 3443) granting an increase of pension to Charles Smalle (with accompanying papers);

A bill (S. 3444) granting an increase of pension to Johanna Neil (with accompanying papers);

A bill (S. 3445) granting an increase of pension to Hannah M. Kingsley (with accompanying papers); and

A bill (S. 3446) granting an increase of pension to Grace Mable Copeland; to the Committee on Pensions.

By Mr. McKELLAR:

A bill (S. 3447) granting a pension to F. W. Gerding; to the Committee on Pensions.

AMENDMENTS TO RAILROAD-CONTROL BILL.

Mr. CURTIS submitted five amendments intended to be proposed by him to the bill (S. 3288) further to regulate commerce among the States and with foreign nations and to amend an act entitled "An act to regulate commerce," approved February 4, 1887, as amended, which were ordered to lie on the table and be printed.

ACCEPTANCE OF STATUE OF SEQUOYAH.

Mr. OWEN submitted the following concurrent resolution (S. Con. Res. 16), which was referred to the Committee on Printing:

*Resolved by the Senate (the House of Representatives concurring)*, That there be printed and bound the proceedings in Congress, together with the proceedings at the unveiling in Statuary Hall, upon the acceptance of the statue of Sequoyah, presented by the State of Oklahoma, 16,500 copies, of which 5,000 shall be for the use of the Senate and 10,000 for the use of the House of Representatives, and the remaining 1,500 copies shall be for the use and distribution of the Senators and Representatives in Congress from the State of Oklahoma.

The Joint Committee on Printing is hereby authorized to have the copy prepared for the Public Printer, who shall procure suitable copper-process plates to be bound with the proceedings.

PUNISHMENT FOR ANARCHY AND BOLSHEVISM.

Mr. POINDEXTER. I ask leave out of order to introduce a bill, and that it may be referred to the Committee on the Judiciary and be printed in the RECORD.

The VICE PRESIDENT. Is there objection. The Chair hears none, and it is so ordered.

The bill (S. 3431) to protect the property, processes, and agencies of the Government of the United States from anarchy and Bolshevism was read twice by its title and referred to the Committee on the Judiciary and ordered to be printed in the RECORD, as follows:

A bill (S. 3431) to protect the property, processes, and agencies of the Government of the United States from anarchy and Bolshevism.

*Be it enacted, etc.*, That every person who, either orally or by writing, printing, exhibiting, or circulating written or printed words or pictures, or otherwise, shall advocate, teach, incite, propose, aid, abet, encourage, or advise forcible resistance to or the forcible destruction or overthrow of constituted government in general, or of the Government of the United States, its laws, authority, agents, or officials, or the governments of the States, municipalities, or other constituted authorities within the United States in particular, shall be guilty of a felony, and shall be punished by imprisonment not exceeding 20 years, or by fine not exceeding $50,000, or by both such fine and imprisonment.

SEC. 2. Every person who, either orally or by writing, printing, exhibiting, or circulating written or printed words or pictures shall advocate, teach, incite, propose, aid, abet, encourage, or advise the unlawful injury or destruction of private or public property, or the unlawful injury of any person, or the unlawful taking of human life, either as a general principle or in particular instances, whether as a means of affecting political, industrial, social, or economic conditions or for any other purpose, shall be guilty of a felony, and shall be punished by imprisonment not exceeding 40 years, or by fine not exceeding $50,000, or by both such fine and imprisonment.

SEC. 3. Any association, organization, society, or corporation one of whose purposes or professed purposes is to bring about any governmental, social, industrial, or economic change within the United States by the unlawful use of physical force, violence, or physical injury, or which teaches, advocates, advises, or defends the unlawful use of physical force, violence, or physical injury to person or property or threats of such injury, to accomplish such change, and which shall by any such means prosecute or pursue such purpose or professed purpose, or shall so teach, advocate, or advise, is hereby declared to be an unlawful association.

SEC. 4. Any person who shall act or profess to act as an officer of any such unlawful association, or who shall speak, write, or publish as a representative or professed representative of any such unlawful association, or who knowing the purpose, teachings, and doctrine of such association, shall become or continue to be a member thereof, or contribute dues or other things of value to it, or to anyone for it, shall be punished by imprisonment of not more than 10 years or by fine of not more than $30,000, or by both such fine and imprisonment.

SEC. 5. Any person who knowingly prints, publishes, edits, issues, circulates, sells, or offers for sale, or distributes any book, pamphlet, picture, paper, circular, card, letter, writing, print, publication, or document of any kind in which is taught, advocated, or advised the unlawful use of physical force, violence, or physical injury to person or property, or threats of such injury, as a means of accomplishing any governmental, social, industrial, or economic change within the United States, shall be punished by imprisonment for not more than 20 years or by a fine of not more than $50,000, or by both such fine and imprisonment.

SEC. 6. Any owner, agent, or superintendent of any building, room, premises, or place who knowingly permits therein any meeting of any such unlawful association, or of any subsidiary or branch thereof, or of any assemblage of persons who teach, advocate, advise, or defend the unlawful use of physical force, violence, or physical injury to person or property, or threats of such injury, as a means of accomplishing any governmental, social, industrial, or economic change within the United States, shall be punished by imprisonment for not more than one year or by a fine of not more than $500, or by both such fine and imprisonment.

SEC. 7. Every action or proceeding made unlawful or for which punishment is provided by this act is hereby declared to be injurious and detrimental to the authority, functions, purposes, and property of the Government of the United States, and as such subject to the penalties provided by this act.

SEC. 8. Every foreign-born person who has become a naturalized citizen of the United States, or who has declared his intention to become such, who shall commit any of the acts forbidden by this act shall thereby forfeit his citizenship in the United States, and upon his conviction of any offense under this act all proceedings had in the matter of the naturalization of such person shall be canceled and become null and void, and he shall thereafter be ineligible for naturalization in the United States, and shall be subject to deportation as in the case of other aliens, as provided by law.

SEC. 9. Any person who by the commission of any act prohibited by this act shall cause the death of any person, whether such death is brought about directly by the act of such person in the violation of this act, or by any other person incited thereto by such person in the commission of any act prohibited by this act, shall be punished by death.

Mr. POINDEXTER. I ask unanimous consent to say one word in reference to this bill. The bill is intended to enable the United States to protect its functions and agencies from anarchy and Bolshevism. It is aimed at organizations such as the Industrial Workers of the World and other unlawful organizations in the United States which have been particularly active in recent months.

I desire further to say that it incorporates in part a bill which passed the Senate at the last session of Congress, but is more drastic, more comprehensive, and is not limited in its operation to periods of war. I wish to call it particularly to the attention of the chairman of the committee on the Judiciary. The bill which I am introducing now is to punish Bolshevism and anarchy. The bill that I referred to, that passed the Senate, was to punish unlawful organizations advocating the use of force to overthrow the Government, or advocating forcible and unlawful destruction of property to accomplish political and economic changes.

Mr. LA FOLLETTE. Mr. President, I call for the regular order.

The VICE PRESIDENT. There being objection, the Chair has held that nothing except by unanimous consent is before the Senate save the treaty of peace with Germany.

Mr. POINDEXTER. I have said practically all that I desired to say, notwithstanding the objection.

Mr. LA FOLLETTE. I call for the regular order.

The VICE PRESIDENT. The Senator from Washington is out of order.

Mr. POINDEXTER. What is the order, Mr. President?

The VICE PRESIDENT. The question is on agreeing to reservation No. 14 to the treaty of peace with Germany.

### REFERENCE OF EXECUTIVE NOMINATIONS.

Mr. NELSON. I ask unanimous consent, as in executive session, that the following nominations for the Department of Justice, to wit, Thomas J. Spellacy, of Hartford, Conn., to be Assistant Attorney General; Lester E. Humphreys, of Portland, Oreg., to be United States attorney; and George B. Witt, of Lynnville, Tenn., to be United States marshal, be referred to the Judiciary Committee and printed.

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

Mr. SHIELDS subsequently said: Mr. President, on last Saturday there were received a number of Executive nominations, among which there were several very important offices to be filled. I was going to ask that they be referred to the Judiciary Committee, but I am informed by the Senator from Colorado [Mr. THOMAS] that that was done at the request of the Senator from Minnesota [Mr. NELSON], the chairman of the committee.

### TREATY OF PEACE WITH GERMANY.

The Senate, as in Committee of the Whole and in open executive session, resumed the consideration of the treaty of peace with Germany.

Mr. TOWNSEND. Mr. President, I desire to say a word on reservation No. 14.

Mr. FLETCHER. Will the Senator allow me to introduce rather an urgent matter?

Mr. LODGE. Objection has been made. The regular order has been called for.

The VICE PRESIDENT. The Senator from Wisconsin called for the regular order, and unless he withdraws it the Chair can do nothing.

Mr. LA FOLLETTE. I not only do not withdraw it, but I insist upon it.

Mr. ROBINSON. I call the attention of the Chair to the fact that the Senate adjourned until noon to-day, and I inquire of the Chair whether there is not the customary opportunity given to transact morning business.

The VICE PRESIDENT. The Chair holds that for the first time in the history of the Senate the Senate has made something the unfinished business. Before this time unfinished business simply was the business that was left undisposed of at an adjournment or a recess, and heretofore the Senate has interfered with the unfinished business by permitting morning business to be transacted, but this is the first time that unfinished business was ever declared to be such by the Senate to the exclusion of all other business.

Mr. SMOOT. Mr. President, has reservation No. 14 been read?

The VICE PRESIDENT. It has not been read. The Secretary will read it.

The SECRETARY. Reservation 14 is as follows:

14. The United States declines to accept, as trustee or in her own right, any interest in or any responsibility for the government or disposition of the overseas possessions of Germany, her rights and titles to which Germany renounces to the principal allied and associated powers under articles 119 to 127, inclusive.

Mr. TOWNSEND. Mr. President, I shall occupy but a moment.

Mr. REED. Mr. President——

The VICE PRESIDENT. Does the Senator from Michigan yield to the Senator from Missouri?

Mr. REED. If the Senator from Michigan will yield to me, I desire to make a request. I do not want the time consumed in doing so to be taken out of his time. I desire to ask unanimous consent to print as a document an analysis relating to this treaty, if the Senator will be kind enough to yield to me for that purpose.

Mr. TOWNSEND. I have no objection to yielding, but I understood that such a request would not be in order.

Mr. HITCHCOCK. I have several requests to make of a character similar to that made by the Senator from Missouri, but I think it is not proper under the rule under which we are now proceeding.

Mr. REED. It can be done by unanimous consent.

Mr. WILLIAMS. What is it the Senator from Missouri desires printed?

Mr. REED. It is an analysis by an international lawyer of the entire league compared with international law.

Mr. WILLIAMS. How many pages does it comprise?

Mr. REED. There are quite a number of pages.

Mr. WILLIAMS. How many pages will it make in print?

Mr. REED. I can not tell the Senator how many pages of print it will make. It is a most comprehensive document.

Mr. WILLIAMS. I object to printing a whole book in the RECORD.

Mr. REED. I am not asking to put it in the RECORD. I am asking that it be printed as a document.

Mr. WILLIAMS. Well, I object to that.

Mr. REED. Very well.

Mr. TOWNSEND. Mr. President, I shall occupy but a moment of the time of the Senate. I wish to discuss both reservations 14 and 15 while I am on the floor, but shall do so very briefly. I shall not support either one of those reservations. Taken in connection with what we have already adopted in the form of reservations and what later may be done in reference to the labor and voting powers, they seem to me to be absolutely unnecessary and to be going too far in the opinion of a Senator who believes that something ought to be done and that something will be accomplished in the way of laying the foundation for a league of nations to preserve peace.

Reservation 14 is a proposition which provides that the Senate alone shall do what has heretofore been reserved to Congress. It is stated in that reservation—

The United States declines to accept, as trustee or in her own right, any interest in or any responsibility—

And so forth.

We have already guarded the question of mandatories; we have already guarded the rights of the United States in matters of domestic policy and in connection with our relations to the territorial and political integrity of the nations of the world that have been changed on the new map which has been made by the war. I can conceive the possibility at least that something may occur in the future which would make it entirely desirable in the light of these events for the United States to have a hand free, at least, possibly to guard her interests as well as the interests of the world. If we desire to attach any reservation on this subject at all we should at least provide that the Congress shall approve it.

It is proposed by this reservation to deny the United States any right to participate in whatever may occur. For that reason alone I would object to the reservation. Are we not interested in the Pacific islands formerly owned by Germany? Shall we tie our hands against any possible action hereafter; or shall we leave this matter open for the future? I repeat, I do not think it is necessary for us to say anything relative to the subject of former German territory, in view of what we have already said.

I am going to vote against reservation 15, because I want the United States to assume some responsibility, and I am willing that we should take some chances, inasmuch as the council and the assembly will be organized, so far as the United States is concerned, upon terms of equal voting power to every other nation. I am willing to provide that the conference provided by the covenant shall consider matters of dispute in which the United States may be involved, even though some might consider such matters as of vital interest to our country. Of course, reservation 15 would allow no matters affecting the United States to be submitted. For the United States could interpret every matter as of vital interest. It would be a mere question of selfish interpretation. This same question has been argued in relation to other treaties, but such a reservation as the one proposed has not lately been adopted for the protection of the United States. It has not been necessary. It is not necessary now. I believe that we will have protected our national rights sufficiently when we have taken care of the labor and voting provisions, in addition to reservations already adopted.

Mr. President, I have said this much in order that the Senate may at least understand my position. I have voted for other reservations because I thought it was necessary to do so in order to protect my country. I have voted against one or two reservations because I have thought they were unnecessary. I believe that it would be unjust and improper for the United States now to take action in advance in reference to the matter referred to in reservation 14 and thus to foreclose itself, at least morally, from participating in an event which may hereafter occur and which may be of the very highest importance to the United States.

Therefore, Mr. President, I sincerely trust that reservations 14 and 15 may be defeated because without them, it seems to me, the interests of the United States will be sufficiently safeguarded, and in that form the treaty and covenant will meet my approval, not unqualified approval, for, in spite of all that has been done by the Senate, it is still uncertain, but it has possibilities for good and I can not ignore nor minimize them.

Mr. SHIELDS. Mr. President, I do not desire to make any extended argument with reference to reservation 14, to which I shall address myself, but I wish the Senate to understand thoroughly what it is proposed that the United States shall do under the provision of the treaty from which this reservation proposes to withhold the consent of the United States.

Article 119 of the proposed treaty, under the head of "German colonies," reads as follows:

Germany renounces in favor of the principal allied and associated powers all her rights and titles over her overseas possessions.

Mr. President, these overseas possessions consist of territories in Africa and islands in the Pacific Ocean. Of course, the Shantung Peninsula was an overseas possession of Germany, but that has been disposed of otherwise, and is not now under consideration.

The territories in Africa consist of Togo, with an estimated area of 33,700 square miles, a white population of 368 and a native population of 1,031,978; the Kamerun, consisting of 191,130 square miles, with a white population of 1,871 and a native population of 2,648,720; Southwest Africa, consisting of a territory of 322,450 square miles, a white population of 14,830 and a native population of 79,556; East Africa, consisting of a territory of 384,180 square miles, a white population of 5,336 and a native population of 7,645,770; or a total of square miles in Africa of 931,460, having a total white population of 22,405 and a native population of 11,406,024.

The Togo territory was taken possession of by the British and French forces on August 17, 1914; the Kamerun was taken possession of by the British and French February 18, 1916; Southwest Africa was finally conquered by South African forces under Gen. Botha on July 9, 1915, and the Government of the Union of South Africa is now administering that country; East Africa was attacked by the British forces under Gen. Smuts from the north and by Belgian and Portuguese forces from the south and west, and practically the whole colony is now conquered.

The following table shows the former German colonies and dependencies in the Pacific, together with their area and population:

*German colonies and dependencies in the Pacific just before the war.*

| | Estimated area in square miles. | White population. | Native population. |
|---|---|---|---|
| German New Guinea, Kaiser-Wilhelms Land | 70,000 | | |
| Bismarck Archipelago | 20,000 | | |
| Caroline Islands, Palau or Pelew Islands | 560 | 1,427 | 600,000 |
| Mariana Island | 250 | | |
| Solomon Islands | 4,200 | | |
| Marshall Islands, etc | 150 | | |
| Samoan Islands: | | 557 | 34,579 |
| Savaii | 660 | | |
| Upolu | 340 | | |
| Total Pacific possessions | 96,160 | 1,984 | 634,579 |

The former German foreign colonies and dependencies had an estimated total of 1,027,620 square miles, 24,389 white population, and 12,040,603 estimated native population.

It is, Mr. President, a matter of common knowledge that all the former German possessions in Africa have been divided between Great Britain, France, and Italy under mandates, or are to be divided in that way, and that the islands of the Pacific Ocean are to be divided between Great Britain and the Japanese Empire, the Equator being the dividing line.

A member of the British parliament when this treaty was before that body said that under this treaty Great Britain comes out of the war more powerful and with more extended dominions, considering the African territories referred to, than ever before in the history of the empire, and that while it was to take possession of its share of the former German colonial possessions under mandate, or, rather, continue its possession—because it already is in forcible possession of them—it will eventually own them, as it owns its other African possessions; for in all probability the league of nations would dissolve and fall to pieces in a short time, as all such schemes had in the past, and their possession would continue.

The sole question here is whether the United States shall be a trustee for Great Britain, France, and Italy. The question, I repeat, is whether the United States shall become a trustee and responsible for the government of 931,460 square miles of territory and of about eleven and a half million people without any benefit whatever. There is no possible interest of the United States involved and no possible benefit to be derived, but simply a responsibility to protect these possessions in a barbarous country far away from the United States and possibly at the sacrifice of life and treasure. The proposition is for the United States to abandon a policy that has been pursued since the very beginning of our Government and shall act not only as a trustee but almost as the

servant of Great Britain, France, and Italy, and responsible for protecting their interests in that great territory.

It is said by the Senator from Michigan [Mr. TOWNSEND], as I understand, that this should not be done without consulting the House of Representatives. I do not understand that the House of Representatives has any interest or any power in the matter. If the treaty had been ratified, and the United States thus vested with an interest in all this immense territory, then, before it could be ceded or surrendered, as a matter of course it would take an act of Congress; but up to this date, and before ratification, the United States has no interest in it, and the proposition here is not to take or assume any such obligation.

Another point made, as I understood the Senator, was that we have provided for mandates. This is not a case of mandates. This is a case where it is known that Great Britain, France, Italy, and Japan will take possession under the color of a mandate, and the United States to be responsible for its perpetuity.

I firmly believe that this reservation ought to be made and that to do otherwise would be involving the United States in trouble and in expense where it has no interest, and contrary to our well-established policy against foreign entangling alliances.

Mr. NEW. Mr. President, I listened with great interest to what the Senator from Tennessee has had to say. I do not think the United States is so much interested in the disposition to be made of Germany's African possessions; but with the disposition to be made of the Pacific islands, it seems to me she is very vitally concerned.

Mr. President, to my recollection I have never heard the question of the disposition of those Pacific islands discussed on the floor of the Senate during the debates on this treaty. I have never seen it referred to in more than the most casual manner in the columns of the press; and yet, Mr. President, I think there is no feature of the treaty which more vitally and directly concerns the interests of the United States than this. What the remedy for what has been done is to be, I confess I do not know; but I think, sir, that the public ought to have a better understanding of the situation in which we are left through what has been done than I believe the public have at this time.

If you will consult the map you will find that through gaining the Ladrones and the Carolines and the Marshall Islands Japan is given possessions which almost completely surround the Philippines, which the United States is under every obligation to protect and defend. By becoming possessors of the Marshall Islands Japan is brought 2,000 miles nearer to the United States than she was before. She is given island possessions which directly interpose between the Hawaiian Islands and the Philippine Islands, just about as nearly midway between the two as they could have been located.

Mr. THOMAS. Mr. President——

The VICE PRESIDENT. Does the Senator from Indiana yield to the Senator from Colorado?

Mr. NEW. I do, for a question.

Mr. THOMAS. May I ask the Senator if the islands of which he is now speaking are situated north of the equator?

Mr. NEW. They are. All of them are north of the equator. They are, of course, capable of being fortified, and, while my information may not be correct, I have been informed that Japan at this moment is fortifying them.

As I say, the Marshall Islands are almost midway between Hawaii and the Philippines. Their possession brings Japan more than 2,000 miles nearer to the west end of the Panama Canal than she was without them; and, to my mind, a condition is created for the United States by this disposition of the islands that very greatly concerns us, and to which we should give very serious attention, and I think it well, at the same time, to have it understood just when and how that disposition was made.

It was made by the council of three; no longer the council of ten, but after the original council of ten had been decreased by various processes to a council of three, consisting of Mr. Lloyd-George, Premier Clemenceau, and President Wilson, representing the United States. On the 6th day of May those three gentlemen met and made this disposition of the German possessions, including the African colonies and the islands of the Pacific. When I think of the situation that is created for the United States by this disposition of those islands I can not help wondering just where the minds of our representatives were wandering and just whose interests it was of which they must have been thinking.

The treaty was given to the world the next day; and the treaty provides that the disposition of these colonies and possessions is that they are to be given to the five principal allied and associated powers. They are actually given, by the treaty, to the five principal allied and associated powers. What effect the language of the treaty had upon the action of the council of three, which preceded the publication of the treaty by 24 hours, I do not know. What the authority of the council of three to make this disposition was I do not know. What the remedy for the action is I do not know; but I do not believe, Mr. President, that the people of the United States at all understand the situation. I do not believe that the public know just what changes have been made in the Pacific, and the relations of the United States to that part of the world and to her possessions there, the Philippines, Guam, and the Hawaiian Islands. I do not think they understand that at all. I do not believe the Senate has ever had that matter borne in on it as it should have been.

Mr. KING. Will the Senator permit an inquiry?

The VICE PRESIDENT. Does the Senator from Indiana yield to the Senator from Utah?

Mr. NEW. Certainly; for a question.

Mr. KING. The Senator is complaining about the nonactivity of the representatives of the United States at the peace conference with respect to the disposition of the Pacific possessions of Germany. Does not the Senator think that our representatives secured a diplomatic triumph when they wrested the title—if I may be permitted that expression—which the other allied nations would have derived under the treaties that were executed in 1915 with respect to the Pacific Islands, and compelled the transfer of all of those possessions to all of the allied nations, including the United States, and the setting up of a mandatory with respect to those territorial possessions?

Mr. NEW. Well, Mr. President, I hope that the representatives of the United States secured something. This is the first claim that has been made by anybody that I know of that our representatives secured anything; and if they did secure an empty diplomatic triumph I am willing to accord them the glory that properly attaches to it.

Mr. TOWNSEND. Mr. President——

The VICE PRESIDENT. Does the Senator from Indiana yield to the Senator from Michigan?

Mr. NEW. For a question; yes.

Mr. TOWNSEND. I am very much interested in what the Senator has said. I do not wish to foreclose him in his discussion of this matter, but I was wondering if he was going to show how reservation 14 would furnish any relief to this situation if we now, with all the interests that we have, which the Senator has discussed, foreclose ourselves of the opportunity even to become interested in this question.

Mr. NEW. Mr. President, I must confess, as I said a moment ago, that I hardly know what the remedy for this situation is. I do not know that reservation 14 either provides it or prevents it. The thought that is in my mind is that I would dislike to see some action taken that may serve to prevent a resort to any remedy that may hereafter be found.

Mr. SHIELDS. Mr. President——

The VICE PRESIDENT. Does the Senator from Indiana yield to the Senator from Tennessee?

Mr. NEW. I do.

Mr. SHIELDS. The Senator stated that he did not know of anything that the United States had obtained under this treaty. I suppose he is overlooking the stupendous obligations of the United States to police the world—but that is not what I rose for.

Is the Senator aware of the fact that the division of these islands between Great Britain and Japan was provided for in the secret treaties which were observed and enforced, for instance, in the Shantung matter by the peace conference of Paris? Therefore what chance does the United States have of getting any part of them after the matter is already settled by a secret treaty, recognized and given full effect through that peace?

We are now simply taking a trusteeship for Japan in those islands. We are taking an obligation right there which we get under this treaty. Now, I agree with the Senator that Japan ought not to have them; but that has been settled, and when we agree to that provision we simply ratify the title of Japan to them. If we have this reservation put in, we have a chance hereafter to contest it.

Mr. NEW. Mr. President, in reply to what the Senator from Tennessee has just said, I will state, speaking of acquisitions, that I was referring to assets and not to liabilities. I confess that we have acquired liabilities enough; but assets there are none, so far as I have been able to discover.

With reference to the second point, have we agreed finally and flatly and irrevocably to this disposition of the islands under discussion? It is true, Mr. President, that they were disposed of by the secret treaties that were made between England,

France, Japan, and Italy previous to the entry of the United States into the war. It is true that the action of the 6th of May taken by the gentlemen whose names I have mentioned—Clemenceau, Lloyd-George, and Wilson—was in confirmation of the arrangement previously made in those secret treaties. The treaty itself provides that they are to be given to the principal allied and associated powers. There is just a question in my mind as to whether we may not yet find a remedy for what I conceive to be a very great oversight, to put it as mildly as I can, with reference to the protection of the interests of the United States.

We have, and perhaps will have, a cable station on the island of Yap, one of the Mariana group. We asked the President, at the White House conference between the President and the members of the Foreign Relations Committee, what had been done with reference to maintaining our rights on the island of Yap. His reply was that he had never heard of Yap before he went into the conference in Paris, but that he had made the point that the possession of that island should not be definitely determined at that time, and that it was still open to negotiation. I think that is what the record of that conference will reveal. But if Yap is to go to Japan, as it evidently does under this arrangement, we are either deprived of our station there, or we must go to Japan, hat in hand, as has been said of the manner in which we would have to approach Germany in certain contingencies, to ask her for the privilege of maintaining a cable station in the Pacific as a relay for our communications with the Philippines.

Mr. STERLING. Mr. President, will the Senator yield for a question?

Mr. NEW. Certainly.

Mr. STERLING. What is the inference now which the Senator would have us draw in regard to these islands, the Ladrones, the Carolinas, and the Marshall group mentioned by the Senator? Suppose they have not already been disposed of, but under the terms of the treaty they go to the allied and associated powers, and that thereby we shall have some interest in them. Since we have these other possessions, Guam and the Philippines, would it not be desirable that we, because of those possessions which we are bound to protect, should have an interest in these islands so near by?

Mr. NEW. Mr. President, that is exactly the inference I would have the Senate draw from what I said, that therefore the ownership or possession of all those islands should not be surrendered to any other power. The United States, because of her obligations in the Philippines and in Hawaii, should have for her very own enough of those islands to give her some strategic advantage and not put her under every strategic disadvantage for any emergency that may hereafter arise.

Mr. President, just one further thing and I have finished. I understand that this whole subject was made the matter of inquiry and investigation by the general board of the Navy, and that a report and a recommendation were made by that board. The President said he understood that report had been published. I may be mistaken about it, but I have never seen the report, and from other sources I have been informed that the President was mistaken. I do not insist upon that, because he may have been right, but I do not think that report was ever published. Just what disposition was made of it—whose hands did it reach, what was its fate, what consideration was ever given to it—I should like to know and I think the public should like to know. I think, Mr. President, the whole matter of the disposition of the islands in the Pacific is one that has been little understood, even in the Senate, where the whole subject has been under debate for months.

Mr. KENYON. Mr. President, I rise to a question of personal privilege. I would like to inquire from the Chair if that will be taken out of my time?

The VICE PRESIDENT. I assume no Senator would object to another Senator rising to a question of personal privilege. I do not know as to that, but I assume the Senator can proceed by unanimous consent, and if he is not speaking to the treaty it will not be taken out of his time.

PERSONAL EXPLANATION—STEEL WORKERS' STRIKE INVESTIGATION.

Mr. KENYON. Mr. President, ordinarily, like most men in public life, I pay no attention to attacks of newspapers or newspaper correspondents. That is one of the things that men in public life must bear, and I have done my part of the bearing. But an article is now before me which I understand has been syndicated, and it is being sent all over the country, attacking me in my official position as a Senator and as chairman of the committee investigating the steel strike. I dislike to bother the Senate with it, and I would not have done so had it not been headed in a paper in my State, distinctly hostile to me because it has not been able to control my vote on the league of nations, in large headlines that I had kept from the committee the record of Mr. Foster.

This article is by a gentleman named Carl W. Ackerman. It is so full of falsehood that I can not find words to characterize it on this floor as I would like to characterize it to the gentleman's face. It is now being published around the country as an advertisement. I wonder who is paying for its publication.

I do not know the purpose of it, Mr. President. I think the members of the subcommittee investigating the steel strike will bear witness that I endeavored to be fair, and we endeavored to get all the evidence on both sides. The gentleman who writes this article and has now had it copyrighted and is sending it out to all who will purchase it for a small amount had been through that district. He had written for his paper, the Public Ledger, solely on one side of this proposition, and I hope a feeling that if the committee had not found that some of the men in the mills had a cause of complaint in the long hours of service that article never would have appeared.

I realize, Mr. President, that men who in public life fight the battles that I have tried to fight make powerful enemies, enemies who can secure the service of character assassins, who are afraid to meet a man face to face, but fire on him from ambush. Such a man is this.

He charges that he brought certain evidence to me. He did. He charges that I was furnished certain evidence by the Government. I went to a certain branch of the Government and secured certain evidence about the activities of the radicals. The Government was not particularly desirous to have that known, because they did not want to be on one side or the other of this strike, as was perfectly proper.

This gentleman presented his evidence, as 50 others presented evidence to me. Some of it undoubtedly was of great value. I have a table in my office piled with evidence on the steel strike. We could not use it all, or we would have been in session for a year. But with that becoming modesty that ofttimes characterizes some correspondents of papers he seemed to think that he should practically take charge of and direct the investigation, and failing to do that, and the report failing to meet with his wishes, he starts this attack through the newspapers of the country.

I do not care about it here so much. Senators who know me, I think, know that I would not be guilty, as chairman of a committee, of deliberately suppressing evidence from the other members of the committee; that I would not be guilty of trying to protect the Reds and the Bolsheviks in this country by suppressing evidence; and no man who has an honest hair in his head can read this record and this report and say that any member of that committee was doing anything of that kind.

This is headed:

FACTS SENATE FAILED TO BRING OUT ABOUT FOSTER AND I. W. W.—SENATOR KENYON, CHAIRMAN OF THE INVESTIGATING COMMITTEE, HAD EVIDENCE PROVING LEADER'S SECRET COOPERATION WITH RADICALS IN PLANNING STEEL STRIKE, BUT FAILED TO USE IT—U. S. AGENTS FIND ORGANIZER IS STILL A RED AND HAS NOT CHANGED POLICY OF "BORING FROM WITHIN"—INFORMATION SHOWS STRIKE BALLOTING WAS HAPHAZARD IN EVERY FACTORY AND CITY—MAN IN PITTSBURGH CAST 1,500 VOTES IN FAVOR OF WALKOUT; 4,000 AGAINST WERE THROWN OUT.

This article claims that he furnished me with certain data and information as to Mr. Foster that was not used, and that none of the evidence furnished by the Government, as he alleges was furnished, was used, and his language is:

He had the evidence—

That is, the chairman of the committee—

including photographs of letters written by Vincent St. John, the "brains" of the I. W. W. organization in this country, before Foster went on the stand, but he made no use of this evidence.

I turn from that statement to the record, Part II, testimony of Mr. Margolis. This was a letter written by the I. W. W. secretary to Mr. Margolis, a despicable and contemptible syndicalist of Pittsburgh. It was not written to Mr. Foster. The proper place to get that evidence was from Mr. St. John or from Mr. Margolis, but not from Mr. Foster, and on page 866 of Volume II of the testimony I take up this letter and ask the witness about it, and every line of it is there except the last line.

In our report, on pages 20 and 21, the letter is printed verbatim. That is one of the things that this man charges I kept from the committee.

We did not ask and I did not ask all of these things of Mr. Foster. Mr. Foster was a shifty, lying witness. It was difficult to get much out of him. We proved this letter in other ways. What difference did it make? That letter was the gravamen, it seemed to me, of all this evidence. It showed a connection between the I. W. W. and Mr. Foster and Mr. Margolis. That evidence is here in the record and in the report. It did not come in the way that this newspaper correspondent might have desired, but he was not conducting the

investigation. That is the main charge that is made against me in this article. That charge is proven by the record to be an absolute falsehood.

Another charge is that I did not bring out of Foster the fact about Margolis going to Youngstown, Ohio, and addressing the convention of the union of Russian workers. We did not get that out of Foster, but we got it out of Margolis in much better shape, and that fact appears in the record at pages 836 to 839. We covered that as fully as anything could have been covered—that Margolis went out to Youngstown and addressed this council of Russian workers, a band of anarchists, and came back and reported it to Foster. That is in this record.

It is a pretty cruel thing, it is a pretty contemptible thing, it shows a pretty small bore, in the face of that record in the man, who will accuse any man who values his honor above anything else of keeping from the balance of the committee or the country the very facts which are in the record.

As to the charge that the Government had placed at my disposal—another one of the charges—information in comparison between the two books Syndicalism and Trade Unionism, I refer to the record itself, volume 1, pages 387, 388, 392, and 394, where Senator McKELLAR——

Mr. STERLING. Mr. President——

Mr. KENYON. I yield to the Senator.

Mr. STERLING. The Senator can refer to the report itself of the subcommittee, without referring to the testimony, to show what goes into the record from the testimony. Several extracts from Syndicalism, Foster's book, are there set forth.

Mr. KENYON. Does the Senator from South Dakota remember that I had put so much of Syndicalism into the report that the balance of the committee struck out some of it?

Mr. STERLING. Struck out one paragraph, I think.

Mr. KENYON. It was overloaded with Syndicalism.

The Senator from Tennessee [Mr. McKELLAR] made an examination at length with reference to syndicalism, as appears on those pages. On page 396 I questioned Mr. Foster on Trade Unionism, the other book, which showed that he had the same ideas when he wrote Trade Unionism that he had when he wrote Syndicalism, and the Senator from South Dakota [Mr. STERLING]—I think he will bear me out about the matter—was given this book Trade Unionism by me during the hearings and questioned Foster about it, and that appears on pages 416, 417, and 418 of the report.

So this charge is as false as all the other charges, save one, to which I am going to refer. These are the facts that are sent out to my State and put in great headlines in a leading paper of my State.

Mr. Ackerman claims again that evidence as to a certain bond was not secured; that Foster had given a $100 bond to St. John to be used as bail for the I. W. W.'s. I think if anyone will read this record he will see I had asked Foster as to St. John. He was a shifty, difficult witness, a lying witness. He denied seeing St. John during the strike; admitted seeing him before. When we got down to that point some one broke in, as they do on committees, and the thing took another and different drift and went off on a question of foreign languages, and we did not bring it back. I think that is a just criticism, but it is the same criticism that might be made of any lawyer who, in a great mass of testimony, may fail to use one particular thing.

We were conducting these examinations under great difficulty, because Senators wanted to be here; we wanted to get through within a reasonable time. When Mr. Foster left the stand at the close of that day, I can state that most of the committee were determined that Mr. Foster should return to the stand after we had tried to connect up some of these things. I know I was so determined, and talked with other members of the committee who were of the same opinion. That $100 bond business I am willing to be criticized for overlooking in the great mass of evidence. We tried to get it out of Margolis, but did not succeed in doing it. We had enough of it as to Mr. Foster without that. We had enough evidence connecting him with the I. W. W. to convict him before a jury on a question of fact overwhelmingly; and now, because we did not bring in everything else and run these hearings on for six months, forsooth we must be criticized by this correspondent.

Another charge is that the Government had furnished me certain evidence and I kept it from the committee or did not use it. I have not said they furnished it. This reporter says they furnished this evidence. Whatever department of the Government did furnish me this evidence did not care to have it exploited, but were willing to have it used. I will invite any Senator to take it and compare it with the evidence that we have in this case, and then say whether there is a substantial thing in it that is not in the evidence. It is here on my desk.

According to Mr. Ackerman's article all of these things could have been secured out of Mr. Foster when he was on the stand, and that Margolis, by whom he admits we proved some of them, would not have been used if it had not been for the insistence of the Senator from South Dakota [Mr. STERLING]. I have not said a word to the Senator from South Dakota about this matter.

The insinuation of that article is that I was ready to have the case closed without getting these things out of Mr. Foster. When we went to Pittsburgh Mr. Margolis left town. I had intended that we should use him. He kept away from Pittsburgh while we were there, I was informed by the very highest authority, when I tried to get him as a witness. When we came back from Pittsburgh the Senator from South Dakota [Mr. STERLING] presented to me some evidence as to Mr. Margolis. I call upon him now to say whether I was trying to close this case without the testimony of Mr. Margolis.

Mr. STERLING. Mr. President, I can give, I think, a full answer to the Senator from Iowa in that respect. I saw the article to which he refers, and I at once pronounced it as untrue and as an article which did the Senator from Iowa a grave injustice.

Referring to the paragraph in the article in which my own name is used as one of the subcommittee who had insisted on certain evidence being produced before the committee, the fact is simply this, that while the subcommittee was at Pittsburgh a representative of the Department of Justice handed me a statement relative to Messrs. Foster and Joseph Margolis, the attorney for the I. W. W. There was no opportunity to present it to the chairman of the committee until we returned to Washington, but on the following morning after our return I saw the Senator from Iowa and handed him the communication which I had received from the representative of the Department of Justice.

He read it over, and I think within an hour from the time I handed him the document he came and said to me that we would have to subpœna Mr. Margolis, and we did subpœna Mr. Margolis, with the result that the Senator has already stated as to the kind of evidence we got from him.

Mr. President, I may say, I think, I was quite a regular attendant at all meetings of the subcommittee. I attended the hearings at Pittsburgh. I did not see any evidence on the part of any member of the committee of a desire to favor anyone. What seemed to be the desire of the committee was to get at the facts and state the facts fearlessly, whether they favored the employers in the steel industry or whether they favored the claims of the striking employees in that industry.

Mr. KENYON. I thank the Senator.

We used Mr. Margolis. The case would not have been closed without Margolis or Foster being brought back. Mr. Margolis was so frank in all his infamy that it was perfectly startling, but we got everything out of him, as you can out of a willing witness as against an unwilling witness. We got the whole story of the Youngstown transaction to which reference is made here. We got the letter from St. John. We tied up Foster with it, and when Margolis was through with his testimony there was not much left as to the Pittsburgh situation; but even then we did not close the case, although we were anxious to get through because a report in a matter of this kind, to have any particular effect, must be made within a reasonable time.

We went on to the Gary investigation. If I had been trying to shield the anarchists and I. W. W.'s, as this article states, I would not have gone to work and gotten all of the evidence that came from Gary—and I got that myself—showing the activities of the I. W. W.'s and the anarchists at Gary. And yet this gentleman, who was in France, but not to fight, can assail his fellow man in this manner and spread it throughout the country.

You can always look back over hearings, as you can over a lawsuit, and think where you might have improved the trial or improved the hearing. I can do that now. As I said, we were taking this evidence under great difficulty. We did the very best we could.

These charges to which I have referred are the ones made against myself in the article. The committee is found fault with, too, because they did not secure evidence as to votes cast by the strikers. We tried to do that. I had some figures that were given me by somebody, 20 or 30 pages, to figure out and try to get at whether or not as many ballots had been printed as were claimed to have been cast. We could not get them.

We were promised—I do not remember by whom, but by one witness—that we should have the figures as to the votes. We never got them. This gentleman or this character assassin says that he knew of one man who cast 1,500 votes. We did not get that. No such fact was ever presented to our committee, and if he had that evidence it was his duty to bring it to us.

He says in this article that the Senate committee could have shown Foster to be one of the most dangerous radicals in this country. My God, how can anybody read this evidence and then

say that we did not show that fact? How can anybody read this report and say that we did not show that fact? I shall not take the time of the Senate to read it, but if Senators will read pages 17 and 18 of the report they will see that the language used was about as strong as could be devised, at least by an ordinary intellect that was not engaged in trying to tear down its fellow men.

Mr. President, I am sorry to bring this matter up. I ought perhaps to take more time and put portions of the record in in order to show the absolute falsity of this article. I would not have brought the subject up if it had not been that it has gone to my State; it is copyrighted, and probably sells for quite a substantial sum.

Mr. STERLING. Mr. President, if the Senator from Iowa will permit me, in connection with what he has stated, I think he ought to put into the RECORD the excerpts from the book on Syndicalism, together with the comments made in the report on Mr. Foster.

Mr. KENYON. Later I will also ask to insert into the RECORD excerpts on syndicalism and the comments of the committee on Mr. Foster.

Not only this, Mr. President, but one member of the committee, before the testimony of Mr. Margolis was given, secured the service of a man from Pittsburgh who knew the inside of the whole matter, or thought he did. I spent an entire Sunday with that witness, from morning until night, getting the facts about Mr. Margolis, and I assisted in the examination the next day. I should like any man to read the portion of the examination of Mr. Margolis that was conducted by the chairman of the committee, as the charges are made against me, and say whether or not there was any attempt to shield anybody. In fact, I think a member of the committee thought we were going too far in the matter. In any event, we had the evidence; it is in the record; whether it came from one witness or came from another witness, whether it came in the way that some newspaper correspondent thought we ought to have it or whether it came in a way that we thought we ought to have it, it is there, with the exception of the one matter that I have related, as to which there might be some just criticism as there might be of any lawyer, as I have said, who left out one piece of evidence. I do not think it amounted to a great deal.

Mr. President, on this one error or mistake, if you please, and because of a failure to get full statistics as to the strikers' vote, this man has built up a structure of fabrications with the deliberate intention to mislead. He is sending that report around the country for money. The record and the report prove him a falsifier, and he stands convicted by the record as a falsifier.

I now ask unanimous consent, as suggested by the Senator from South Dakota [Mr. STERLING], to insert in the RECORD excerpts from the report as to syndicalism and the comments of the committee on Mr. Foster.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The matter referred to is as follows:

III.

The testimony as introduced and the study the committee has made of the situation lead them to the conclusion that while there were legitimate complaints as to long hours of service, that the strike has been seized upon by some I. W. W.'s, Bolshvists, and anarchists to further their own interests, and that their influence in the strike has been powerful.

The committee is of the opinion that the American Federation of Labor has made a serious mistake and has lost much favorable public opinion which otherwise they would possess by permitting the leadership of this strike movement to pass into the hands of some who heretofore have entertained most radical and dangerous doctrines. If labor is to retain the confidence of that large element of our population which affiliates neither with labor organizations nor capital, it must keep men who entertain and formulate un-American doctrines out of its ranks and join with the employers of labor in eliminating this element from the industrial life of our Nation. Unquestionably, the United States Steel Corporation has had the support of a larger and of a wider circle in the country during the strike because of the character of some of the strike leadership. Labor organizations should not place the workingmen in the position of any sympathy with un-American doctrines or make them followers of any such leadership. Such practice will result in defeating the accomplishment of their demands.

Take the case of Mr. William Z. Foster. Mr. Foster is secretary to the committee composed of the 24 international unions managing this strike. His duties were substantially to act as secretary of the strike, to look after the organization of workers, and to handle the finances. He is in the office at Pittsburgh, and seems to be the general manager of the strike. While it is claimed that he has had little to do with it, it is quite apparent to the committee that he has more to do with it than any other man in its actual management. He is one of the signers of the letter to the President and to Mr. Gary. He appears to be a man of excellent education, a thinker, and prolific writer. It is a source of regret to find that a man born in America should have written such doctrines as are set forth in his "Syndicalism" and his more recent publications. At the time of his writing "Syndicalism" he was wholly antagonistic to American labor unions, and especially to the American Federation of Labor. Soon after, however, he seems to have come to the conclusion that he could accomplish his aims and purposes better by "boring from within," as he expressed it in one letter to Solidarity, the I. W. W. publication. Carrying out his doctrine of "boring from within," he became active in organized-labor work and soon became a leader.

We insert excerpts from his book showing that he believed that nothing was illegal if necessary to carry out his views. He advocated violence in strikes. He charged the American labor movement was infested with hordes of dishonest officials. He was closely associated with Mr. Margolis, present attorney for the I. W. W.'s at Pittsburgh, who has been behind this strike with all of his power; with Mr. Vincent St. John, formerly secretary to the I. W. W.'s; and the evidence convinces the committee that there has been little change of heart on the part of Mr. Foster and that he is now in the full heyday of his power in the "boring from within" process.

Such men are dangerous to the country and they are dangerous to the cause of union labor. It is unfair to men who may be struggling for their rights to be represented by such leaders. It prevents them from securing proper hearing for their cause. If Mr. Foster has the real interest of the laboring man at heart he should remove himself from any leadership. His leadership injures instead of helps. If he will not remove himself from leadership the American Federation of Labor should purge itself of such leadership in order to sustain the confidence which the country has had in it under the leadership of Mr. Gompers.

Mr. Foster's book on syndicalism and on trade-unions has been before the committee. These doctrines are subversive of government. Mr. Foster in the year 1911 was an admitted I. W. W. and attempted at the Labor Convention at Budapest to take the place of Mr. James Duncan, the duly accredited representative from this country. He wrote articles from abroad to Solidarity, the I. W. W. paper, signing them, "Yours for the revolution"; "Yours for the I. W. W." These letters breathe the spirit of anarchy.

EXTRACTS FROM "SYNDICALISM."

"In his choice of weapons to fight his capitalist enemies the syndicalist is no more careful to select those that are 'fair,' 'just,' or 'civilized' than is a householder attacked in the night by a burglar. He knows he is engaged in a life-and-death struggle with an absolutely lawless and unscrupulous enemy, and considers his tactics only from the standpoint of their effectiveness. With him the end justifies the means. Whether his tactics be 'legal' and 'moral' or not does not concern him so long as they are effective. He knows that the laws, as well as the current code of morals, are made by his mortal enemies, and considers himself about as much bound by them as a householder would himself by regulations regarding burglary adopted by an association of housebreakers. Consequently, he ignores them in so far as he is able and it suits his purposes. He proposes to develop, regardless of capitalist conceptions of 'legality,' 'fairness,' 'right,' etc., a greater power than his capitalist enemies have, and then to wrest from them by force the industries they have stolen from him by force and duplicity and to put an end forever to the wage system. He proposes to bring about the revolution by the general strike." (P. 9.)

"The general strike and the armed forces: Once the general strike is in active operation, the greatest obstacle to its success will be the armed forces of capitalism—soldiers, police, detectives, etc. This formidable force will be used energetically by the capitalists to break the general strike. The syndicalists have given much study to the problem presented by this force and have found the solution for it. Their proposed tactics are very different from those used by rebels in former revolutions. They are not going to mass themselves and allow themselves to be slaughtered by capitalism's trained murderers in the orthodox way. There is a safer, more effective, and more modern method. They are going to defeat the armed forces by disorganizing and demoralizing them." (P. 10.)

"Syndicalists in every country are already actively preparing this disorganization of the armed forces by carrying on a double educational campaign amongst the workers. On the one hand, they are destroying their illusions about the sacredness of capitalist property and encouraging them to seize their property wherever they have the opportunity. On the other, they are teaching working-class soldiers not to shoot their brothers and sisters who are in revolt but, if need be, to shoot their own officers and to desert the army when the crucial moment arrives. This double propaganda of contempt for capitalist property 'rights' and antimilitarism are inseparable from the propagation of the general strike." (P. 11.)

"Bloodshed: Another favorite objection of ultra legal and peaceful Socialists is that the general strike would cause bloodshed.

"This is probably true, as every great strike is accompanied by violence. Every forward pace humanity has taken has been gained at the cost of untold suffering and loss of life, and the accomplishment of the revolution will probably be no exception. But the prospect of bloodshed does not frighten the syndicalist worker as it does the parlor Socialist. He is too much accustomed to risking himself in the murderous industries and on the hellish battle fields in the niggardly service of his masters to set much value on his life. He will gladly risk it once, if necessary, in his own behalf. He has no sentimental regards for what may happen to his enemies during the general strike. He leaves them to worry over that detail." (P. 13.)

"Perhaps the most widely practiced form of sabotage is the restriction by the workers of their output. Disgruntled workers all over the world instinctively and continually practice this form of sabotage, which is often referred to as 'soldiering.' The English labor unions, by the establishment of maximum outputs for their members, are widely and successfully practicing it. It is a fruitful source of their strength.

"The most widely known form of sabotage is that known as 'putting the machinery on strike.' The syndicalist goes on strike to tie up industry. If his striking fails to do this, if strike breakers are secured to take his place, he accomplishes his purpose by 'putting the machinery on strike' through temporarily disabling it. If he is a railroader he cuts wires, puts cement in switches, signals, etc., runs locomotives into turntable pits, and tries in every possible way to temporarily disorganize the delicately adjusted railroad system. If he is a machinist or factory worker, and hasn't ready access to the machinery, he will hire out as a scab and surreptitiously put emery dust in the bearings of the machinery or otherwise disable it. Oftentimes he takes time by the forelock, and when going on strike 'puts the machinery on strike' with him by hiding, stealing, or destroying some small indispensable machine part which is difficult to replace. As is the case with all direct-action tactics, even conservative workers, when on strike, naturally practice this form of sabotage—though in a desultory and unorganized manner. This is seen in their common attacks on machines, such as street cars, automobiles, wagons, etc., manned by scabs.

"Another kind of sabotage widely practiced by syndicalists is the tactics of either ruining or turning out inferior products. Thus, by causing their employers financial losses, they force them to grant their demands. The numerous varieties of this kind of sabotage are known by various terms, such as 'passive resistance,' 'obstructionism,' 'pearled strike,' 'strike of the crossed arms,' etc." (P. 15.)

"The syndicalist is as 'unscrupulous' in his choice of weapons to fight his everyday battles as for his final struggle with capitalism. He allows no considerations of 'legality,' religion, patriotism, 'honor,' 'duty,' etc., to stand in the way of his adoption of effective tactics. The only sentiment he knows is loyalty to the interests of the working class. He is in utter revolt against capitalism in all its phases. His lawless course often lands him in jail, but he is so fired by revolutionary enthusiasm that jails, or eve death, have no terrors for him. He glories in martyrdom, consoling himself with the knowledge that he is a terror to his enemies and that his movement, to-day sending chills along the spine of international capitalism, to-morrow will put an end to this monstrosity." (P. 18.)

"The syndicalist is a radical antipatriot. He is a true internationalist, knowing no country. He opposes patriotism, because it creates feelings of nationalism among the workers of the various countries and prevents cooperation between them, and also because of the militarism it inevitably breeds. He views all forms of militarism with a deadly hatred, because he knows from bitter experience that the chief function of modern armies is to break strikes, and that wars of any kind are fatal to the labor movement. He depends solely on his labor unions for protection from foreign and domestic foes alike and proposes to put an end to war between the nations by having the workers in the belligerent countries go on a general strike and thus make it impossible to conduct wars.

"Another difference between industrial unionism and syndicalism is that the former puts emphasis on the industrial form of organization and the 'one big union' idea, while the latter emphasizes revolutionary tactics. Industrial unionists also preach the doctrine that there are no leaders in the revolutionary movement, whereas a fundamental principle of syndicalists is that of the militant minority (outlined in ch. 9)." (P. 32.)

"The working class, whose sole defense they are against the capitalist class, is in retreat before the latter's attacks. If this course is to be arrested and the workers started upon the road to emancipation, the American labor movement must be revolutionized. It must be placed upon a syndicalist basis." (P. 36.)

"Labor fakers: The American labor movement is infested with hordes of dishonest officials who misuse the power conferred upon them to exploit the labor movement to their own advantage, even though this involves the betrayal of the interests of the workers. The exploits of these labor fakers are too well known to need recapitulation here. Suffice to say the labor faker must go." (P. 39.)

"In the foregoing pages only the more important evils afflicting American labor unionism have been gone into and their remedies indicated. Lack of space forbids the discussion of the many minor ones with which it bristles. But the rebel worker, in his task of putting the Americain labor movement upon a syndicalist basis, will have no difficulty in recognizing them and their antidotes when he encounters them." (P. 42.)

"The S. L. of N. A. is demonstrating that the American labor movement is ripe for a revolution and that the conservative forces opposed to this revolution are seemingly strong only because they have had no opposition. It is making them crumble before the attacks of the militant minority, organized and conscious of its strength." (P. 47.)

We call attention also in this connection to the testimony of Mr. Margolis, who at least is entitled to credit for frankness in expounding his abominable doctrines before the committee. He is not a member of the Federation of Labor and has no connection with it, but he has rallied to the support of this strike in the Pittsburgh district the I. W. W. and anarchistic elements of the population. He has had strong influence with the Union of Russian Workers and secured their support for the strike. He admits that they are anarchists; he admits that he is an anarchist. He has been a close associate of Emma Goldman and Alexander Berkman, and attempted to organize at Pittsburgh all the various organizations antagonistic to government. He assisted in spreading anarchistic literature and I. W. W. journals. He himself is against all government. He is the kind of man who would not, as he himself testified, use any force against a man robbing his house or assailing his wife. He is apparently on close terms with Mr. Foster. While he criticizes him for having given up his syndicalistic views, he leaves the impression that he believes Foster still has those views "in the back of his head," and that he had become a member of the American Federation of Labor for the purpose of better carrying out the policies that he really had in mind and to which he was sincerely attached.

Mr. Margolis is a highly educated man, a good speaker, and the kind of man who is calculated to do immense harm. He cares not for the country which by law protects him. He desires to dissolve this Government by peaceful means. He has no sympathy for our American institutions. Mr. Margolis has many followers. He is a writer for the I. W. W. magazines and is a type of the overpeaceable and ultradangerous citizen. We recommend to Senators that they read the testimony of Mr. Margolis as taken before this committee.

Mr. Foster apparently also is more or less closely associated with Mr. Vincent St. John, a notable I. W. W. worker, and Mr. St. John is also closely associated with Mr. Margolis. Mr. Foster thought enough of Mr. St. John's views to quote him in his book on "Syndicalism," and Mr St. John had been in Pittsburgh just prior to the strike. And while Mr. Foster denies any particular consultation with him, he admits having seen him. That Mr. Vincent St. John has been active as to the steel strike; that he is closely associated with Margolis and with Foster is shown by a letter written to Margolis by St. John, as follows:

CHICAGO, ILL., *August 16, 1919.*

FRIEND MARGOLIS: Anent that article I was to mail you—they want to reproduce it in Sol here so I let them have it. After which they promise to mail it to me, and I will see that you get it; that is, if they do not run it. If they do, of course, you will see it in the Sol.

Things are looking a little better here, and from press reports there is something stirring throughout the country.

Just while I think of it, if you have a chance to talk matters over with Foster on possible developments in case of a strike in steel, I think it would be a good thing to do so. It might be possible to frustrate treacherous action by international officials should a strike occur—and I think a strike is assured.

Regards to all the bunch.

Sincerely,

V. ST. JOHN.

The evidence before the committee showed great activity at Gary among those who would be termed "Reds," and while it would be unfair to say that they were the leading force behind the strike, it is fair to say that they were doing everything they could to help it.

Lieut. Van Buren, of the Regular Army, testified before the committee as to the great activities of anarchists found in Gary: Large quantities of anarchistic literature were found; some in homes, some in places of public meeting—Russian anarchistic literature, socialist literature, Slovakian and other nationalities. It was somewhat interesting, though distressing, to hear from him that all the foreign societies were rather prosperous in Gary, and the only society that had gone out of business was the American society. This literature is being generally circulated. It is the literature of the soviet. Its poison is being instilled into the minds of men who know nothing about this country, and apparently no effort is being made to have them know anything about it. We do not mean this as a reflection upon the American Federation of Labor. We would rather make it as a plea to the Federation to purge itself of these men.

Mr. McKELLAR. Mr. President, I ask unanimous consent to proceed for merely two or three minutes with reference to this matter.

I happened to be a member of the subcommittee, of which the Senator from Iowa [Mr. KENYON] was the chairman, which investigated the strike in the steel industry. I have read the newspaper correspondence referred to by the Senator from Iowa, and I wish to say that, in my judgment, there is no foundation for any statement made therein criticizing Senator KENYON, and I believe that because of my very active service on the committee that I am qualified to speak of the fact.

I have never known a chairman of a committee or of a subcommittee to be any fairer, to be any more active to ascertain the truth concerning the matters which were being investigated, any more vigilant, any more eager to do the right, and any quicker to denounce the wrong, than was the Senator from Iowa. He was fair to the members of the committee; he was fair to the witnesses who appeared before the committee on both sides; and I am absolutely sure that I have never known any man to take part in an investigation with an eye more single to obtain the truth, and the whole truth, and nothing but the truth, than was the Senator from Iowa. I resent this attack which has been made upon him in this way. It is an attack that ought not to have been made. It is wholly unjustified. It is wholly opposed to the facts in the case. There is no excuse even for the criticism.

Take, for instance, the statement made that the Senator from Iowa suppressed information that had been given as to Mr. Foster. It will be recalled that Mr. Foster was one of the first witnesses examined—I think he was the third or fourth, or something like that—at any rate he was called early in the examination. Very little was known about him at the time. The committee was furnished with articles which had been written by him, and members of the committee took those articles, cross-examined Mr. Foster, and demonstrated to the whole civilized world that Mr. Foster was a syndicalist, an anarchist at heart, and had been formerly a professed I. W. W., and a man who had those views still in his heart.

In my judgment, the examination which was made by the committee, under the supervision of its chairman, absolutely annihilated Mr. Foster as a patriotic citizen before the public of America. No man who loves his country and believes in its institutions after reading the report of that examination can have the slightest respect for Mr. Foster.

It is idle to talk about the committee not having secured the information that it desired from Mr. Foster. The committee certainly had enough information for use in cross-examination to make Mr. Foster abhorred by all good Americans. I have never seen a good word written of him or heard a kind word spoken of him since he testified before the committee. It is true that, his examination coming early in the investigation, there were a number of matters concerning which Mr. Foster was not examined. He came here and remained here, as I recall, only one day and then left. I recall very distinctly that I went to the chairman of the committee [Mr. KENYON] and stated to him that Mr. Foster ought to be recalled for certain information that we knew he could produce. The chairman agreed with me and it was understood that Mr. Foster was to be recalled, when we found that we could get the desired information in a more effective way from his brother anarchist, Mr. Margolis. Mr. Margolis came; we examined him, and we ascertained everything that we had wanted of Mr. Foster. We got everything that we wanted from Mr. Margolis, and probably very much better, because Mr. Margolis, with all his anarchistic infamy, had at least the virtue of being frank about his hatred of government generally and American institutions specifically, and rather gloried in his hatred, which was something that could not be said for Mr. Foster. It will be remembered that Mr. Foster constantly went back on his own record; constantly tried to appear before the committee as something that he was not. It was these facts that were brought out by the committee that produced in this country

the antagonism which I believe exists to-day against Mr. Foster and all of his kind of radical leaders.

I feel that I should say that not only this charge but every other charge made in this article against the Senator from Iowa is absolutely without foundation. It was stated that he suppressed a letter from Vincent St. John, one of the I. W. W. leaders. No man on the committee felt a deeper interest or was more active to get that letter in the record than the Senator from Iowa. Indeed he read it into the record, and copied it into the report. In that and every other matter he was fearless; he was frank; he was capable in his management of the investigation, and in my judgment the investigation made by the committee under his direction was full and ample, and has effected a splendid result before the country.

Of course, Mr. President, there was a great mass of information that the committee did not have printed in the record. All of this was submitted to the committee and we weeded out what we thought was unimportant. But we were very careful to insert every essential fact. Some question was raised about the method of voting the strike by the strikers, and as to the number of those who actually voted. I recall that I took the position that this was wholly immaterial for two reasons: First, because whether the men had voted for a strike or not, practically all of them had gone out on the strike, so it made no difference whether they had previously actually voted or not. In the second place, we all believed from the evidence that the leaders, like Foster, Margolis, and others, were in actual control of the strike, and that their votes were the only ones that counted.

As to the $100 Liberty bond question, there was never the slightest doubt—after he had testified—that Foster was still at heart an I. W. W. and that he was quite as dangerous an anarchist as we have in this country. Any additional evidence of his hatred of American institutions would simply have been cumulative.

I take great pleasure in making this statement on behalf of a man whom I believe to have been unjustly and improperly assailed. The anarchists, the I. W. W., the Russian soviet crowd, and the radical socialists may well criticize him, for he is against all of them who are against the American Government and who are against law and order. But surely no patriotic American citizen who loves his country can make those of us who have served with him, or those who know him, believe that Senator KENYON is capable of suppressing evidence or of acting in any other way unbecoming the gentleman that he is, or unbecoming the most able and efficient public servant that he is.

Mr. PHELAN obtained the floor.

Mr. WALSH of Massachusetts. Mr. President, will the Senator yield for a moment?

The PRESIDENT pro tempore. Does the Senator from California yield to the Senator from Massachusetts?

Mr. PHELAN. I yield, without yielding the floor.

Mr. WALSH of Massachusetts. Mr. President, as a member of the subcommittee of which the Senator from Iowa [Mr. KENYON] was chairman, I wish briefly to state that I am pleased that he has called public attention to the news article concerning which he has addressed the Senate. However, the Senator from Iowa did not need to make any answer to the criticism so needlessly and unjustly made upon him. The fearless, independent, and patriotic character of his long public service is a complete answer to this newspaper attack. To my knowledge, the Senator, as chairman of this subcommittee, gave hours and days of patient, conscientious, and industrious service to the investigation of the steel strike. During my long years in the legal profession, in my service upon various committees, and during my public service in various offices of trust, I have rarely seen a public servant approach the solution of a public question more impartially and with a more determined purpose of doing justice to all parties concerned. The Senator from Iowa has performed on this committee a public service to our country of the very highest character. His honesty, his fearless indifference to partisan or class appeal, and his Americanism are invulnerable.

Mr. KNOX. Mr. President——

The PRESIDENT pro tempore. The Senator from California has the floor. Does he yield to the Senator from Pennsylvania?

Mr. PHELAN. I yield for a question.

Mr. KNOX. I beg the Senator's pardon. I merely wanted to make an observation in connection with the matter of personal privilege which has been raised by the Senator from Iowa. It will only take me a moment, if the Senator from California will yield.

Mr. PHELAN. Mr. President, inasmuch as the remarks made by the Senator from Massachusetts [Mr. WALSH] and the remarks to be made by the Senator from Pennsylvania [Mr. KNOX] relate to the question which by unanimous consent was excluded from the time allowed each Senator, I ask that the time of the Senator from Massachusetts and the time of the Senator from Pennsylvania be credited to their own allotments.

Mr. KNOX. I am perfectly willing to accept the floor upon that condition, because I would cheerfully give up any or all of my time in order to have the privilege of raising my voice in protest against the outrageous publication in which the chairman of the Committee on Education and Labor has been assailed.

I know of no committee in the Senate, in all of my experience in this Chamber, that has had a more delicate, difficult, and important proposition to deal with than the committee of which the Senator from Iowa [Mr. KENYON] is chairman in the steel strike investigation. It came at a time in the psychology of the world when it required the greatest wisdom, the highest courage, and the utmost industry to get at the bottom of the facts inspiring and surrounding the action on the part of the strikers which was not a voluntary action of their own, but which was brought about not only by the enemies of our Government but by the enemies of civilization. I merely wanted to have the RECORD disclose my entire sympathy with the just protest which has been made by the Senator from Iowa and an expression of my opinion as to the outrage which has been committed upon him by insinuations and assertions impugning his judicial fairness and entire impartiality in the thorough investigation made by the Committee on Education and Labor under his direction.

## TREATY OF PEACE WITH GERMANY.

The Senate, as in Committee of the Whole and in open executive session, resumed the consideration of the treaty of peace with Germany.

Mr. PHELAN. Mr. President, I was very much interested to observe this morning that the Senator from Tennessee [Mr. SHIELDS] and the Senator from Indiana [Mr. NEW] brought up the question of the mandatories, and especially with reference to the islands of the Pacific Ocean. Indeed, the Senator from Indiana observed that the question of mandatories had not been discussed at all in the Senate during this long debate, which certainly appears to me to be a great omission, in view of the fact that the provisions of the treaty with Germany respecting mandatories is of the highest importance, not only to the United States but to the civilization of the world and to the peace of the world.

In one of the reservations proposed by the Senator from Massachusetts, known as the committee reservations, an attempt is made to disclaim for the United States any interest in the question of mandatories. By article 119 of the treaty with Germany we read:

> Germany renounces in favor of the principal allied and associated powers all her rights and titles over her oversea possessions.

Evidently the Committee on Foreign Relations, in making their reservations, thought it wise for the United States not to take advantage of that provision of the treaty by which Germany gives to the principal allied and associated powers the disposition of her foreign possessions. So reservation No. 14 reads:

> The United States declines to accept, as trustee or in her own right, any interest in or any responsibility for the government or disposition of the overseas possessions of Germany, her rights and titles to which Germany renounces to the principal allied and associated powers under articles 119 to 127, inclusive.

The other countries of the world are not unaware of the advantage of exercising mandatory powers as provided by the treaty; and why the United States should disclaim in advance any desire or any interest in the matter is not quite clear to me. As I say, it has not been discussed.

But what do we find in the Pacific?

Germany possessed islands both north and south of the Equator. The islands north of the Equator were coveted by Japan. Recall that we did not enter the war until April 6, 1917, when I tell you that Japan in February, 1917, two months earlier, began negotiations for the control of the islands of the Pacific, and entered into a private agreement with France and Italy and Great Britain by which she was to possess them. In other words, she foreclosed in advance, so far as she was able, and they were able, the discretion which would be given to the council of the league of nations in the disposition of the German territory.

Japan approached Great Britain in the first instance; and here I will read from the letter of His Britannic Majesty's ambassador, Conyngham Greene, dated Tokyo, February 16, 1917, referring to the conversation which he had with the Japanese Minister of Foreign Affairs.

The letter reads in part as follows:

His Britannic Majesty's Government accede with pleasure to request of the Japanese Government for an assurance that they will support Japan's claims in regard to the disposal of Germany's rights in Shantung and possessions in the islands north of the Equator on the occasion of the peace conference, it being understood that the Japanese Government will in the eventual peace settlement treat in the same spirit Great Britain's claims to the German islands south of the Equator.

In reply to that, under date of February 21, 1917, the Japanese Government says:

The Japanese Government is deeply appreciative of the friendly spirit in which your Government has given assurance, and happy to note it as a fresh proof of the close ties that unite the two allied powers. I take pleasure in stating that the Japanese Government, on its part, is fully prepared to support in the same spirit the claims which may be put forward at the peace conference in regard to the German possessions in the islands south of the Equator.

The Japanese Government approached the French Government in the same manner before the British reply had been received, as follows:

The Imperial Japanese Government has not yet formally entered into conversations with the Entente powers concerning the conditions of peace I propose to present to Germany, because it is guided by the thought that such questions ought to be decided in concert between Japan and the said powers at the moment when the peace negotiations begin.

Nevertheless, in view of recent developments in the general situation, and in view of the particular arrangements concerning peace conditions, such as arrangements relative to the disposition of the Bosporus, Constantinople, and the Dardanelles, being already under discussion by the powers interested, the Imperial Japanese Government believes that the moment has come for it also to express its desires relative to certain conditions of peace essential to Japan and to submit them for the consideration of the Government of the French Republic.

Therefore, the Government of the French Republic accepts the suggestion.

The Government of the French Republic is disposed to give the Japanese Government its accord in regulating at the time of the peace negotiations questions vital to Japan concerning Shantung and the German islands in the Pacific north of the Equator. It also agrees to support the demands of the Imperial Japanese Government for the surrender of the rights Germany possessed before the war in this Chinese Province and these islands.

M Briand demands, on the other hand, that Japan give its support to obtain from China the breaking of its diplomatic relations with Germany—

And so forth.

Therefore, this question of the mandatories becomes a matter of first importance. These several nations—Great Britain, France, Italy, and Japan—have apparently divided the German possessions in the south Pacific and in the north Pacific among themselves, and we are informed that a knowledge of these private arrangements had not been given to the world nor to the other belligerent powers until after the armistice had been signed.

But we have a way out, and that is why the matter should be carefully deliberated here with a view of getting some benefit for the United States in the disposition of mandatories, and more particularly to check the growing power of Japan in the Pacific Ocean. The way out is provided by article 20 of the treaty of peace with Germany, which reads as follows:

The members of the league severally agree that this covenant is accepted as abrogating all obligations or understandings inter se which are inconsistent with the terms thereof, and solemnly undertake that they will not hereafter enter into any engagements inconsistent with the terms thereof.

In case any member of the league shall, before becoming a member of the league, have undertaken any obligations inconsistent with the terms of this covenant, it shall be the duty of such member to take immediate steps to procure its release from such obligations.

Now, Germany has renounced her rights, not in favor of Great Britain and France, Italy, and Japan, but in favor of "the principal allied and associated powers"; and, therefore, the United States is in exactly the same position as Great Britain, Italy, Japan, and France with respect to her ability to derive any benefit from the awarding or the acceptance of mandatories over those countries where Germany once was in possession.

The Senator from Tennessee [Mr. SHIELDS] looks only to South Africa, where we are, indeed, not particularly interested; but I desire to call the attention of the Senate to the fact that not only are the possessions of Germany in South Africa involved but her possessions in the Pacific Ocean; and the Pacific Ocean is going to be the theater of the great events of the world's future. William H. Seward, when, as Secretary of State, he negotiated the acquisition of Alaska for the United States, at that time said, in answer to the cynics and the scoffers, that the United States would find in the possession of Alaska a means of defense against any enemy in the Pacific, and it was he who stated in words that the Pacific would be the theater of the future great activities of the world, and that the scepter would pass ultimately from the Atlantic to the Pacific, because it is the greatest ocean of the world and because the most populous countries of the world front upon that mighty sea; and the United States has a very large interest in the Pacific by reason of its Pacific littoral, as well as by its possession of the Philippine Islands and the Hawaiian Islands.

It is a long time since Mr. Seward forecast the importance of guarding our Pacific interests. It is not a long time in the life of a nation, but I doubt if he anticipated that so soon we would be confronted with a real danger.

It is little more than 60 years since Commodore Perry visited Japan, and when Seward made this declaration, during the administration of President Johnson, of which he was a member, in 1867, about 52 years ago, Japan had not shown her ability to seize the commerce of the Pacific and by victories against China and Russia demonstrate very clearly to all thinking persons that she had become one of the great powers of the world and had to be counted with. Now she shows by these secret treaties, and by abundant other evidence, that she, like Germany, as Japan is German taught, has a dream of empire and is constantly in pursuance of a policy, well thought out and planned, of seizing the islands of the Pacific and the islands of the Asian coast and the mainland of continental Asia. She has sent, where she dared not yet take up arms, as against the United States, her advance armies by emigration, and in the Hawaiian Islands, the most fruitful islands of the Pacific, she has a population of 110,000 nationals, as against 12,000 Americans, and in California she has 100,000 nationals, constantly increasing, not only by surreptitious entry over the border but by the importation of "picture" brides. The Japanese people are a very prolific people, and the women in California have shown to the departments of statistics and health that in Los Angeles County, outside the incorporated cities and towns, the Japanese increase by birth has been so great that it has absorbed one-third of the entire increase, and in a very few years in the life of a nation we will find that the Japanese population, by reason of births upon the soil, will actually overtake the whole population of the State of California.

I have here a chart which was prepared by the health officers in California which contains tables that show, in the most approved and scientific methods used by the makers of charts, the relative birth statistics and the percentage of white babies born in the State of California, and I find that in the year 2010, at the same progress which is being made now, the white population will have been submerged by the Japanese native population. That is in the year 2010, about 90 years from now. Unless some legislative action is taken by the State of California and by the Federal Government the Japanese, if allowed their way, will have submerged, I repeat, the great State of California by an inundation of a permanently alien population.

Japan, therefore, is eager to firmly establish herself in the Pacific against that day when the patient and altruistic people of the United States shall, realizing too late their danger, take up arms pursuant to the law of self-preservation—the best of all laws, they say, because the lawyers did not make it. The United States does not understand the menace, and I desire to call the attention of the Senate to the importance of taking a stand now on this subject of mandatories, and not, as recommended by the Foreign Relations Committee, refuse to participate, under the renunciation of German rights by article 19, in the benefits which would accrue to the United States by taking advantage of article 22. Article 22 relates to the disposition of mandatories and provides, in part:

To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them, and which are inhabitated by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilization and that securities for the performance of this trust should be embodied in the covenant.

Of course, these particular nations had plotted, prior to our entry into the war, for the possession of these islands, having no interest whatever in the prosperity or security of the native people.

They were there for the purpose of expansion or commercial exploitation. Japan has the double incentive, because there are approximately 700,000 births annually in Japan; Japan is a small island, and hence that population must be taken care of. Therefore she has gone into Munchuria, Korea, and Formosa, and now she is in Shantung, and she desires to get into Siberia, all of which doubtless will strengthen her Empire. There is apparently a necessity for Japan to find some means of expansion. But the islands of the Pacific, which are so insignificant in size, would not afford her any very extensive opportunity to dispose of her surplus population, but what she is after is trade and a strategic military position. In this it differs from Shantung.

To continue reading:

Article 22 further provides that—

The best method of giving practical effect to this principle—

That is, the interests of the native peoples, which form a sacred trust—

The best method of giving practical effect to this principle is that the tutelage of such peoples should be entrusted to advanced nations. * * *

The character of the mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic conditions, and other similar circumstances.

"The geographical situation of the territory" evidently was put in there to meet Japan's demands. If it had said "strategic situation" it might be another question; but she would not avow that purpose.

To continue reading:

Other peoples, especially those of Central Africa, are at such a stage that the mandatory must be responsible for the administration of the territory.

Here I point out that these mandatories are not provided for by uniform rule, but the condition of the people, the geographical position of the country, the condition of the civilization of the peoples have enabled the men who drafted this treaty, on the subject which apparently did not interest the representatives of the United States, to provide various rules, which, I suspect from the reading of it, were adopted to facilitate the carrying out of the secret treaties already entered into by Japan, Great Britain, Italy, and France. They say, very generously, that these mandatories should have in mind the equal opportunities for trade and commerce of other members of the league. That, you would think, reading it here in this paragraph, applied to all mandatories. But no. It refers to "other peoples, especially those of Central Africa."

It does not refer to the islands of the South Pacific. Then follows this:

There are territories, such as Southwest Africa and certain of the South Pacific Islands, which, owing to the sparseness of their population, or their small size, or their remoteness from the centers of civilization, or their geographical contiguity to the territory of the mandatory——

Mark that—

or their geographical contiguity to the territory of the mandatory, and other circumstances, can be best administered under the laws of the mandatory as integral portions of its territory, subject to the safeguards above mentioned in the interests of the indigenous population.

That is to say, the mandatories—a new word in international affairs, so far as the United States is concerned—over these islands north of the Equator, or, for that matter, the islands south of the Equator, over which England claims mandatory rights, under these secret treaties, which, however, are canceled by the adoption of the pact itself because inconsistent with the pact, will be construed as transferring the territory, instead of giving a trusteeship, because they can best be administered under the laws of the mandatory as integral portions of its territory. I think under a phrase so broad they might even fortify those islands, and hence assert a practical ownership, instead of a trusteeship, and what interests us most of all as a great commercial nation, with the prospects of a vast commerce upon the Pacific, is that the open-door policy, for which this Government has always stood, would be utterly destroyed. There is no certain guaranty of a general character for equal trade opportunities, and that is the only thing the United States is asking in its commercial policy, that it be given an equal opportunity with other nations in the markets of the world.

I have here a letter from the firm of Atkins, Kroll & Co., of San Francisco, who for years have been traders in the islands north of the Equator in the Pacific, with their headquarters at Guam, now a possession of the United States, having been taken in the Spanish-American War from Spain.

This firm, suffering all kinds of disadvantages since the Japanese took possession of the Marshall and the Caroline Islands, close to Guam, made strong representations to the United States as early as January 1, 1918. I ask permission, in order to save my time, that these letters addressed to the State Department by this firm be printed as a part of my remarks in the RECORD.

The PRESIDING OFFICER (Mr. CALDER in the chair). If there is no objection, the request of the Senator from California is granted.

The letters referred to are as follows:

JANUARY 1, 1918.

E. T. WILLIAMS, Esq.,
*Chief Bureau Far Eastern Affairs,*
*Department of State, Washington, D. C.*

DEAR MR. WILLIAMS: Further to my letter to you of October 13, I am now able to inclose a report on conditions now ruling in Saipan, Marianas Islands, Truk, Caroline Islands; and Jaluit, Marshall Islands.

Owing to the intolerable rules and regulations forced upon us by the Japanese authorities these reports are not nearly as complete as I should have liked, but I have no doubt but what they will prove of interest to you.

You will recollect that when I was in Washington last June I advised you that we would send one of our employees on one of the Japanese transports around to visit every important island under Japanese control, and this Mr. Marchant, our Guam manager, attempted to arrange. However, although Mr. Inouye got as far as Jaluit he was stopped there, and was not allowed to proceed further; consequently we have been unable to obtain any information regarding the islands other than the three visited.

The situation is, as you can see, anything but satisfactory to us. Last year we went to the expense of about $30,000 gold to build and equip the auxiliary schooner *Avarua,* which was particularly designed to trade with these islands, using Guam as a base. She has now been out there about one year and, owing to the Japanese regulations, has obtained absolutely no copra from these islands under Japanese control, and so far her operations have resulted in a direct loss to us of about $15,000. The situation is so bad and so discouraging that we have decided to, at least temporarily, take her away from Guam and send her down to our branch in the Philippine Islands, where tonnage is badly required.

It is very disappointing to us to have to take this step for, as mentioned above, the *Avarua* was built for the Guam business and we had hoped to build up a satisfactory trade in American merchandise and in copra with the surrounding islands, using the *Avarua* as a means of transportation and communication.

We have established a small station at Saipan, but how this will turn out remains to be seen. If anything at all is to be done it will be necessary for the Japanese to give us their permission to keep up communications between Guam and Saipan by means of our power launch *Kavara,* and we have already had this matter up with you. I understand from Mr. Schlobohm that you have cabled to our embassy at Tokyo, directing the ambassador to make the necessary representations. I sincerely trust that he will be successful in his efforts.

A reading of the report will convince you, I feel sure, that the Japanese are doing all that they possibly can to keep us out of these islands, solely in order to enable their own traders to get such a strong foothold as to place them in an impregnable position by the time the war is over, even though as a nation Japan has to relinquish control of those islands at that time. This is certainly most unfair to Americans, particularly in view of the treatment which the Japanese have been accorded in Guam.

Guam, being a naval reservation, is under the law closed to vessels under foreign flags. However, during President Taft's time an Executive order was issued, opening the trade of Guam to Japanese trading schooners, and this regulation is still in force. The order was made owing to the fact that at that time no Americans were doing business in Guam, the inhabitants thus being dependent solely upon Japan for food supplies and for a market for their copra. Since that time the situation has entirely altered, as we have established a line of vessels between San Francisco and Guam which keeps the inhabitants supplied with all the American supplies which they require, and at the same time these vessels afford an opportunity of shipping all of the copra which Guam can produce to this country. It therefore seems to me that in view of the hostile attitude which the Japanese authorities are showing toward us, it would only be fair if our Government were to rescind the regulation issued by President Taft and again close the Island of Guam to vessels flying the Japanese flag.

So far as we ourselves are concerned, we would prefer to let the Japanese continue to operate to Guam, but we be allowed to trade with the islands under their control. If the freedom of Guam were taken away from the Japanese merchants these men in Guam might make such a demonstration at Tokyo as would result in their opening up the islands under Japanese control to us, in return for which our Government could again reopen Guam to the Japanese.

I shall be glad if you can give your consideration to this feature of the problem and advise whether something can not be done along the lines indicated.

In connection with the ultimate disposition of these islands which are now under Japanese control I should like to call your attention to that portion of the report on Jaluit which treats of the friendly feeling of the natives toward Americans.

This I regard as very significant indeed, and it seems to me that this sentiment should be taken into consideration by our Government when the matter of the disposition of these islands is taken up at the conclusion of the war. I am quite certain that, as far as the natives are concerned, this country could and would do infinitely more for them than would either Germany or Japan, and, from the selfish point of view, an important trade could be built up in these groups for American merchandise, and important quantities of copra could be obtained there for this country.

Surely the American Nation should accept some responsibility toward the less fortunate people of the earth in our neighborhood, such as these poor South Sea Islanders.

Under German or Japanese rule their lot is not a happy one. Apropos of this I am sending you under separate cover a small book which treats of the German treatment of the natives in their (ex) African colonies. Under American protection these South Sea Islanders could not be exploited and could not be oppressed, and something would be done toward elevating their position at least somewhat.

Politically the acquisition of these islands would be most important, as with them we would have a path of American possessions clear across the Pacific—first, the Hawaiian Islands, then the Marshall Islands, then the Carolines and the Marianas, and then the Philippines.

I trust that the matter will be given consideration when the time comes.

Awaiting the favor of your reply, and with best wishes for the new year, I beg to remain,

Yours, sincerely,

CLIFTON H. KROLL.

SEPTEMBER 20, 1919.

The honorable the SECRETARY OF STATE,
*Washington, D. C.*

SIR: Messrs. Atkins, Kroll & Co., exporters and importers, of 260 California Street, San Francisco, Calif., are interested in developing American trade in the Far East, particularly in the islands of the South Pacific. Their main office is at San Francisco, and branch offices are located at various places in the Philippines, Dutch East Indies, and Guam.

The plant at Guam, which is thoroughly equipped and quite expensive, is designed to act as a base for carrying on trade with other islands in the South Pacific. Messrs. Atkins, Kroll & Co., before the beginning of the World War, planned to establish branch offices at Saipan, in the Marianas Islands; at Truk, in the Caroline Islands; and at Jaluit, in

the Marshall Islands. It was intended to have small vessels radiate from these branch stations to visit the various islands in each group. The copra and other products obtained was to be shipped from the branch office to the Guam plant and from there transshipped to the United States. In return for these commodities the company intended to trade American merchandise and products only.

The consummation of these plans was prevented, because upon the outbreak of the war the German colonies mentioned were taken over and occupied by the Japanese Government military authorities. As outlined in previous letter to your department, particularly in the confidential report of Messrs. Atkins, Kroll & Co., dated January 1, 1918, the company as well as other traders were practically excluded from trading with and upon these islands by order of the Japanese authorities on the excuse that "military necessity" made such trading there impossible. Protests were filed with your department, and after considerable negotiation the Japanese Government granted to Messrs. Atkins, Kroll & Co. a permit to trade with one small vessel at one island—Saipan. This permit was not satisfactory, owing to the restrictive regulations enforced by the Japanese military authorities in the islands.

There is no longer any reason for military regulation of the islands to the detriment of trade and commerce. Messrs. Atkins, Kroll & Co. are now ready and desire to fulfill the plans outlined above and to renew their efforts to develop American trade. However, by the terms of the covenant of the league of nations and by the terms of the treaty of peace with Germany, now under consideration, these islands will continue to be controlled, under a mandate, by the Japanese Government.

Article 22 of the covenant provides that the degree of control to be exercised by the mandatories shall either be outlined by the terms of the mandate or determined by the council of the league. It is our understanding that the question of the terms of the mandate are being considered now in conference at Paris.

While it is true that article 23 of the covenant declares the general principle to be that the members of the league will make provision to secure and maintain freedom of communications and of transit and equitable treatment for the commerce of all members of the league, nevertheless this question is of such importance that Messrs. Atkins, Kroll & Co. believe that the American representatives at Paris should be instructed to take positive steps to protect the American trade in the islands. Provisions should be definitely outlined whereby American traders, as well as the nationals of all the Allies, shall be given the same privileges as the nationals of the mandatories. Unless this is done, the powers holding the mandate could by special regulations embarrass the traders of other nationalities and could thus check and seriously hamper the development of American trade, which at this time should be encouraged and assisted.

It is respectfully requested that the American representatives be instructed at once to insist upon the inclusion in the mandates of terms which would without any question protect American trade and which would assure equal rights and privileges in the islands. These terms should be so specific as to permit of no other interpretation by the officials of the powers holding the mandate.

Your cooperation and advices in this regard would be appreciated.

Respectfully, yours

For ATKINS, KROLL & Co.

Mr. PHELAN. They show that with their establishment at Guam as a center for trading with the small islands, they have been doing a very profitable business in copra. Copra is the dried meat of the coconut and was used during the war for glycerine production for military purposes. The husk of the coconut was used to make charcoal for the masks which protected our boys against suffocating gases. The product is equally valuable in peace.

The trade of this firm, which is not a large firm, alone amounted to 1,500,000 pounds of copra a year. As soon as Japan went down there and took these islands their trade was cut off. They were not allowed to land at any of the small islands where they went to barter exclusively American goods with the natives for copra. Japan took the business over in spite of the fact that our policy in the Orient is the open door.

After many representations to the State Department, finally Japan conceded the privilege that they might go to one island, mentioned particularly in the letter, and there they might trade with that island and the people upon that island provided that they did not land upon the shore. It is almost a mockery because the natives would not come upon the ships and the merchants were not allowed to go upon the shore, so in disgust they abandoned for the time being their enterprise and established trade.

That is but one example of the way our merchants have been treated in the islands of the Pacific, and yet we are constantly boasting of our prowess, both commercially and militarily. We are talking of extending our trade, and we are talking of building a merchant fleet that will rival the fleets of other lands, and a Navy the equal of any, and yet when we come down to a concrete proposition of giving our merchants equal opportunity in a trade which they have always enjoyed we have been unable effectively to secure it.

Of course, if these islands are given to Japan as a mandatory, being contiguous to her territory, she will, under the cunning language of this mandatory agreement provided by article 22 of the treaty, find it convenient to administer the mandatory as an integral portion of her territory, and there would be a very great danger, indeed, unless we hold our position as a member of the council under the treaty and control by our vote mandatory rights, whether assumed by us or otherwise. Our commerce and our position among nations as a first-class power require it.

In paragraph (e) of article 23 we find this language:

Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the members of the league * * *.

(e) Will make provision to secure and maintain freedom of communications 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 borne in mind.

Note it does not say "equal treatment," but "equitable." Shall we not sit with the council to protect our rights, commercial and military? Why throw away the advantage which can be enjoyed by not assuming necessarily any obligation?

There is the one paragraph, at least, upon which we can stand, provided we go into the league and provided we do not reject, as the committee reservation provides, the privilege which we will enjoy by article 19 as one of the principal allied and associated powers. There is but one thing more to say, and that is with reference to the necessity of prompt action. In the same article 22 there is this dangerous provision:

The degree of authority control or administration to be exercised by the mandatory shall, if not previously agreed upon by the members of the league, be explicitly defined in each case by the council.

"If not previously agreed upon by the members of the league." Of course, I can not believe that that relates back to the secret treaties, because at that time there was no league established. The nations involved were merely cobelligerents; so it must refer to something else, and it does refer to a commission that is now sitting in Paris disposing of these very mandatories. I believe that we are not represented on that commission, because the Senate or a majority of the Senate have by vote expressly stated that until the treaty is ratified the United States should not participate in the deliberations of any of the many commissions set up by the treaty. Hence we find these foreign Governments now disposing of these mandatory rights, although we are not represented. For that purpose I propose this reservation:

The United States so understands and construes article 22 as to guarantee under all forms of mandatories equal opportunity for trade and commerce for all members of the league; and that the council, when organized and after the United States shall have assumed its membership, shall have the power to explicitly define and control mandatory authority from time to time.

That is to say, there shall be no final disposition of the mandatory powers until the United States participates by its own right and by its own act as a member of the council. In other words, that she shall not arrive there, if she is ever going to arrive, and find that the mandatories have, under the provisions of article 22, been agreed upon previously by the members of the league. If that were done, there is no question that Japan would be given mandatory over these Pacific islands and Great Britain would be given mandatory of those islands south of the Equator.

As to the disposition of the European, African, and Asiatic territories, I am not concerned for the moment; but we would find then Japan reinforced in a military sense and in a commercial sense in such manner that it would be difficult for us to dislodge her.

The key of the Pacific is the Hawaiian Islands. We have great fortifications there, and we have a great naval base there not adequately protected. But so soon as Japan can acquire those islands, I am advised by the best naval authorities that she can make a campaign not only against Hawaii but against the Pacific coast of North America. She will establish bases and she can protect her fleet as it comes across the Pacific against any attack made by the United States, for every fortified island with a harbor is more than equivalent to many warships permanently anchored right in the path of her military progress. Of course, if she should take Hawaii, the Pacific coast would be absolutely exposed.

The Navy Department have asked us particularly to see that the island of Yap is reserved for them, and that is one of the Marienne Islands, and if we now renounce our rights to any of the mandatories we can not take Yap; and without Yap we can not maintain our radio and naval communication, so necessary in time of peace as well as in time of war. The Navy emphatically asks that the Senate, in the disposition of this matter, see that we do acquire rights in Yap for the purpose of maintaining communication.

Therefore, Mr. President, if I have an opportunity under the rules to present the reservation which I submitted and had printed in the RECORD on November 7, I shall offer it. In the meantime, I trust the Senate will reject the fourteenth of the committee reservations, because it in advance declares that we shall take no interest whatever in the disposition of the mandatory rights.

Although Germany has renounced them in favor of all other powers, we shall withdraw ourselves from any possible benefits. Why should not that be left to the representatives of the United States in the council? We have acted as though we regard our representatives as being unworthy of trust. Now, the Senate has provided, by the adoption of some reservations, that these representatives shall be appointed by and with the consent of the Senate, so there is no danger that the President, who seems to be the object of much hostility in certain parts of this Chamber, will appoint somebody who will act contrary to the wishes of the United States. The Senate has provided for and safeguarded the appointment and powers of our representatives in the council, and it certainly should not now renounce any of the rights which it enjoys under the treaty of peace with Germany.

Mr. SHIELDS. Mr. President, I am somewhat surprised at the deep interest of the Senator from California [Mr. PHELAN] in these islands which he thinks will go to Japan by virtue of this treaty under a mandate. I believe the Senator is overlooking the fact that they have already gone to Japan and the treaty is simply to guarantee their title. The proposition to reserve the question is an effort to defeat that title and to hold in reserve the power of the United States in order to get possession of some of those islands.

I am as much opposed to Japan having these islands as anyone can possibly be.

Mr. PHELAN. Will the Senator please state what he means by saying that these islands have already gone to Japan?

Mr. SHIELDS. Certainly. They have gone to Japan under the secret treaties made during the war by Great Britain, France, and Italy, and Japan, under which all four of those countries obtained territory; and the other three are going to stick to those treaties and hold on to that territory. Therefore they are bound to stand by Japan and have already agreed to do so, under the old adage that there is honor among certain shifty persons. I can not give the Senator from California any more of my time.

Mr. PHELAN. But the Senator from Tennessee is in error.

Mr. SHIELDS. Mr. President, I am surprised at the Senator having so much anxiety about these little islands when I remember his former position, when he was willing to take away from one of our allies and to give to Japan in the Shantung a territory of 40,000 square miles containing 30,000,000 people. As I remember, the Senator voted against all amendments and all reservations that attempted to remedy that iniquity; but now he is greatly agitated at the prospect of Japan getting only a few hundred square miles and a few thousand natives. With due respect, this looks to me like swallowing a camel and straining at a gnat.

I am as much opposed to Japan getting the Pacific islands as is the Senator. The object of this reservation is to prevent that consummation and that is why I am adhering to it. I am not willing merely to accommodate one of the Senator's constituents who is trading over there in coca and some other little products, to involve the United States in wars, in the expenditure of perhaps many millions of dollars, and in the sacrifice of the lives of American boys. I do not think the little commerce of which he speaks should be taken into consideration if it involves an abandonment of a great policy of this country and entails perhaps great cost in the expenditure of life and treasure.

As I have stated, these islands under the secret treaties were to go to Japan. Those treaties have been in part carried out at the peace conference in Paris. A portion of Africa has been given to Great Britain, a portion to France; some of these islands have been given to Great Britain and some to Japan, although Japan, of course, receives much smaller territorial concessions than the other powers. If we ratify this treaty without this reservation we simply acquiesce in the secret treaties and in the arrangement that has been made. Japan certainly gets the islands.

This is not a question of mandates; that is a matter to be disposed of hereafter under the general power of the league to give mandates to the various members to the league. This reservation has no relevancy whatever to the question of mandates.

So far as the probability of Japan getting these islands is concerned, that is entirely post-morten, because she has already got them if the treaty is ratified. The question is simply whether or not under this treaty Senators are willing to guarantee the title, to carry out the secret treaties and give the Pacific islands to Japan. Although they are small, they can be used as a base of operations. I can not see much consistency in the Senator's argument, and most of it is irrelevant. The treaty as framed is clearly a desertion of the policy of our country opposing entangling alliances and interference with the affairs of foreign countries.

This great policy of the United States, proclaimed by Washington, by Cleveland, and advocated by President Wilson in several addresses, has saved this country from many wars and ought not to be abandoned. I have here brief extracts from their messages and public addresses upon the subject, which I ask to have printed as a part of my observations upon this subject.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

"Washington, in his Farewell Address to the American people, September 17, 1796, said:

"'Against the insidious wiles of foreign influence—I conjure you to believe me, fellow citizens—the jealousy of a free people ought to be constantly awake, since history and experience prove that foreign influence is one of the most baneful foes of republican government. * * *

"'The great rule of conduct for us, in regard to foreign nations, is, in extending our commercial relations, to have with them as little political connection as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith. Here let us stop. Europe has a set of primary interests, which to us have none or a very remote relation. Hence she must be engaged in frequent controversies the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves by artificial ties, in the ordinary vicissitudes of her politics, or the ordinary combinations and collisions of her friendships or enmities. Our detached and distant situation invites and enables us to pursue a different course. * * *

"'Why forego the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalship, interest, humor, or caprice? It is our true policy to steer clear of permanent alliances with any portion of the foreign world. * * *

"'Taking care always to keep ourselves, by suitable establishments, on a respectable defensive posture, we may safely trust to temporary alliances for extraordinary emergencies. * * *

"'Constantly keeping in view that it is folly in one nation to look for disinterested favors from another; that it must pay with a portion of its independence for whatever it may accept under that character; that, by such acceptance, it may place itself in the condition of having given equivalents for nominal favors and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect or calculate upon real favors from nation to nation. It is an illusion, which experience must cure, which a just pride ought to discard.'

"President Grover Cleveland, in a message to Congress, 1885, said:

"'The genius of our institutions, the needs of our people in their home life, and the attention which is demanded for the settlement and development of the resources of our vast territory, dictate the scrupulous avoidance of any departure from that foreign policy commended by the history, the traditions, and the prosperity of our Republic. It is the policy of independence, favored by our position, and defended by our known love of justice and by our own power. It is the policy of peace suitable to our interests. It is the policy of Monroe, and of Washington and Jefferson—"Peace, commerce, and honest friendship with all nations; entangling alliance with none.'"

"And Mr. Cleveland said, in regard to the Venezuelan controversy with Great Britain:

"'Such reply is embodied in two communications addressed by the British Prime Minister to Sir Julian Pauncefote, the British Ambassador at this Capital. It will be seen that one of these communications is devoted exclusively to observations upon the Monroe doctrine, and claims that in the present instance a new and strange extension and development of this doctrine is insisted on by the United States, that the reasons justify an appeal to the doctrine enunciated by President Monroe are generally inapplicable "to the state of things in which we live at the present day," and especially inapplicable to a controversy involving the boundary line between Great Britain and Venezuela.

"'Without attempting extended argument in reply to these positions, it may not be amiss to suggest that the doctrine upon which we stand is strong and sound because its enforcement is important to our peace and safety as a Nation, and is essential to the integrity of our free institutions and the tranquil maintenance of our distinctive form of government. It was intended to apply to every stage of our national life, and can not become obsolete while our Republic endures. If the balance of power

is justly a cause for jealous anxiety among the Governments of the Old World, and a subject for our absolute noninterference, none the less is an observance of the Monroe doctrine of vital concern to our people and their Government.

"'Assuming, therefore, that we may properly insist upon this doctrine without regard to the "state of things in which we live," or any changed conditions here or elsewhere, it is not apparent why its application may not be invoked in the present controversy.'

"President Wilson said at the dedication of the monument of Commodore John Barry, Washington, D. C., Saturday, May 16, 1914:

"'What does the United States stand for, then, that our hearts should be stirred by the memory of the men who set her Constitution up? John Barry fought, like every other man in the Revolution, in order that America might be free to make her own life without interruption or disturbance from any other quarter. You can sum the whole thing up in that, that America had a right to her own self-determined life; and what are our corollaries from that? You do not have to go back to stir your thoughts again with the issues of the Revolution. Some of the issues of the Revolution were not the cause of it, but merely the occasion for it. There are just as vital things stirring now that concern the existence of the Nation as were stirring then, and every man who worthily stands in this presence should examine himself and see whether he has the full conception of what it means that America should live her own life. Washington saw it when he wrote his Farewell Address. It was not merely because of passing and transient circumstances that Washington said that we must keep from entangling alliances. It was because he saw that no country had yet set its face in the same direction in which America had set her face. 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. Those who are right, those who study their consciences in determining their policies, those who hold their honor higher than their advantage, do not need alliances. You need alliances when you are not strong, and you are weak only when you are not true to yourself. You are weak only when you are in the wrong; you are weak only when you are afraid to do the right; you are weak only when you doubt your cause and the majesty of a nation's might asserted.'

"As showing that the same conditions that existed in Europe when Washington issued his Farewell Address and when he spoke in May, 1914, exist to-day, I read from the President's address delivered at Boston, Mass., on his return from Paris last February.

"'But you understand that the nations of Europe have again and again clashed with one another in competitive interest. It is impossible for men to forget those sharp issues that were drawn between them in times past. It is impossible for men to believe that all ambitions have all of a sudden been foregone. They remember territory that was coveted; they remember rights that it was attempted to extort; they remember political ambitions which it was attempted to realize. And, while they believe that men have come into a different temper, they can not forget these things, and so they do not resort to one another for a dispassionate view of the matters in controversy.'"

Mr. SHIELDS. Mr. President, these great men opposed an entangling alliance with any nation, and now under the same conditions it is proposed to enter into an alliance of the most sinister kind with 57 nations.

Mr. PHELAN. Mr. President, just a word. The Senator from Tennessee [Mr. SHIELDS] states very positively that Japan now possesses mandatory rights in the islands north of the Equator and bases that claim upon secret treaties. I pointed out in my remarks that those secret treaties are abrogated in so far as they are inconsistent with the treaty of peace with Germany, as the Senator must have observed at the time. In article 22 is this language:

> The degree of authority, control, or administration to be exercised by the mandatory shall, if not previously agreed upon by the members of the league, be explicitly defined in each case by the council.

So that—unless while we are debating this subject the council has acted, which the Senator does not allege—the council has control over the government of the mandatory.

As to Shantung, there is not before the Senate at this moment any question as to the disposition of Shantung; but I desire to say that under the secret treaties Japan merely holds the German rights in Shantung, which are economic rights, and there is no question of transferring the territory with its millions of human beings. Japan only claims economic rights and rights to the railroads.

If Japan claims under the secret treaties, for the same reason, namely, that those treaties have been abrogated by article 20, she has now no title nor will she have until the council takes final action. So far as I am advised, the council, when it meets with representatives from the United States, will take up and settle these questions with Japan, and we are not now foreclosed from acting. There is nothing inconsistent whatever in my course. I am saying that if Japan is to have any reward for her participation in the war—and because she was allied with us and guarded the Pacific against Germany the United States was enabled to send its troops and its men to the other side and so to win the war—if Japan is to have any reward for her participation in the war I sincerely trust that she shall be given territory for her excess population in Asia and not in the Pacific islands or on the coast of California. This course is dictated by our manifest trade and military necessities and by the conservation of the white race in continental United States.

Mr. FRANCE. Mr. President, I feel constrained to say a few words in opposition to the fourteenth reservation for the reason that I fear that there are many Senators who as yet do not fully comprehend the large questions involved in it. I dislike very much to be in opposition to the distinguished Senator from Tennessee [Mr. SHIELDS], whose great learning, distinguished abilities, and fine courage have made him so eminent a Member of this body; nor do I feel that in taking the position which I assume that I am in opposition to the general principles he has enunciated.

I do not oppose this reservation on the ground that the Senate should at this time and without full consideration of the great questions involved commit the United States to a definite policy with regard to the former German colonies in Asia, Africa, and Oceanica, but, on the contrary, because the adoption of this reservation would finally and for all time commit us to a policy the results of which have not been carefully considered, while its defeat would leave us free in the future, after mature deliberation and discussion, to adopt any policy with respect to this great problem, in which we have vital interests, which will serve those interests as well as the cause of world peace and progress.

If we defeat this reservation, the question of the final disposition of these colonies will be left to the decision of the league of nations, and when this question is brought before the league for its consideration our representatives can participate or not in the proceedings, either acting affirmatively in such a way as would best conserve our interests or negatively declining to accept any responsibility. If we adopt this reservation, the possibility of our ever taking any part in the decision or action of the powers with reference to this question is forever foreclosed.

I have been opposed to this league of nations plan not because I advocate a policy of national isolation but because the kind of an association of the nations in which I believe is a true league of all nations for the purposes of effectual cooperation for the elimination of the causes of war and for the elevation of the backward peoples, while this so-called league of nations plan has seemed to me to be more in the nature of an entangling alliance with one group of imperialistic powers. I have therefore been in favor of all reservations which would tend to prevent our being inextricably involved in such entangling alliance. But I am opposed to a reservation such as this one, which would leave us a participant in the league and yet prevent us for all time from having any voice, so far as the former German colonies are concerned, in one and to an extent in both of the two main purposes which any league of nations can serve. The value and hope of any league of nations is twofold: First, to find means for the prevention of war between the advanced nations of the world; second, to devise methods of international cooperation for the civilization and the advancement of the backward and aboriginal peoples of the world. The adoption of this reservation would, in my judgment, go far to destroy any possibility of value which there might be in our participation in the league, first, because the question of the proper disposition of the German colonies is a vital one as affecting the future peace of the world; and, secondly, because it would conclusively prevent our having any large part in the solution of the great problem of the advancement of the peoples of Africa, to which advancement we have already committed ourselves by a national policy long since announced. We would be prevented by the adoption of this reservation from having a voice in the disposition of a question which, if not settled along the lines of broad and unselfish statesmanship, looking toward an open door for all the nations and toward true international cooperation in Africa, contains within it the germs of new wars, and we would be denied the high privilege of working with the other nations for the welfare

of those peoples in whom we have a peculiar interest and for whose welfare heavy responsibilities rest upon us. The adoption of this reservation would, indeed, cut the heart out of the league. If we are to be in the league at all, let us not be there voiceless and impotent when this great problem comes up for consideration and decision.

EXTENT OF GERMAN EMPIRE.

Germany was a great empire, her colonial possessions and her spheres of influence embracing an area of 1,484,944 square miles, a territory approximately one-half of the total area of the United States, a one-fifth interest in which huge domain is vested in the United States under article 119.

The territory of the German Empire is in Asia, Africa, and Oceanica, the German island possessions alone, particularly those north of the Equator, being, because of their strategic positions near the cable routes and in part interposed between the United States and the Philippines, of great potential importance to the United States and an asset which should not be transferred to a power which may become unfriendly.

Germany possessed the Mariana and Caroline archipelagos and 70,000 square miles of northeast New Guinea; the Bismarck Archipelago, 20,000 square miles; the Northern Solomon Islands, 4,200 square miles; and in the Samoan Archipelago she had 9 out of 14 islands.

In Africa she possessed imperial possessions of uncomputed value, embracing an area of 1,032,280 square miles, or about one-third of the United States, made up as follows:

| | Square miles. |
|---|---|
| Kamerun (West Africa) | 291,950 |
| Togoland (West Africa) | 33,700 |
| German East Africa | 384,180 |
| German Southwest Africa | 322,450 |
| | 1,032,280 |

Much of this territory is very valuable with highly fertile soil, rich mineral deposits, vast agricultural possibilities, water power, and a salubrious climate.

German Southwest Africa is well watered, has a fine climate, and rich mineral deposits. In the Kamerun are mineral deposits and there are no doubt valuable deposits of tin, while its coast sections are rich in palm-oil trees, timber, and rubber. Togoland is also extremely valuable for its tropical products, while in German East Africa there may probably be found extensive deposits of coal, gold, copper, and iron.

So great is the value of this African territory that as early as October, 1914, such prominent Englishmen as Sir H. H. Johnston, who is an authority on Africa, advocated England taking this territory, and indeed some of it England seems then to have claimed what she had conquered there. In addition to this, some English publicists are seriously contending that Great Britain should have the Belgian Congo, embracing 900,000 square miles of the heart of Africa, and in the absence of an affirmative American policy, the Kongo may go to Great Britain.

PROPOSED DISPOSITION OF GERMAN COLONIES.

It was decided at the peace conference at Paris that Germany should be deprived of all of her oversea possessions, and in articles 118 to 127 this policy has been embodied in the peace treaty, the principal article being—

*Section 1.*

GERMAN COLONIES.

*Article 119.*

Germany renounces in favor of the principal allied and associated powers all her rights and titles over her overseas possessions.

On May 5, 1919, there was made a provisional organization of the league of nations, and on the following day the so-called council of three—M. Clemenceau, President Wilson, and Lloyd-George—met and decided upon a tentative disposition, subject to the approval and ratification of the league of nations, of the German colonies as outlined in the official statement as reported as follows. I ask permission to insert that without reading.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

Togoland and Kamerun: France and Great Britain shall make a joint recommendation to the league of nations as to their future.

German East Africa: The mandate shall be held by Great Britain.

German Southwest Africa: The mandate shall be held by the Union of South Africa.

The German Samoan Islands: The mandate shall be held by New Zealand.

The other German Pacific possessions south of the Equator, excluding the German Samoan Islands and Nauru: The mandate shall be held by Australia.

Nauru (Pleasant Island): The mandate shall be given to the British Empire.

The German Pacific Islands north of the Equator: The mandate shall be held by Japan.

Mr. FRANCE. Belgium immediately protested against this tentative disposition, made by the council of three, the representative of Belgium not being present at the deliberations, and I quote from this protest.

I ask permission to insert that without reading.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

In view of Belgium's important military operations in Africa, her sacrifices to insure the conquest of German East Africa, and the fact that her situation has given her rights on that continent, Belgium is unable to admit that German East Africa should be disposed of by agreement in which she had not participated.

Mr. FRANCE. As a result of this protest, Great Britain ceded to Belgium certain important territories in the districts of Ruanda and Urandi to Belgium.

A most valuable article on this subject by Alpheus Henry Snow appeared in the October 18 issue of The Nation, which article I have followed closely. Mr. Snow is a profound student of and an eminent authority on the whole subject of colonial administration and of the relationships, legal, social, and ethical, between the advanced nations and the aboriginal peoples. I can highly commend the work of Mr. Snow upon this subject, particularly his monograph on "The Question of Aborigines in the Law and Practice of Nations," which has been most helpful to me and which I have used freely.

In connection with the cession by Great Britain to Belgium of a part of the former German African colonies, the interesting question has been raised whether a mandatory can cede territory intrusted to it, and in this connection I ask leave to have printed an editorial on the subject.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

[From the Boston Sunday Herald, Sept. 21, 1919.]

CAN A MANDATORY CEDE?

The cession of African territory by Britain to Belgium raises a most important question respecting the power of a mandatory of the league of nations. When a nation accepts a mandate from the league to administer a certain territory for the good of the inhabitants, has it the right to alienate a part of that territory, transferring it to another nation, as if the mandatory were not agent or trustee but power? The peace conference assigned the whole of German East Africa to Britain as a mandatory of the league. This was a perfectly intelligible proceeding to which nobody objected, the territory having been taken from the Germans by British forces, operating from the adjoining colonies of British East Africa and Rhodesia. It may even be said that there was a peculiar fitness in the arrangement because of the Germans having originally acquired the territory from the British by a bargain in which the latter were outwitted, finding later that they had given away land without which they could not make the Tanganyika section of their projected Cape to Cairo Railway. But the peace conference did not cede Germany's lost possession to Britain. Indeed, there was no title in the conference to cede it to her, particularly when she had made herself mistress of it and was its actual possessor. And never a word was heard about any right on her part to annex the territory. Yet she now acts as owner, making a gift of the districts of Ruanda and Urundi to Belgium. They border the southern end of Lake Tanganyika and adjoin the Belgian Congo and are the most fertile portions of the former German colony, with a native population of more than 3,000,000. It is said that this free gift to Belgium is a mark of Britain's gratitude to her ally. That may be; but was it hers to give? And could she rightly hand over those millions of people to government by another nation after having agreed to govern them beneficially herself as the league's appointee for that service? Suppose America were to yield to the apparent wish of the conference and of the Armenians that she should accept a league mandate to act as guide and guardian of Armenia. Would she then have the right to make a gift of, say, Silesia to France? That is unthinkable. There is a difference, of course, between a civilized people in Asia and an uncivilized people in Africa, but it is not so great as to make right in one case an act which would be wrong in the other. The East African affair does not convey a favorable impression of the mandatory system. There is just one step that the conference might take to remove the objections: Transfer from Britain to Belgium the mandate for the government of the Ruanda-Urundi country.

Mr. FRANCE. The tentative distribution of the German colonies by the council of three was made, as I have said, subject to the approval of the league of nations. I quote from the President's answers to three of the questions—12, 13, and 14—propounded by Senator FALL. I ask permission to insert those, Mr. President, and to read only a brief extract.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

12. Germany's renunciation in favor of the principal allied and associated powers of her rights and titles to her overseas possessions is meant similarly to operate as vesting in these powers a trusteeship with respect of their final disposition and government.

13. There has been a provisional agreement as to the disposition of these overseas possessions, whose confirmation and execution is dependent upon the approval of the league of nations, and the United States is a party to that provisional agreement.

14. The only agreement between France and Great Britain with regard to African territory of which I am cognizant concerns the redisposition of rights already possessed by those countries on that continent. The provisional agreement referred to in the preceding paragraph covers all the German overseas possessions in Africa as well as elsewhere.

Mr. FRANCE. The President says, in answer to question No. 13:

There has been a provisional agreement as to the disposition of these overseas possessions, whose confirmation and execution is dependent upon the approval of the league of nations, and the United States is a party to that provisional agreement.

This most important question of the final disposition of the German colonies should be one of the first to be considered by the league of nations; and by the adoption of this reservation we decline to participate in any deliberations or to accept any responsibilities concerning this question, and we repudiate the action of President Wilson and the council of three in making this tentative disposition, while leaving the final decision to the league of nations, President Wilson and the other members of the council of three no doubt believing that the valuable counsel and advice of the United States in the league of nations would be had on this subject.

I wish that I might refer in this connection to the general subject of the relationships and obligations of the advanced nations to the subject peoples and to the aboriginal races. I ask permission to insert at this point a quotation from the work of Mr. Snow above referred to.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

THE DUTIES OF CIVILIZED STATES AS GUARDIANS OF ABORIGINES.

In the declarations of international conferences dealing with the relations between civilized States and aborigines under their soverignty, the duties incident to this guardianship have not been definitely recognized as being of a tutorial character. The Berlin African conference, indeed, declared the obligation of the signatory powers "to watch over the preservation of the native tribes and to care for the conditions of their moral and material well-being and to help in abolishing slavery, and especially the slave trade." As respects the positive duty of the State to undertake directly the education and training of the aborigines in the arts and sciences of civilization and in the political principles on which all civilized society is based, the declaration is indefinite. It seems to have been contemplated that the education of the aborigines would be effected principally by religious and charitable associations of a private character. The provision on this subject is as follows:

"The signatory powers shall, without distinction of creed or nation, protect and favor all religious, scientific, or charitable institutions and enterprises created and organized for the above ends, or designed to instruct the natives, and to bring home to them the blessings of civilization. Christian missionaries, scientists, and explorers, with their escorts, property, and collections, shall likewise receive special protection.

"Freedom of conscience and religious toleration are expressly guaranteed to the natives, as well as subjects and foreigners. The free and public exercise of all forms of divine worship and the right to build edifices for religious purposes and to organize religious missions belonging to all creeds shall not be limited or fettered in any way whatsoever."

The Brussels African conference declared that those in charge of the fortified stations to be established in Africa should have the following "subsidiary duties" (Art. II):

"* * * To initiate (the native populations) in agricultural labor and in the industrial arts so as to increase their welfare; to raise them to civilization and bring about the extinction of barbarous customs, such as cannibalism and human sacrifices."

The interest of all civilized States in colonizing enterprises was stimulated by the entry of the United States into the civilized world as a colonizing power. The general sentiment of the American people, voiced by its statesmen, was that domination of distant communities by a republic was permissible when needful and to the extent needful, but only provided the State recognized and fulfilled the positive and imperative duty of helping these dominated communities to help themselves by teaching and training them for civilization as the wards and pupils of the nation and of the society of nations. Democracy and republicanism were not to be promulgated, the American people held, by destroying those who were ignorant of these principles or who disbelieved in them, but by the positive, helpful, propagandist work of republics in converting to these principles the nondemocratic and nonrepublican part of the world with which they were politically connected.

It is acknowledged by European writers that the year 1898 marks the beginning of a new epoch in the art and science of colonization, in which civilized States have recognized more and more definitely that guardianship of aboriginal tribes implies not merely protection, not merely a benevolence toward private missionary, charitable, and educational effort, but a positive duty of direct legislative, executive, and judicial domination of aborigines as minor wards of the nation and of equally direct legislative, executive, and judicial tutorship of them for civilization, so that they may become in the shortest possible time civil and political adults participating on an equality in their own government under democratic and republican institutions.

Mr. FRANCE. That extract refers to the great new colonial policy which was announced to the world in 1899 by the United States after the acquisition by the United States of the Philippine Islands. In 1899 the Philippine Commission, by order of the President, made an announcement which marked a new era in the history of colonial administration in the world. I ask permission to insert certain extracts from that proclamation by the Philippine Commission in 1899.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

The aim and object of the American Government, apart from the fulfillment of the solemn obligations it has assumed toward the family of nations by the acceptance of the sovereignty over the Philippine Islands, is the well being, the prosperity, and the happiness of the Philippine people and their elevation and advancement to a position among the most civilized peoples of the world.

The President believes that this felicity and perfection of the Philippine people is to be brought about by the assurance of peace and order; by the guaranty of civil and religious liberty; by the establishment of justice; by the cultivation of letters, science, and the liberal and practical arts; by the enlargement of intercourse with foreign nations; by the expansion of industrial pursuits, trade, and commerce; by the multiplication and improvement of the means of internal communications; by the development, with the aid of modern mechanical inventions, of the great natural resources of the archipelago; and in a word by the uninterrupted devotion of the people to the pursuit of those useful objects and the realization of those noble ideals which constitute the higher civilization of mankind. * * *

The commission emphatically asserts that the United States is not only willing but anxious to establish in the Philippine Islands an enlightened system of government, under which the Philippine people may enjoy the largest measure of home rule and the amplest liberty consonant with the supreme ends of government and compatible with those obligations which the United States has assumed toward the civilized nations of the world.

The United States striving earnestly for the welfare and advancement of the inhabitants of the Philippine Islands, there can be no real conflict between American sovereignty and the rights and liberties of the Philippine people. For just as the United States stands ready to furnish armies, navies, and all the infinite resources of a great and powerful Nation to maintain and support its rightful supremacy over the Philippine Islands, so it is even more solicitous to spread peace and happiness among the Philippine people; to guarantee them a rightful freedom; to protect them in their just privileges and immunities; to accustom them to free self-government in an ever-increasing measure; and to encourage them in those democratic aspirations, sentiments, and ideals which are the promise and potency of a fruitful national development.

It is the expectation of the commission to visit the Philippine people in their respective Provinces, both for the purpose of cultivating a more intimate acquaintance and also with a view to ascertaining from enlightened native opinion what form or forms of government seem best adapted to the Philippine peoples, most apt to conduce to their highest welfare, and most conformable to their customs, traditions, sentiments, and cherished ideals. Both in the establishment and maintenance of government in the Philippine Islands it will be the policy of the United States to consult the views and wishes and to secure the advice, cooperation, and aid of the Philippine people themselves.

In the meantime the attention of the Philippine people is invited to certain regulative principles by which the United States will be governed in its relations with them. The following are deemed of cardinal importance:

1. The supremacy of the United States must and will be enforced throughout every part of the archipelago, and those who resist it can accomplish no other end than their own ruin.

2. The most ample liberty of self-government will be granted to the Philippine people which is reconcilable with the maintenance of a wise, just, stable, effective, and economical administration of public affairs and compatible with the sovereign and international rights and obligations of the United States.

3. The civil rights of the Philippine people will be guaranteed and protected to the fullest extent, religious freedom assured, and all persons shall have an equal standing before the law.

4. Honor, justice, and friendship forbid the use of the Phillipine people or islands as an object or means of exploitation. The purpose of the American Government is the welfare and advancement of the Philippine people.

5. There shall be guaranteed to the Philippine people an honest and effective civil service, in which to the fullest extent practicable natives shall be employed.

6. The collection and application of taxes and revenues will be put upon a sound, honest, and economical basis. Public funds, raised justly and collected honestly, will be applied only in defraying the regular and proper expenses incurred by and for the establishment and maintenance of the Philippine Government and for such general improvements as public interests may demand. Local funds, collected for local purposes, shall not be diverted to other ends. With such a prudent and honest fiscal administration it is believed that the needs of government will in a short time become compatible with a considerable reduction in taxation.

7. A pure, speedy, and effective administration of justice will be established whereby the evils of delay, corruption, and exploitation will be effectually eradicated.

8. The construction of roads, railroads, and other means of communication and transportation, as well as other public works of manifest advantage to the Philippine people, will be promoted.

9. Domestic and foreign trade and commerce, agriculture, and other industrial pursuits and general development of the country in the interests of its inhabitants will be the constant objects of solicitude and fostering care.

10. Effective provision will be made for the establishment of elementary schools in which the children of the people shall be educated. Appropriate facilities will also be provided for higher education.

11. Reforms in all departments of the Government, in all branches of the public service, and in all corporations closely touching the common life of the people must be undertaken without delay and effected, conformably to right and justice, in a way that will satisfy the well-founded demands and the highest sentiments and aspirations of the Philippine people.

Such is the spirit in which the United States comes to the people of the Philippine Islands. (The President) has instructed the commission to make it publicly known. (S. Doc., vol. 44, 56th Cong., 1st sess., pp. 3–5.)

Mr. FRANCE. These are the principles which should be applied to the administration of all colonial possessions and to the government of all colonial peoples, and when the proper time arrives we should insist upon their application to the government of the peoples formerly under German rule, particularly those peoples of Africa, who should be our peculiar concern.

OUR PAST RELATIONSHIP TO AFRICA.

For us to take an active interest in the affairs of Africa, in the welfare of the natives there, and in such international

cooperation as would tend to prevent those conflicting rivalries, which have in the past several times brought the world to the brink of war, is not, in any sense, to inaugurate a new policy, since for many years we have been a positive factor in the meeting of these great problems.

Stanley was, of course, an American citizen when, in 1874, he began his explorations in central Africa, carrying the American flag through the unknown tropical wildernesses from the far distant headwaters to the mouth of the Congo. The political results of that trip were most important, since it profoundly influenced the further partitioning of Africa, led directly to the calling of the Berlin and of the later Brussels conferences, to the participation of the United States in these conferences, to the announcement by these conferences of the great principles of humanity which should guide the administration by the advanced nations of African territory, and to the formation of the independent Congo Free State. As indicating our interest in and our attitude toward the Berlin conference, I ask permission to insert an extract from a letter from the Secretary of State, Mr. Frelinghuysen, to Mr. Tisdel, consular agent in the Congo region.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

[A letter from Secretary of State Frelinghuysen to Mr. Tisdel, consular agent in the Congo, dated Sept. 8, 1884.]

An American citizen first traced the Congo to the sea, and were we to admit the validity of a claim of sovereignty over the region based on discovery, the United States might well assert certain rights which they have not set up. The policy of this country has been consistent in avoiding entangling alliances and in refraining from interference in the affairs of other nations. From that policy there is no intention of departing; at the same time the rights, commercial and political, of our citizens must be protected, and in the valley of the upper Congo we claim those rights to be equal to those of any other nation. (Report of the Secretary of State on the Independent State of the Congo, June 30, 1886, Ex. Doc. Sen. No. 196, 49th Cong., 1st sess., p. 347.)

Mr. FRANCE. I also ask permission to insert, in order to conserve my time, although I perhaps should read it all, an extract from a letter of instructions from the Secretary of State, Mr. Frelinghuysen, to Mr. Kasson, United States minister to Germany, who was a delegate plenipotentiary to the Berlin-African conference which was held in 1884.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

[A letter of instructions from Secretary of State Frelinghuysen to Mr. Kasson, United States minister to Germany, as delegate plenipotentiary to the Berlin-African conference, dated Oct. 17, 1884.]

The attitude of the United States in this question (of freedom of navigation of international rivers and of access to the riparian territory) has for many years been clear, and in the particular case of the Congo this Government was among the first to proclaim the policy of unrestricted freedom of trade in that vast and productive region. This Government could, consequently, not be expected to countenance, either by assent during the progress of the discussions or by acceptance of its conclusions, any results falling short of the broad principle it has enunciated.

* * * * * * *

So far as the government of the Congo Valley is concerned, this Government has shown its preference for a neutral country, such as is promised by the Free States of the Congo, the nucleus of which has already been created through the organized efforts of the international association. Whether the approaching conference can give further shape and scope to the project of creating a great State in the heart of western Africa, whose organization and administration shall afford a guaranty that it is held for all time, as it were, in trust for all peoples, remains to be seen. At any rate, the opportunity which the conference affords for examination and discussion of these questions by all the parties directly or indirectly in interest should be productive of broad and beneficial results. (Ib., p. 14.)

Mr. FRANCE. Acting upon these instructions, Mr. Kasson made a statement to the conference on November 19, 1884, from which statement I quote, asking permission to insert it without reading.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

While declaring the general concurrence of the Government of the United States with the views expressed in the opening address of his highness, the president of this international conference, it may be useful to state briefly the relation of my Government to pending African questions.

Until the year 1874 a large section of the heart of Africa, comprising a great part of its salubrious uplands, was wholly unknown both to the geographers and to the statesmen of Europe and America.

An American citizen, who was qualified by courage, perseverance, and intelligence, and by a remarkable intrepidity and aptitude for exploration, resolved, with the support of English and American friends, to expose, if possible, to the light of civilization this obscure region. With the peaceful flag of his country over his tent, and at the head of his retainers, he disappeared from the knowledge of his countrymen; and after 39 very long and very dangerous months of exploration and travel, he reappeared with the results of his discoveries, which were communicated to the world.

It is to be observed that from the time he left the eastern coast of Africa opposite Zanzibar during his travels to and beyond the upper waters of the Nile, while slowly descending toward the sea, and until he saw an ocean steamer lying in the lower Congo, he found nowhere the presence of civilized authority, no jurisdiction claimed by any representative of white men save his own over his retainers, no dominant flag or fortress of a civilized power, and no sovereignty exercised or claimed except that of the indigenous tribes.

His discoveries aroused the attention of all nations. It was evident that very soon that country would be exposed to the dangerous rivalries of conflicting nationalities. There was even danger of its being so appropriated as to exclude it from free intercourse with a large part of the civilized world.

It was the earnest desire of the Government of the United States that these discoveries should be utilized for the civilization of the native races and for the abolition of the slave trade, and that early action should be taken to avoid international conflicts likely to arise from national rivalry in the acquisition of special privileges in the vast region so suddenly exposted to commercial enterprises. If that country could be neutralized against aggression, with equal privileges for all, such an arrangement ought, in the opinion of my Government, to secure general satisfaction. (Ib., p. 34.)

Mr. FRANCE. I also ask permission to insert without reading portions of two letters from Mr. Root, while he was Secretary of State, to Mr. Wilson, ambassador to Belgium, bearing upon our interests in and our policy with reference to the African territory, particularly that lying in the Congo region.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

On January 15, 1907, Secretary of State Root, in a dispatch to Mr. Wilson, United States minister to Belgium, said:

"Our attitude toward Congo question reflects deep interest of all classes of American people in the amelioration of conditions. The President's interest in watching the trend toward reform is coupled with earnest desire to see full performance of the obligations of articles 2 and 5 of the slave-trade act, to which we are a party. We will cheerfully accord all moral support toward these ends, especially as to all that affects involuntary servitude of the natives." (Foreign Relations of the United States, 1907, pt. 2, p. 799.)

On December 16, 1907, in a dispatch to Minister Wilson, Secretary of State Root said:

"Our attitude and purpose rest on the broad general purpose to elevate and benefit the native Africans as declared in the Berlin act, to which we are, however, not a party, and emphatically reaffirmed in the Brussels act of 1890, applicable to all dominion and control of civilized nations in central Africa, to which we are a party. Our voice and sympathy are in favor of the full accomplishment of those declared purposes, and, while we are not directly interested in the administrative and financial details of the government of any one of the several districts of central Africa embraced in the compact of 1890, we are free, and, indeed, morally constrained, to express our trust and hope that every successive step taken by the active signatories will inure to the well-being of the native races and execute the transcendent obligations of the Brussels act, in all its humanitarian prescription, especially as to article 2. In these respects the interests of all the signatories are identical." (Ib., p. 829.)

Of course, Mr. President, the discoveries of Stanley gave us sovereign rights over that whole region in Central Africa, which sovereign rights, however, we did not assert, choosing to accept in the place of sovereignty the right to insist that humanitarian principles be applied to the administration of that territory and to the care of the natives there.

In other words, Mr. President, the United States renounced sovereignty over 900,000 square miles in the heart of Africa, asking in return only that there should be fair treatment for the natives of Africa residing in that territory, and it seems to me that the same problem confronts us to-day. If we renounce interest in the more than 1,000,000 square miles of territory which Germany has owned in Africa, we at least ought to reserve the right to go to the league council and say: "Whoever may have these colonies, whoever may take this vast territory to administer, must agree to such conditions as we insisted must be applied in the administration of the Belgian Congo."

I hope in this very brief and somewhat disconnected statement, disconnected because I have omitted a number of important quotations which would have given continuity to my remarks, that I have made it clear that we should not relinquish, by the adoption of this reservation, all right to these colonies and all right even to insist upon fair treatment for the native peoples in these colonies which are being transferred from one guardian, Germany, to another.

Mr. President, the great African problem is one to which I have already alluded on a previous occasion. Perhaps it is the greatest problem in connection with the making of the treaty. The future disposition of the African territory will involve great questions, which will certainly from time to time bring about such conditions as may readily lead to war. This is well understood by the prominent men in all countries, in France, and particularly in England, and as early as 1917 the executive committee of the British labor party, realizing that the defeat of Germany would bring about disagreements, possibly, or conflicts of interest with reference to the African territory, issued a proclamation in favor of an open-door policy for Africa, and in favor of the internationalization of the great African territories which would be disposed of as a result of this war.

I ask permission to insert two statements to this effect—one in 1917 and the other in 1918.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

[From The Times, Aug. 11, 1917.]

With regard to the colonies of the several belligerents in tropical Africa, from sea to sea (north of the Zambesi River and south of the Sahara Desert), the conference disclaims all sympathy with the imperialistic idea that these should form the booty of any nation, should be exploited for the profit of the capitalist, or should be used for the promotion of the militarist aims of governments. In view of the fact that it is impracticable here to leave the various peoples concerned to settle their own destinies, the conference suggests that the interest of humanity would be best served by the full and frank abandonment by all belligerents of any dreams of an African empire; the transfer of all the present colonies of the European powers in tropical Africa, together with the nominally independent Republic of Liberia, to the proposed supernational authority or league of nations herein suggested; and their administration by an impartial commission under that authority, with its own trained staff, as a single independent African State, on the principles of (1) the open door and equal freedom of enterprise to the traders of all nations; (2) protection of the natives against exploitation and oppression and the preservation of their tribal interests; (4) all revenue raised to be expended for the welfare and development of the African State itself; and (4) the permanent neutralization of this African State and its abstention from participation in international rivalries or any future war.

[From The Times, Feb. 25, 1918.]

With respect to these colonies, the conference declares in favor of a system of control, established by international agreement under the league of nations and maintained by its guaranty, which, whilst respecting national sovereignty, would be alike inspired by broad conceptions of economic freedom and concerned to safeguard the rights of the natives under the best conditions possible for them, and in particular (1) it would take account in each locality of the wishes of the people, expressed in the form which is possible to them; (2) the interests of the native tribes as regards the ownership of the soil would be maintained; (3) the whole of the revenues would be devoted to the well-being and development of the colonies themselves.

Mr. FRANCE. Mr. President, the time may come when the maintenance of an open door in Africa may be most important, when our right to make our voice heard in African affairs may result in maintaining the peace of the world, and I feel that it would be a grave and perhaps a fatal mistake for us now, without careful deliberation and full discussion, to lose forever our power to exercise that right, and to foreclose the possibility of our participating, even if we shall become a member of the league of nations, in the solution of this most momentous problem.

As I indicated in the beginning, Mr. President, if we defeat this reservation, the whole question of the disposition of the German colonies will be left to the league of nations, and we will be privileged to participate, as a member of the league, in the discussions as to what the final disposition of those colonies shall be. But if we adopt this reservation, we not only waive all of our rights in the great territories involved, we not only disclaim responsibility for the millions of aboriginal peoples for whose welfare, I believe, we are responsible, for we are transferring them from one power to another, but we disclaim all responsibility for the peoples and for the territories which are to be disposed of. I feel it would be a grave mistake for us, under the cloture rule and without full deliberation, to take this action. I trust the reservation will be rejected.

The VICE PRESIDENT. The question is on reservation numbered 14, offered by Mr. LODGE on behalf of the committee.

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

The VICE PRESIDENT. The Secretary will call the roll.

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

| | | | |
|---|---|---|---|
| Ashurst | Gronna | McLean | Simmons |
| Ball | Hale | McNary | Smith, Ariz. |
| Bankhead | Harding | Moses | Smith, Ga. |
| Beckham | Harris | Myers | Smith, Md. |
| Borah | Harrison | Nelson | Smith, S. C. |
| Brandegee | Henderson | New | Smoot |
| Calder | Hitchcock | Newberry | Spencer |
| Capper | Johnson, Calif. | Norris | Stanley |
| Chamberlain | Johnson, S. Dak. | Nugent | Sterling |
| Colt | Jones, N. Mex. | Overman | Sutherland |
| Culberson | Jones, Wash. | Owen | Swanson |
| Cummins | Kellogg | Page | Thomas |
| Curtis | Kendrick | Penrose | Townsend |
| Dial | Kenyon | Phelan | Trammell |
| Dillingham | Keyes | Phipps | Underwood |
| Edge | King | Pittman | Wadsworth |
| Elkins | Kirby | Poindexter | Walsh, Mass. |
| Fernald | Knox | Pomerene | Walsh, Mont. |
| Fletcher | La Follette | Ransdell | Warren |
| France | Lenroot | Reed | Watson |
| Frelinghuysen | Lodge | Robinson | Williams |
| Gay | McCormick | Sheppard | Wolcott |
| Gerry | McCumber | Sherman | |
| Gore | McKellar | Shields | |

The VICE PRESIDENT. Ninety-four Senators have answered to their names. There is a quorum present.

Mr. WALSH of Montana. Mr. President, the pending reservation provides that—

The United States declines to accept, as trustee or in her own right, any interest in or any responsibility for the government or disposition of the overseas possessions of Germany.

Those overseas possessions, as pointed out by the Senator from Indiana [Mr. NEW], include the Ladrone and Caroline Islands, in the Pacific Ocean, lying immediately across the pathway to the Philippines and the Orient from this country. I have had an opportunity to read the report made to the Navy Department by one of its principal officers, to which the Senator from Indiana [Mr. NEW] referred, and the importance to this country of the future control of those islands can not easily be overestimated.

The reservation, supported, as I understand, by the Senator from Tennessee [Mr. SHIELDS], provides that we shall have no interest whatever in these overseas possessions, and, of course, absolutely nothing to say about their government or disposition. Reference has been made by the Senator to the alleged secret treaties by which these possessions were disposed of—those north of the Equator given to Japan and those south to Great Britain. As pointed out by the Senator from California [Mr. PHELAN], the covenant provides that all treaties inconsistent with its provisions are abrogated. But even without a provision of that character, Mr. President, the treaty now under consideration is later than the so-called secret treaties, and it provides in article 119:

Germany renounces in favour of the principal allied and associated powers all her rights and titles over her overseas possessions.

In other words, by this treaty the title to these islands passes to the allied and associated powers, and, regardless of any previous attempt to dispose of them by the secret treaties, the title to them would now rest, if the treaty shall be ratified, in the allied and associated powers.

Mr. NEW. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Indiana?

Mr. WALSH of Montana. I yield to the Senator, but not out of my time.

The VICE PRESIDENT. That is the only way the Senator can yield. There is no way for the Chair to determine except to charge the time to the Senator who has the floor.

Mr. NEW. I would like to ask the Senator from Montana what effect the date of the treaty has upon the action of the council of three which was taken on the 6th of May?

Mr. WALSH of Montana. The treaty provides that the title to these possessions goes into the allied and associated powers. That is what it provides, and everything else is gone, destroyed utterly.

Now, Mr. President, let me put the matter clearly. If this treaty is rejected, those islands are now in the possession of Japan, and she will hold those islands, and we have absolutely nothing whatever to say about how they are going to be governed in the future.

Moreover, if this reservation is adopted, we shall have absolutely nothing to say as to how they are going to be governed.

Mr. NEW. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Indiana?

Mr. WALSH of Montana. I yield.

Mr. NEW. Who gave Japan possession of them?

Mr. WALSH of Montana. She took possession of them when the war commenced.

Mr. NEW. Was not that possession confirmed by the action of the council of three on May 6?

Mr. WALSH of Montana. It is a matter of no consequence what was done on May 6. The treaty, which now is the written obligation of all the parties, provides that the title to those islands goes into the allied and associated powers, and by article 22 of the covenant they are to be governed by the league of nations through a mandatory to be designated by it. You may take your choice. The proposition is to reject the treaty and leave those islands with Japan, for there is where they are and there is where they will stay, or to adopt this reservation and leave them with Japan, with no voice whatever in our Government as to their future control or disposition or the style of government under which they are to be controlled.

Mr. President, more than that, the league of nations is now in existence and the council of the league of nations will prescribe the kind of government that these islands shall have. It will declare what Japan may do and what she may not do in those islands. If we do not become a member of the league, the council of the league of nations will perhaps adopt a government for those islands dictated by Japan, and in relation to which we have no voice and will have no voice at all.

I want to say a word in relation to the suggestion made by the Senator from California [Mr. PHELAN] that some amendment of article 22 is requisite in order to protect our interests. I do not think so at all. Our interests seem to be completely protected, notwithstanding the provisions of the article to which

he calls attention, by the next to the last clause in the article, which reads as follows:

The degree of authority, control, or administration to be exercised by the mandatory shall, if not previously agreed upon by the members of the league, be explicitly defined in each case by the council.

I, like other Senators, am exceedingly averse to having anything at all to do with the South African colonies, but we must adopt a rule, and the best rule that the conference was able to adopt was to put all these possessions under the control of the league, including the important Pacific islands that vitally affect the interests of our country, to put the whole thing in the control of the league and allow the council to direct the Government which shall be exercised over each of them and by what Government it shall be administered.

Mr. President, the pending reservation ought not to be adopted under any circumstances.

Mr. LODGE. Mr. President, the islands have gone to Japan under the secret treaties made with Italy, France, and England, several years ago, particularly the one made with England. These islands are south of the Equator. They are in the possession of Japan and they will remain there. The three powers insisted on Japan having Shantung. What chance is there in this perfectly vague league clause that France and England and Italy will vote to take them away from Japan? I think it is an amendment sound in principle, and I trust it will be adopted. I hope we can have a vote.

The VICE PRESIDENT. The question is on agreeing to reservation No. 14, as proposed by the Senator from Massachusetts in behalf of the committee.

Mr. LODGE. I call for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CURTIS (when Mr. FALLS name was called). I desire to announce the unavoidable absence of the senior Senator from New Mexico [Mr. FALL]. He is paired with the junior Senator from Wyoming [Mr. KENDRICK]. If the Senator from New Mexico were present, he would vote "yea."

Mr. KENDRICK (when his name was called). I have a pair with the senior Senator from New Mexico [Mr. FALL]. In his absence I withhold my vote.

The roll call having been concluded, the result was announced—yeas 29, nays 64, as follows:

YEAS—29.

| | | | |
|---|---|---|---|
| Ball | Harding | Moses | Shields |
| Borah | Johnson, Calif. | New | Sutherland |
| Brandegee | Keyes | Newberry | Wadsworth |
| Calder | Knox | Page | Walsh, Mass. |
| Capper | La Follette | Penrose | Watson |
| Curtis | Lenroot | Poindexter | |
| Dillingham | Lodge | Reed | |
| Gronna | McCormick | Sherman | |

NAYS—64.

| | | | |
|---|---|---|---|
| Ashurst | Gore | McNary | Smith, Ga. |
| Bankhead | Hale | Myers | Smith, Md. |
| Beckham | Harris | Nelson | Smith, S. C. |
| Chamberlain | Harrison | Norris | Smoot |
| Colt | Henderson | Nugent | Spencer |
| Culberson | Hitchcock | Overman | Stanley |
| Cummins | Johnson, S. Dak. | Owen | Sterling |
| Dial | Jones, N. Mex. | Phelan | Swanson |
| Edge | Jones, Wash. | Phipps | Thomas |
| Elkins | Kellogg | Pittman | Townsend |
| Fernald | Kenyon | Pomerene | Trammell |
| Fletcher | King | Ransdell | Underwood |
| France | Kirby | Robinson | Walsh, Mont. |
| Frelinghuysen | McCumber | Sheppard | Warren |
| Gay | McKellar | Simmons | Williams |
| Gerry | McLean | Smith, Ariz. | Wolcott |

NOT VOTING—2.

| | |
|---|---|
| Fall | Kendrick |

So reservation No. 14, offered by Mr. LODGE on behalf of the committee, was rejected.

The VICE PRESIDENT. The Secretary will state the next reservation.

The SECRETARY. Reservation No. 15, which will now become No. 14, is as follows:

14. The United States reserves to itself exclusively the right to decide what questions affect its honor or its vital interests and declares that such questions are not under this treaty to be submitted in any way either to arbitration or to the consideration of the council or of the assembly of the league of nations or any agency thereof or to the decision or recommendation of any other power.

Mr. LODGE. Mr. President, there is what seems to my mind to be some misunderstanding of the provisions of this reservation. It has been of late the fashion to scoff at national honor as a relic of barbarism, but I want to call the attention of the Senate to the fact that that is a very recent attitude.

In the treaty of arbitration with Great Britain, one of a series offered in 1904, appear these words:

Differences which may arise of a local nature, etc., shall be referred to the permanent court of arbitration established at The Hague by the convention of the 29th of July: *Provided, nevertheless,* That they do not affect the vital interests, the independence, or the honor of the two contracting States.

That is the language, and Secretary Hay signed the treaty. It came under the administration of Mr. Roosevelt. A little later a series of arbitration treaties were presented to the Senate and ratified. The Hay treaties were also ratified by the Senate, but were held by the President because we changed the wording in another article compelling the submission of the special agreement in each case to the Senate. The Root treaties, as they were known, all passed, and those treaties contained the same words:

*Provided, nevertheless,* That they do not affect the vital interests, the independence, or the honor of the two contracting States.

As late as 1908 these words were put into these treaties without opposition from anybody. National honor was still considered to be a subject worthy of reservations in a treaty. In fact, I think it was believed at that time that treaties themselves rested largely upon national honor. Since then, especially in the last year, there has been a great change; they have returned to another view.

I am going to read, if the Senate will permit me, very briefly, from words uttered by one of the greatest characters ever created by human imagination. In the first part of King Henry IV, Falstaff says:

Hal, if thou see me down in the battle and bestride me, so; 'tis a point of friendship.

Prince HENRY. Nothing but a colossus can do thee that friendship. Say thy prayers, and farewell.

FALSTAFF. I would 'twere bed time, Hal, and all well.

Prince HENRY. Why, thou owest God a death.

[He goes out.]

FALSTAFF. 'Tis not due yet; I would be loath to pay him before his day. What need I be so forward with him that calls not on me? Well, 'tis no matter; honor pricks me on. Yea, but how if honor prick me off when I come on? How then? Can honor set to a leg? No. Or an arm? No. Or take away the grief of a wound? No. Honor hath no skill in surgery, then? No. What is honor? A word. What is in that word "honor"? What is that honor? Air. A trim reckoning! Who hath it? He that died o'Wednesday. Doth he feel it? No. Doth he hear it? No. 'Tis insensible, then. Yea, to the dead. But will it not live with the living? No. Why? Detraction will not suffer it. Therefore I'll none of it. Honor is a mere scutcheon. And so ends my catechism.

Mr. President, the humor and the satire of that speech has delighted audiences and readers for three centuries. To Shakespeare's mind it was humorous and satirical. But Falstaff has his revenge; he is coming into his own now. He took a view of honor which now seems to be seriously held.

Mr. President, there is another thing to say about the words "national honor." One of the points of national honor, and the great point, is that the national honor is bound up in the protection of the citizens of a country. That has changed. It seems no longer considered necessary to protect an American citizen. Within a few days we have been told by high authority, if we can rely on the press, that as to an American citizen even though he held a commission of the Government and was in a foreign country, the Government would be delighted to be the channel to convey to the bandits who had seized him a ransom raised by his friends. I presume it is very queer and old-fashioned, but I still think that the country owes protection to its citizens.

I am now going to cite another authority which I have heretofore quoted:

And as they bound him with thongs, Paul said unto the centurion that stood by, Is it lawful for you to scourge a man that is a Roman, and uncondemned?

When the centurion heard that, he went and told the chief captain, saying: Take heed what thou doest; for this man is a Roman.

Then the chief captain came, and said unto him, Tell me, art thou a Roman? He said, Yea.

And the chief captain answered, With a great sum obtained I this freedom. And Paul said, But I was free born.

Then straightway they departed from him which should have examined him; and the chief captain also was afraid, after he knew that he was a Roman, and because he had bound him.

That was the Roman conception of citizenship; it was the conception of citizenship held by the Apostle Paul; and Rome, with all her faults, it may be said, for 300 years preserved more peace in the civilized world as it then was than has ever been since preserved.

As I have said, I suppose I am odd and queer and old-fashioned, but I still adhere to the Roman and the Pauline conception; and that rests on national honor. Mr. President, it seems to me that the words "national honor" ought to have a place in this reservation and that the sanctity of the American citizen ought to be protected.

The words "vital interests," although they are a well-known term, and in the past have been very frequently used by us, seem in the minds of many Senators with whom I have talked

to cover everything. However, they only cover vital interests. No one would suggest that a question of a claim or many questions of similar character which may arise are of vital interest to the United States or to any other country. "Vital interests" are what the words imply—interests which are absolutely vital to the safety and independence of the country or countries making the treaty.

The word "independence" was used in the ancient days—in 1904 and 1908. In those days men also used the word "independence." I suppose that is another selfish and barbaric word to use, according to some of the most modern interpretations.

Mr. President, I believe it is the duty of the United States to keep its vital interests and its national honor clear from the dictation of any other power on the face of the earth.

Mr. COLT. Mr. President, the difficulty with this reservation is that it is impossible to define what are included within the terms "national honor" and "vital interests." It is left for the United States to determine what questions come within those terms.

Mr. President, those terms have never been defined in international law. An effort has been made to define what justiciable disputes are, but without success. Whether a question affects vital interests or national honor will turn on what the Nation itself thinks on the question which arises at any given time.

Mr. President, with all our reservations we still have left the three basic principles of the league of nations. The main purpose of the league of nations is to prevent war, and, notwithstanding the reservations, we still have left obligatory conferences, compulsory arbitration, or compulsory submission to inquiry and report, and reduction of armaments.

Now, I make the statement here boldly that any question arising with respect to any of these three propositions might be considered a question of national honor or vital interest affecting the welfare of the country. The fact is, Mr. President, the incorporation of a reservation of this kind spells death to the league; it takes the heart out of the league; it takes compulsory arbitration out of the league; it takes obligatory conferences, the reduction of armament, and every advance we have sought to make in the interest of peace out of this new alliance of the nations of the world.

Mr. STERLING. Mr. President, the remarks and the illustrations given by the Senator from Massachusetts [Mr. LODGE] remind me of an incident of college days when the president of the college, at chapel, with a keen appreciation of the best things in literature, was telling the students what they should read. He said first to read the Bible and next, after the Bible, to read Shakespeare. The distinguished Senator from Massachusetts has reversed the order. He has first read Shakespeare and then read the Bible. I do not say this to disparage at all the illustration contained in the quotations read by the Senator from Massachusetts; but the thought that is uppermost in my mind now is, whether by these reservations we shall repudiate altogether the principle of arbitration. Arbitration has been declared to be—I think it was so declared by The Hague convention of 1907—the most just and the most equitable way of settling such international disputes as can not be settled or adjusted by diplomacy.

Mr. President, out of what may questions of national honor or questions affecting vital interests arise? Conceivably they may arise out of what we are accustomed to call domestic questions, questions relating to our internal affairs. Let me ask now, is it a controversy growing out of our immigration policy? That is a question affecting vital interests, for it may go to the very life of the Nation; but we are protected so far as that is concerned by reservation No. 5, which has already been adopted. Or is it a question growing out of our American policy in regard to labor? In these times of international movement and agitation in regard to labor, that may also become a matter affecting our vital interests, and yet that has been considered, and we are protected so far as that is concerned by reservation No. 5. Is it the tariff, the suppression of the traffic in women and children, in opium and dangerous drugs? I can easily conceive that under certain circumstances one or all of these matters may become questions of vital interest and some of them, perhaps, give rise to controversies that would affect our national honor, and yet they are all covered by reservation No. 5. Under that reservation we decline to arbitrate any question growing out of these several subjects.

But we do not stop there. I presume commerce itself might be one of the most prolific sources of international dispute and international complication, and yet commerce, under reservation No. 5, is one of the subjects about which we decline to arbitrate. Our overseas commerce might as easily as anything else become the subject of controversies which would affect our national honor or our vital interests; but suppose it does, it is a question which can not be arbitrated nor submitted to nor considered by the council or the assembly of the league of nations.

It is difficult, I say, to conceive of a case or a situation out of which questions of national honor or vital interest might arise in which we are not already protected by the adoption of the reservations from 1 to 13, inclusive. Under the reservation with regard to withdrawal we shall not be obliged to remain long in a league where our national honor or vital interests are prejudiced or jeopardized. Under the reservation to article 10 we decline to assume obligations which could easily put us in a position where our vital interests might be materially affected, and so we are safe there.

Take reservation No. 11. It is to our vital interest, of course, when we are at war or threatened with invasion, that we have the right to increase our armaments without the consent of the council of the league, and that notwithstanding we had previously adopted the plan of the council for a limitation of armaments. The right to such increase is reserved in the eleventh reservation.

So, Mr. President, in view of the fact that we have protected ourselves quite thoroughly in reservations already adopted, and in view of the further fact that now, if we should adopt the pending reservation, we would seem on the face of it to practically repudiate the whole principle of arbitration, I am opposed to reservation No. 15.

Mr. REED. Mr. President, reservation 15 declares that the United States withholds from decision by the league of nations all questions which, in the judgment of the United States, involve our national honor or vital interests. Bluntly stated, we are about to vote on whether we will submit the honor and the life of the United States to the decision of seven aliens sitting in Geneva, or whether we will reserve the decision of those questions to the people of the United States.

Let those who will vote to turn the life of this country and its fate into the hands of seven aliens; as for me and my house, we vote and we speak for the doctrine that the people of the United States alone should control the life and fate of this country.

There is no use quibbling about this question, or seeking to evade it. We know what these terms mean, and we know that those who are willing to reject this reservation prefer the treaty to the unsullied independence of this country.

It has been well stated by the Senator from Rhode Island [Mr. COLT] that if we adopt this reservation we reserve our vital interests and our national honor to ourselves. The converse of it is, if we reject it we turn them over to the decision of seven aliens, the representatives of five Kings and Emperors and of two Republics.

I am glad this issue is drawn, for now we know the meaning of this document. We are told that this is the heart of the league. Such was the language of the distinguished Senator from Rhode Island. The heart of this league, the heart of this infamy, is the transfer to representatives of foreign powers, to a political tribunal, of the life and honor of our country. So let the issue stand; so let it be drawn; and upon that issue we will finally take the vote of the people of the United States.

Mr. President, it is said that these terms are indefinite, that we do not know what they mean; and yet they have been used in international diplomacy for 50 years, and their meaning is as well determined as is the meaning of the other phraseology of this instrument. Quibbling about the uncertainty of the meaning is but an excuse for those who want this instrument in preference to everything else.

Let us see some of the early days when these terms were used—used in the councils of statesmen when men infinitely greater than those who framed this treaty sat. I shall not go back to their genesis. I know not how far back they may run; but in the first Hague convention of 1899, William McKinley being President and John Hay Secretary of State, this was the reservation; and The Hague convention did not propose to enforce its treaties by fire and sword, by starvation and embargo. It left matters, when decided, to the honor of nations; but this was the language:

> Differences of an international nature involving neither honor nor vital interest, and arising from a difference of opinion on points of fact—

Were to be submitted. That was an exception of questions of honor and vital interests. They were not submitted; and yet when the United States signed that they wrote this reservation in:

> Nothing contained in this convention shall be so construed as to require the United States of America to depart from its traditional policy of not intruding upon, interfering with, or entangling itself in the political questions of policy or internal administration of any foreign

State; nor shall anything contained in the said convention be construed to imply a relinquishment by the United States of America of its traditional attitude toward purely American questions.

At the second Hague convention, which was signed on October 18, 1907, Theodore Roosevelt being President and Elihu Root Secretary of State, and our delegates being Joseph H. Choate, Uriah M. Rose, and other distinguished men, among others, David Jayne Hill, this, dealing with the matters which can be submitted to arbitration, was written in:

Recourse can not, however, be had to the court if the other party declares that, in its opinion, the dispute does not belong to the category of questions to be submitted to compulsory arbitration, unless the treaty of arbitration confers upon the arbitration tribunal the power of deciding this preliminary question.

The right to bring anything to compulsory arbitration has to be granted by express treaty.

Then you will find this in the same treaty:

In disputes of an international nature involving neither honor nor vital interest and arising from a difference of opinion on points of fact, the contracting parties deem it expedient and desirable that the parties—

Should arbitrate.

The same phrase appears; the same exception is there.

Again:

Recourse can not, however, be had to the court if the other party declares that, in its opinion, the dispute does not belong to the category of disputes which can not be submitted to compulsory arbitration, unless the treaty or arbitration confers upon the arbitration tribunal the power of deciding this preliminary question.

So, Mr. President, you find the questions are there reserved in those treaties.

Now, Mr. President, I come to a fulmination in this morning's paper from former President Taft.

You will remember that in the early days of these disputes, when the first proposal for a league of nations was submitted, Mr. Taft went about the country abusing everybody who wanted to change it in any respect. He called men by offensive names. He insisted that the Monroe doctrine was "extended to the world." He made other absurd insistences; and, after having taken that position, he was gradually driven to the ground that this treaty did not need amendment. Now, when it comes back again, after having declared time and again that it must be accepted without reservation, he is here asking that it be accepted with all these reservations except what he is pleased to call "the Reed reservation."

This reservation is not "the Reed reservation." It is true that I appeared before the committee and made a mere suggestion, in less than three minutes' talk, of the insertion of a reservation of this kind.

It is the reservation of the committee; but if anybody wants to fix on me the responsibility of trying to preserve the honor of the United States and its vital interests from the decision of the representatives of seven foreign Governments in a political tribunal, I am willing to accept the responsibility.

What does Mr. Taft tell us this morning. He says:

The universal arbitration treaties negotiated with France and Great Britain by Senator KNOX in 1911 struck out of previous treaties of arbitration these words: "*Provided, nevertheless,* That they (i. e., the subjects to be arbitrated) do not affect the vital interests, the independence, or the honor of the two contracting States.

So, he says, that binds Senator KNOX. He seems to have overlooked the fact that if he was taking the matter as it is it would seem to bind Mr. Taft somewhat as it might bind Mr. KNOX, for Mr. Taft then happened to occupy the office of President.

But let us see what the facts are, and whether this distinguished gentleman knows what he is talking about at all.

First I want to lead up to that treaty by the treaties that preceded it. I find here in the treaty of 1907 between Great Britain and the United States this language:

Differences which may arise of a legal nature or relating to the interpretation of treaties existing between the two contracting parties and which it may not have been possible to settle by diplomacy shall be referred to the Permanent Court of Arbitration, established at The Hague by the convention of the 29th of July, 1899: *Provided, nevertheless,* That they do not affect the vital interests, the independence, or the honor of the two contracting States, and do not concern interests of third parties.

That was the condition of the treaty that was drawn in 1907 and approved in 1908.

On the 31st day of May, 1913, we extended that treaty for another five-year period. But before that, in 1911, while Mr. Taft was President, we adopted another treaty with Great Britain, and I will ask the Senate to notice this language and see whether it is true that we abandoned the policy of preserving our national honor and our vital interests. I read from article 1:

All differences hereafter arising between the high contracting parties which it has not been possible to adjust by diplomacy relating to international matters in which the high contracting parties are concerned by virtue of a claim of right made by one against the other, under treaty or otherwise, and *which are justiciable in their nature* by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted.

So that instead of using the language that all questions should be submitted, then excepting our vital interests, we by this treaty submitted only questions *justiciable in their nature*, and those questions have never concerned the political life or honor of a country. They are always questions of dispute susceptible of decision according to the rules of law and of equity. So that we did not submit, by any general clause, questions of vital interest or of national honor, and hence we did not need to except them.

But a little later on we find again a clause further protecting us:

The provisions of articles 37 to 90, inclusive, of the convention for the specific settlement of international disputes, concluded at the second peace conference at The Hague on the 18th of October, 1907, so far as applicable, unless they are inconsistent with or modified by the provisions of the special agreement to be concluded in each case.

We went back and reaffirmed those provisions, and then added:

Excepting articles 53 and 54 of such convention.

When we come to articles 53 and 54, we find in article 53 this language:

Recourse can not, however, be had to the court if the other party declares that in its opinion the dispute does not belong to the category of disputes which can be submitted to compulsory arbitration unless the treaty of arbitration confers upon the arbitral tribunal the power of deciding preliminary questions.

So, Mr. President, this treaty, made under Mr. Taft's administration by the distinguished Secretary of State, now the Senator from Pennsylvania [Mr. KNOX], by its terms never submitted our national honor or our vital interests. Mr. Taft is talking about something that does not exist.

Mr. KNOX. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Pennsylvania?

Mr. REED. I yield to the Senator.

Mr. KNOX. Before the Senator from Missouri leaves the discussion of the treaty of 1911, to which he has just referred, I wish to say that I think the error into which Mr. Taft has fallen is that he has forgotten that in 1911 we changed the formula that had formerly been used. Previous treaties recited what the Governments would not agree to arbitrate, and in the treaty of 1911 for the first time we specifically recited what we would arbitrate. The only questions that, under the treaty of 1911, were to be submitted to arbitration were justiciable questions resting upon a claim of right, based upon a treaty or otherwise, and which in their nature were susceptible of being decided by the accepted principles of law and equity as recognized throughout the world; and as to those questions it is well known, as the Senator from Missouri stated in passing, they are not the causes of war. Those are matters of international contract, matters of boundaries, matters to which the rules of law and equity can be easily applied.

But the other questions—questions which may give rise to controversies that lead to war—were provided for in quite a different manner in the treaty of 1911. There is a joint commission of inquiry created by that treaty, to which any question can be referred, whether it is a justiciable question or not, and that joint commission of inquiry can take, under the terms of the treaty, one year for the determination, in order to see whether the matter could be adjusted diplomatically within that time. It was provided that the joint commission was to be composed of three nationals of each of the contesting States; so that if we had a difficulty with Great Britain, for instance, three of our nationals would sit upon the commission and three of the nationals of Great Britain, and their decision was only to be advisory; and by the express terms of the treaty it is provided that it should not have the force of an arbitral award.

Then in order to complete the recital of that perfectly simple treaty an additional provision was that as question would arise as to the justiciability of questions that would arise between the parties, that question could be determined by the joint commission of inquiry; but it took five out of the six to decide the question either way, and that, of course, implied that two of the nationals of the nation against which it was decided voted that way.

So I think the Senator from Missouri is entirely correct in calling attention to the error into which the ex-President has fallen.

Mr. REED. Mr. President, I thank the Senator.

Now, Mr. President, somebody does not know what honor is. Somebody says he can not define it. Somebody says that nobody can define it. Well, if nobody can define it in an accurate way, are you going to leave it to the definition of seven for-

eigners, seven aliens, or are we going to reserve it for ourselves? Right here let me say that all over this country the preachment went forth from those high in authority that our national honor, our vital interests, the life of the United States never could be jeopardized because we always had to consent by our vote to be bound.

I call attention at this time, as sharply as I can, to the fact that when we have a dispute to which we are a party, we do not sit on the council or in the assembly, and our opponent does not sit on the council or in the assembly. So that when a question that involves our national honor or our national life comes forward for consideration, there sits there a representative of the King of the Empire of Great Britain, of the King of Greece, of the King of Belgium, of the King of Italy, of the Emperor of Japan, of the King of Spain, and the representatives of France and of Brazil, minus, however, whichever one of those representatives is from the country with which we have the dispute; so that seven aliens are to decide on a question involving the life of the United States. Vote that way if you will, but let me state to Senators here in all frankness, and without a harsh word of criticism, that when the fate of the United States hangs in the great balances, the people of the United States will decide the question regardless of any league of nations. But as we put our country into this entanglement, just in proportion as we bind its strong arms, just as we embarrass it, we endanger it.

It has been said that all our vital interests are guarded. Possibly all that the Senator can think of at this moment are guarded. But they are clearly not guarded. We had a startling example furnished us the other day by the distinguished Senator from California [Mr. JOHNSON] when he brought here the declaration of a great Canadian that Canada now had the right to bring before the league of nations the proposition of giving her a direct outlet to the sea, involving the taking of four or five counties off of the northern part of Maine. Contentions of that kind will be made before the league. Would that involve our national honor or our vital interests? I think so. While that has been safeguarded by a weak, wobbly sort of a reservation, the Canadian border is alone guarded by it, and that reservation probably will go out in the Senate.

But if the question can be raised regarding the four counties of Maine on the north, then any other part of the Canadian line could be brought into dispute for similar reasons, and Canada might claim the right to control the great interests on the Pacific and our northwestern ports. So Mexico might at some time, backed by other countries inimical to us, claim the right to have reconsidered the question of the Mexican boundary and the right to have restored to Mexico her ancient possessions.

These may seem extreme, and yet before the league is organized we find the intent foreshadowed in the declaration of a distinguished Canadian with reference to Maine, and anybody that would try to steal a part of Maine through the league of nations would try to steal any part of the United States. That goes without argument.

Thousands of questions will arise vitally affecting our interests. The question of our rights upon the seas may be vital to our interests. The question of whether our ships may be seized may be vital to our interests. The question of whether our men can be captured in Mexico, our soldiers or our sailors, and our flag insulted or our ships fired on, is a question that may involve our national honor. It is not covered here. We are bound to await the decision of a tribunal of seven foreigners, and we are not free to act.

Mr. President, time forbids the proper discussion of this question. I submit these remarks and I appeal to those who love their country and who believe that the American people can guard their Government better than it will be guarded by the political representatives of those countries that have always stood for kingly forms of government, autocratic forms of government, and that have hated the Republics and that hate this Republic to-day, governments that have shown they have the same fangs of the old wolf that have always been apparent in every age of history, fangs that are keen for conquest and that have sunk themselves deep in the hearts of other nations in the very settlement and creation of this peace tribunal, that tore from the body of China her choicest Province, that put Egypt in chains, that took away the independence of Persia, that throw a cordon of islands between our possessions in the Pacific, that turn them over to Japan as a matter of fact, and that in every line and precept show that the old appetite for conquest and the old lust for power is as great to-day in those countries as it ever was in the past.

Vote as you will, for you will vote as you will, but I put the question to you that you are voting on simply one proposition—"Will the honor of the United States and will the vital interests of the United States remain for decision by the American people alone, or will you submit them to a body of seven aliens?" Upon that we will take the decision here to-day and if we be wrong upon it we will take it later before the American people.

Mr. McCUMBER. Mr. President, for 40 years prior to 1914 the great German Empire had declared again and again, and infused that declaration into every vein of the German people, that the vital interests of Germany demanded that they subjugate France and seize a portion of her territory, and that the vital interests of the German Empire depended upon her ability to seize great tracts of oil lands and coal lands and mineral lands. If we had had an agreement at that time that they should submit all questions except those of vital interest, the German Empire, with its idea of what constituted vital interests, would have refused to submit to any league or to any tribunal the question whether she should despoil France or Belgium or any other portion of the world for her own selfish interests.

When the battle front in the west finally got to the line where Germany could go no farther and when she started her retreat, forced by the Allies with a sacrifice of thousands upon thousands of soldiers every day, when she could no longer defy the world, what was her course? Her vital interests demanded that she should destroy every little city and every home and every church along her retreating way. She justified it upon the ground that it was to her vital interests. But in the settlement of the war claims the great nations of the world that had fought for the rights of humanity decided that it was not necessary to the vital interests of Germany that she should sacrifice those little cities and those churches and those homes, but that she did it out of a spirit of hatred and revenge and because she was unable to accomplish her hellish design of conquering the world. We are making her pay to-day for what she declared was a matter of her vital interests.

Mr. President, if you will go over the history of the world you will find that 99 per cent of all the great, colossal national wrongs that have been committed against the weak and helpless have been committed in the name of national honor and vital interest; yes, vital to those who want the profits of others' labor; vital to those countries who want the territory of other countries for the purpose of their own selfish aggrandizement and expansion.

And, says the Senator from Missouri [Mr. REED], we are to vote to-day whether we shall submit to seven aliens the right to pass judgment upon the life of this Nation. Not one of us will vote for anything of the kind, and the Senator ought to know it if he has read the treaty. No such question is submitted, and even according to his own definition of national honor and vital interests, nothing in the world of that character is submitted for seven aliens to pass upon the life or the death of the American Nation.

What is submitted? Justiciable questions submitted to arbitration? Yes; if the Nation sees fit to do it. Nonjusticiable matters submitted? No. There is not one syllable, not one line in this whole treaty that submits to arbitration any nonjusticiable question, and it is only where questions are arbitrated that we are in any respect bound to obey a finding. And, Mr. President, we do not submit any question for arbitration by the league or council. When we submit a matter to arbitration the council has nothing to do with it.

Article 13 reads as follows:

> The members of the league agree that whenever any dispute shall arise between them which they recognize to be suitable for submission to arbitration—

That they will then submit it to arbitration.

Mr. REED. Mr. President——

Mr. McCUMBER. Each nation determines what is suitable for arbitration and what is not suitable, and no nation will submit a nonjusticiable question to arbitration under this treaty any more than it would have submitted it under the Knox treaty or any other treaty that we have ever signed.

The VICE PRESIDENT. Does the Senator from North Dakota yield to the Senator from Missouri?

Mr. McCUMBER. I can not, because of the very short time I will have.

Again, Mr. President, the Senator knows that if it is a nonjusticiable question it will not be submitted to arbitration, and if they do not submit it to arbitration they agree that the justice of their position may be submitted to investigation. That question ought to be submitted whether any nation says, "It is of vital interest to me" or whether it says, "My honor may be involved in the dispute." Your honor is not questioned until there is a decision that binds your national honor, and in the mere submission of a matter for inquiry there is nothing to bind.

Again, referring to the address of the Senator from Massachusetts [Mr. LODGE], he neither forgets his Bible nor his Shakespeare, and he had them just as much in mind when the Senator and myself in the Committee on Foreign Relations and on the floor of the Senate voted for every one of the Bryan treaties, as he has them in mind to-day, and the Bryan treaties clearly submitted every one of these questions, not for arbitration but for investigation, just as this league of nations treaty does.

Senators quote old treaties, old treaties that were found to be impotent. But, Mr. President, we wanted something that would be more certain, more definite, more sure to maintain the peace of the world.

And so we wrote into every one of these treaties of 1914 the same identical declaration. It was made in the treaty with Great Britain; it was made in the treaty with France; it was made in the treaty with Italy; but it was not contained in any treaty between us and Germany. Germany alone refused. What is it? This is the provision. Article 1, the very first article in every one of these treaties, reads:

> The high contracting parties engage to submit for investigation and report to a commission, to be constituted according to the provisions of the following article, all differences, of whatever nature they may be, which may occur between them which can not be composed by diplomatic methods or are not submitted to a tribunal of arbitration.

Mr. President, the pending treaty is almost exactly in the same words. We agree to submit justiciable questions to arbitration; in other words, we are to be the judge as to the questions we will submit to arbitration. If they are not justiciable, we will not submit them; if they involve our national honor or our vital interests, we will not submit them to seven foreigners or any other seven men to pass judgment upon them; but we do agree that if we can not settle them in any other way and that if we refuse to arbitrate, we will then submit them for investigation and report. That is, indeed, a very vital provision in this treaty. It puts every nation upon its honor to submit to some character of investigation those matters which would likely tend to war. If we say in this treaty that we are to determine what interests are so vital that we can not submit them to any kind of an inquiry, then every other nation will say exactly the same thing; and some of them will regard some very unimportant things, in my judgment, to be of vital concern. So we shall get nowhere with our settlement of differences.

Mr. President, this reservation proposes to undo what we have been struggling for a quarter of a century to accomplish and which we have accomplished in some of our other treaties between ourselves and other countries and which we now seek to extend and to make a world-wide contract between all nations.

Mr. REED. Mr. President, I have listened to a very remarkable argument. The Senator from North Dakota almost raged about the awful enormity of leaving to a nation the right to decide what constituted its vital interests, and, as usual, he dragged forth the German ghost, paraded it, and told us that Germany, because there was no restriction upon her right to decide what were her vital interests, had gone up and down the earth devastating it. Therefore, the conclusion was that we must have a treaty which would compel us and all other States to yield their vital interests to decision. After having made that point perfectly clear he wound up by declaring that we did not submit our vital interests at all under this treaty, that absolutely we did not submit anything except to investigation; so that, if his statements are correct, the reservation leaves the treaty exactly the way he construes it; that is to say, the treaty leaves us so that we do not submit our vital interests to arbitration and the reservation leaves us so that we do not submit our vital interests to arbitration. That is characteristic of the kind of argument we have heard here all the time.

Mr. President, the reservation does do something to this treaty. By article 12 we agree to submit to arbitration or to investigation by the council "any dispute likely to lead to a rupture." By article 13 we agree to arbitrate all questions recognized as suitable for arbitration "which can not be satisfactorily settled by diplomacy." That is, we agree to submit, by article 12 or 13, every kind of dispute in the world. In order to make it sure that everything, or almost everything, is covered by article 13, this language appears:

> 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, are declared to be among questions which are generally suitable for arbitration.

That embraces about every question the human mind can conceive of. Then:

> The members of the league agree that they will carry out in full good faith any award that may be rendered, and that they will not resort to war against a member of the league which complies therewith. In the event of any failure to carry out such an award the council shall propose what steps should be taken to give effect thereto.

What is the use, in the face of the plain language, of any Senator standing here and denying that we agree to submit our vital interests to arbitration? Following that we find article 15, which provides:

> If there should arise between members of the league any dispute—

"Any dispute"—

> likely to lead to a rupture, which is not submitted to arbitration in accordance with article 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, who will make all necessary—

And so forth.

> If a report by the council 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.

If the council fails to reach a report which is unanimously agreed to, then it is merely advisory. If a dispute between the parties is claimed by one to arise out of a matter which under international law is of domestic jurisdiction, the council so reports.

In any case referred to the assembly all the provisions of article 12 relating to the action and powers of the council shall apply.

Then comes article 16, declaring that any member of the league that resorts to war in disregard of the covenants of articles 12, 13, and 15 "shall ipso facto be deemed to have committed an act of war against all other members of the league, which hereby undertake immediately to subject it to the severance of all trade relations." Then follows a whole plan of economic boycott.

It is an impossibility to read that language and read it through any eyes except those of prejudice and not know that two forms of procedure are laid down. One is for arbitration. It compels us to submit practically every question of which the human mind can conceive to arbitration and to obey the arbitration. The other is that in the event arbitration is not accepted then the question is to be thrown into the council or into the assembly, and when its decision is rendered, if it be unanimous, saving those that are parties to the dispute, then any nation that undertakes to enforce its rights contrary to that decision puts itself at war with the world and puts all the world upon its back.

So I say, sir, that we do submit the vital interests of the United States to a tribunal of seven politicians, representing seven political governments, that in no way, shape, manner, form, or degree bears any resemblance to a court of justice. It will be a court of intrigue; it will be a tribunal of power; it will be a conspiracy to gain control of the world.

The Senator says we do not submit our vital interests to arbitration in this treaty, and yet objects to a plain reservation reserving those vital interests so that we shall never be jeopardized.

Mr. McCUMBER. Mr. President, I did not say anything of the kind. I said we did submit questions affecting vital interests and all other questions to investigation. I said we submitted none to arbitration, unless we ourselves considered that they were justiciable. There is not a word or a syllable that compels us to submit anything to arbitration that we do not wish so to submit.

Now, Mr. President, I wish to read article 13 as the Senator read it, and then I want to read it as it is. This is the way the Senator read it:

> The members of the league agree that whenever any dispute shall arise between them and which can not be satisfactorily settled by diplomacy, they will submit the whole subject matter to arbitration.

He based his argument upon that, leaving out entirely the clause—and it could not have been left out by a mere mistake—

> which they recognize to be suitable for submission to arbitration—

Which makes, Mr. President, an entirely different proposition and places it back exactly where I said it was; that we agree to submit to arbitration just those questions we see fit to submit to arbitration. We are the judge of what is suitable for arbitration, and questions affecting the life of the Nation are not suitable for arbitration, and we will not submit them to seven members or seven thousand members.

Mr. REED. Mr. President, just a word in explanation.

The VICE PRESIDENT. The Senator from Missouri.

Mr. REED. The Senator from North Dakota accused me of misreading the statement of the covenant. I read it exactly as

he read it word for word, and the RECORD will so show tomorrow morning.

Mr. McCUMBER. I should like to have it read.

Mr. REED. Let it be read out of the Senator's time.

Mr. McCUMBER. I will base my statement upon the RECORD right now if it may be furnished.

Mr. REED. Very well; get it.

The VICE PRESIDENT. We must find out whose time this comes out of if we are to have the RECORD read.

Mr. REED. Not out of mine. [Laughter in the galleries.]

The VICE PRESIDENT. Visitors seem to forget that the rule of the Senate is not a joke. The Chair is going to insist that the doorkeepers obey the orders of the Senate and put out those who will not obey the rule of the Senate. There is no occasion for the Chair to be speaking about this matter every 15 minutes.

Mr. EDGE. Mr. President, I feel that I have demonstrated, speaking from a personal standpoint, my conviction that strict reservations should be adopted and made a part of the resolution of ratification; but, frankly, I do not feel that the proposed reservation now pending is necessary. We have spent four or five months in going over the covenant, it might be said, with a fine-tooth comb, endeavoring to ascertain every section or article in the covenant whereby the interests of our country might be seriously involved to its disadvantage. Reservation after reservation has been offered to try to meet those apparent possibilities, and a number of those reservations have been adopted by a majority vote of the Senate.

It does appear to me that there is a question of honor involved as to our position before our allies, a question of honor to those of us, at least, who feel that there is good in the league of nations, and that good can be accomplished by a league of nations. There is a question of honor involved when we seek by this reservation practically to disassociate ourselves with all efforts on the part of the combined nations to maintain world peace.

I feel that we have, or should have, covered those parts of the covenant where a specific reservation is wise and necessary to protect the independence and sovereignty of the country we represent. I have felt, and frequently stated, that in my judgment it was not the responsibility of the Senate to attempt to rewrite a treaty, but rather to see that the interests of our Nation were positively and emphatically protected. Therefore it appeals to me that in adopting this reservation, in addition in my judgment to making ratification of the treaty impossible, we practically admit that we have spent four or five months endeavoring to locate every possible contingency and offering a reservation to cover it, and then, for fear possibly we have missed something, we now offer a blanket reservation over the entire proposition. I do not consider it businesslike, I do not consider it justified, and I do not consider it a sincere effort to dispose of this important question.

Personally—I speak frankly—I am opposed to this reservation as covering all those possibilities or eventualities that might occur. I am not afraid of the honor or vital interests of our own country not being amply protected and taken care of; and I think that we should, as far as possible—and in the various reservations we have adopted it has been possible—specifically define just those points of the treaty to which we take exception and that we should not then attempt to pass a general reservation to act somewhat as a club over the future operations of the treaty.

Mr. WALSH of Montana. Mr. President, one of the ablest lawyers who have occupied a seat in this Chamber during the present generation was Senator George Sutherland, of the State of Utah. During the present year he delivered a series of lectures to the students of Columbia University, New York, in the course of which he had something to say about this subject of national honor and vital interests. I dare say that after the heated discussions of the subject we have had here, his calm reflections in his attempt to "teach the young idea how to shoot" will be helpful.

I read from page 135 of the published lectures as follows, speaking of a treaty he was considering:

> The fear that was expressed by some to the effect that under the terms of the treaty we might be obliged to arbitrate matters affecting the national honor was equally ill founded. National honor, and personal honor as well, are very real and precious things to be preserved at even great hazard, whenever actually assailed; but "honor" is a flexible and much-abused term, the meaning and application of which, all too frequently, depends upon an artificial point of view, and is narrowed or broadened by temperamental and racial differences, or by the sentimental influences of the moment. It is a melancholy fact that a good deal that is utterly spurious passes current under the name of "honor." History is replete with instances where in the first heat of resentment one nation has regarded its honor as having been assailed by another, only to conclude after a period of reflection that an oversensitive view of the matter had been taken. The question of "honor" is so often and so greatly influenced by the personal equation that if made a formal basis of action or a formal limitation upon action, it is sure, sooner or later, to result in a situation where the distinction between genuine sentiment and fictitious sentimentality will disappear. We know that when the duello was the recognized remedy for wounded self-esteem mere matters of punctilio were frequently exaggerated into affairs of honor. There may some day, of course, arise that rare and exceptional case when the affront to the national honor will be so unquestionable and so grave that the indignation of the people, even after reflection, would sweep aside every restraint that stands in the way of the swift punishment of the aggressor; but it is difficult to conceive any such case as falling within the description of "differences * * * susceptible of decision by the application of the principles of law or equity;" and I do not imagine that any American member of a joint high commission would ever so decide. On the other hand, whenever the case for one side or the other is without merit, the presence in a treaty of an exception so equivocal will afford an altogether too convenient pretext upon which to base a refusal to submit a perfectly legitimate controversy to arbitration. These two treaties have never been ratified, and it is unfortunate that such dubious phrases as "vital interests" and "honor of the contracting States" remain as exceptions in existing treaties. As said by former Secretary, now Senator, KNOX: "These are terms of wide and varied general meaning, which are not judicially definable and mean whatever the particular nation involved declares them to mean."

Mr. SHIELDS. Mr. President, I did not hear all of the remarks of the Senator from North Dakota [Mr. McCUMBER]; but, as I understood him, his position was that the fifteenth reservation was unnecessary, because article 13 provided for the subject matter, the first clause of that article being:

> The members of the league agree that whenever any dispute shall arise between them which they recognize to be suitable for submission to arbitration and which can not be satisfactorily settled by diplomacy, they will submit the whole subject matter to arbitration.

The argument being predicated, as I understood the Senator, upon the clause—

> Which they—
>
> The parties—
>
> recognize to be suitable for submission to arbitration.

That is a very plausible argument upon that section; but, Mr. President, there is another section upon this subject in another article—article 12—which is separate and independent in its provisions as to submission to arbitration and as to the consequences. The articles are not one and the same thing, and each stands as a substantive article and a substantive provision for arbitration.

Article 12 provides as follows:

> 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.
>
> In any case under this article the award of the arbitrators shall be made within a reasonable time, and the report of the council shall be made within six months after the submission of the dispute.

Now, there is no reservation in article 12 that it shall only apply to such disputes as the parties themselves deem proper for submission; but it is broad, as broad as the English language can possibly make it:

> Any dispute likely to lead to a rupture.

More than that——

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

Mr. SHIELDS. Let me finish my sentence. Worse than that, it leaves the determination of the matter to the league of nations and the council to decide. There is no other provision for a decision of it, and necessarily, under familiar principles, the council has to construe it and say what the character of the rupture is and whether it is one that comes within this article.

I now yield to the Senator from Arkansas.

Mr. ROBINSON. The Senator, of course, observes that the agreement in article 12 is to submit either to arbitration or to inquiry. There is no obligation to submit to arbitration. The submission may be to inquiry or to investigation.

Mr. SHIELDS. I do not think that construction good. The council itself will place its construction on the matter, whether it is a proper one for arbitration or for inquiry; but both things are equally objectionable. Does the United States——

Mr. ROBINSON. Will the Senator yield for another question?

Mr. SHIELDS. Let me finish my sentence. Does the United States want to submit a question of its honor to a council composed of eight foreigners? I say it is an ignominious proposition that we should submit our honor, or a matter of vital interest of our Nation, to a foreign council to be inquired of. We will neither take their advice nor submit to their arbitration as long as we are a free, sovereign, and independent Nation.

I now yield to the Senator from Arkansas.

Mr. ROBINSON. In view of the provision in article 12 that the parties will submit either to arbitration or to investigation, and in view of the provision in article 13 that binds them to submit only disputes which they recognize to be suitable for submis-

sion to arbitration, does the Senator think, construing both of those provisions, that there is any obligation upon the part of the United States to submit to arbitration a dispute which it does not regard as suitable for arbitration?

Mr. SHIELDS. I have so asserted, in language as strong as I am able to command, that they are separate and independent articles. Why would these great men that met there write two articles to mean the same thing? If so, if they would do such a thing as that that sufficiently discredits the entire league of nations and treaty to justify the Senate in repudiating it altogether, as ought to be done.

Mr. ROBINSON. Will the Senator yield for a further statement?

Mr. SHIELDS. I will.

Mr. ROBINSON. The agreement in article 12 is not to submit to arbitration, but it is to submit either to arbitration or to investigation by the council.

Mr. SHIELDS. Yes.

Mr. ROBINSON. Now, in view of the provision in article 13 by which the parties to the treaty bind themselves to submit to arbitration only those questions which they recognize as suitable for arbitration, I maintain that the Senator's position is incorrect.

Mr. SHIELDS. The Senator is speaking in his own time.

Mr. ROBINSON. I am perfectly willing to have it charged to my time.

The VICE PRESIDENT. The Chair has only one way of computing time. The Senator from Tennessee is on the floor.

Mr. SHIELDS. I answered that argument a while ago, and I do not care to repeat it in my time; but there is no question but that there is an unlimited agreement there to submit to inquiry *or to* arbitration any question likely to lead to a rupture; and one is as bad, as degrading to a free people, as the other.

Mr. President, only one word more. Where there is any doubt upon a matter, a shadow of a doubt, even less trace than a trout leaves of his trail in a stream, whether we are submitting a question of honor or vital interest to a league composed of representatives of foreign nations, it should be removed. I can not see how any Senator can for a moment cast his vote otherwise than to make this question certain and clear.

I shall certainly vote for the reservation.

Mr. POINDEXTER. Mr. President, the reservation that is reported by the committee is in such unequivocal and simple language that there can not very well be a misunderstanding as to the issue which it makes. It reads:

> The United States reserves to itself exclusively the right to decide what questions affect its honor or its vital interests and declares that such questions are not under this treaty to be submitted in any way either to arbitration or to the consideration of the council or of the assembly of the league of nations or any agency thereof or to the decision or recommendation of any other power.

A number of Senators are opposed to that reservation, apparently, certainly those who have just spoken in opposition to it. I assume that the only possible ground upon which they can be opposed to the reservation is that they are opposed to the principle which the reservation states. Those who oppose the reservation must do it on the ground that they are in favor of submitting to the council and to the assembly of the league of nations the decision of questions affecting the honor and vital interests of the United States. It seems to me that there can be no escape whatever from that issue and from the position of those who favor the reservation and those who oppose it. It has been asserted by several Senators that there is nothing in the covenant of the league of nations which requires the submission for the decision of the league of questions involving the honor and the vital interests of the United States. That has been asserted over and over again. The Senator from North Dakota [Mr. MCCUMBER] repeatedly has said that while the covenant of the league of nations required the submission for a report of all questions, even those that involve the honor and the vital interests of the United States, that the covenant of the league of nations did not provide for the binding decision of those questions by the league of nations.

Mr. President, the language of the covenant is that any dispute likely to lead to a rupture which is not submitted to arbitration may be submitted to the council, with the right of either party to the dispute to take it into the assembly of the league of nations, and the article provides that the assembly shall investigate and report; and it further provides that neither party to the dispute, both of them being members of the league of nations, shall go to war against the other party to the dispute which complies with the recommendations of the report. The language of the article is this:

> The members of the league agree * * * that they will not resort to war against a member of the league which complies with the recommendations of the report.

So that there is clearly, beyond the possibility of any substantial doubt, provision in the covenant of the league of nations by which the honor of the United States and the vital interests of the United States shall be submitted to the assembly of the league of nations, there to be decided by an alien body in which the United States shall not even, being a party to the dispute, have a vote, and the United States is bound, if it keeps its agreements under this covenant, not to lift its hand to assert its honor or to protect its vital interests, when that decision is against the contention of the United States, if the opposite party complies with the report made by the assembly of the league.

So that in voting upon this reservation we can not escape the proposition that we are here voting whether or not the honor and the vital interests of the United States shall be kept within the decision and under the protection of the people and the Government of the United States, or whether we bind ourselves to submit them to the final and unappealable decision of the foreign tribunals set up in this covenant.

The VICE PRESIDENT. The question is on agreeing to reservation No. 15, offered by Mr. LODGE on behalf of the committee.

Mr. SMOOT. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CURTIS (when Mr. FALL's name was called). I desire to announce the unavoidable absence of the Senator from New Mexico [Mr. FALL]. He is paired with the junior Senator from Wyoming [Mr. KENDRICK], and if present he would vote "yea."

Mr. KENDRICK (when his name was called). I have a general pair with the senior Senator from New Mexico [Mr. FALL], which I transfer to the senior Senator from Texas [Mr. CULBERSON], and vote "nay."

The roll call having been concluded, the result was announced—yeas 36, nays 56, as follows:

YEAS—36.

| | | | |
|---|---|---|---|
| Ball | France | Lodge | Phipps |
| Borah | Frelinghuysen | McCormick | Poindexter |
| Brandegee | Gore | McLean | Reed |
| Calder | Gronna | Moses | Sherman |
| Capper | Harding | New | Shields |
| Curtis | Johnson, Calif. | Newberry | Spencer |
| Dillingham | Jones, Wash. | Norris | Sutherland |
| Elkins | Knox | Page | Wadsworth |
| Fernald | La Follette | Penrose | Watson |

NAYS—56.

| | | | |
|---|---|---|---|
| Ashurst | Henderson | Myers | Smith, Md. |
| Bankhead | Hitchcock | Nelson | Smith, S. C. |
| Beckham | Johnson, S. Dak. | Nugent | Smoot |
| Chamberlain | Jones, N. Mex. | Overman | Sterling |
| Colt | Kellogg | Owen | Swanson |
| Cummins | Kendrick | Phelan | Thomas |
| Dial | Kenyon | Pittman | Townsend |
| Edge | Keyes | Pomerene | Trammell |
| Fletcher | King | Ransdell | Underwood |
| Gay | Kirby | Robinson | Walsh, Mass. |
| Gerry | Lenroot | Sheppard | Walsh, Mont. |
| Hale | McCumber | Simmons | Warren |
| Harris | McKellar | Smith, Ariz. | Williams |
| Harrison | McNary | Smith, Ga. | Wolcott |

NOT VOTING—3.

| | | |
|---|---|---|
| Culberson | Fall | Stanley |

So reservation No. 15, offered by Mr. LODGE on behalf of the committee, was rejected.

Mr. LODGE. Mr. President, that concludes the reservations presented by the committee.

Mr. REED. I desire to give notice that I shall ask for a separate vote on this reservation in the Senate.

Mr. NELSON. I ask unanimous consent to introduce a bill, and for its reference to the Committee on the Judiciary.

The VICE PRESIDENT. Is there objection?

Mr. LA FOLLETTE. I object.

The VICE PRESIDENT. There is objection.

Mr. MCCUMBER. Mr. President, I offer the following additional reservation, which has been heretofore read and printed.

Mr. LODGE. Mr. President, before that is read I should like to give notice that I desire to reserve in the Senate the amendment offered by the Senator from Maine [Mr. HALE], which was adopted on Saturday.

The VICE PRESIDENT. The Secretary will read the reservation offered by the Senator from North Dakota [Mr. MCCUMBER].

The SECRETARY. Add as a new reservation the following:

> 14. The United States withholds its assent to Part XIII (articles 387 to 427, inclusive) of said treaty unless Congress, by act or joint resolution, shall hereafter make provision for representation in the organization established by said Part XIII, and in such event the participation of the United States will be governed and conditioned by the provisions of such act or joint resolution.

Mr. MCCUMBER. Mr. President, this is so important that I feel that a word ought to be said in reference to it. This reservation deals with the labor provisions, Part XIII, and is

intended to cover the whole proposition embraced in that division of the treaty.

To my mind this is the only feature of the treaty that is obnoxious and abhorrent, and if it does not go out it ought, at least, to be covered by a proper reservation. I can not and do not believe that the President of the United States ever considered this matter carefully, or he could not have consented to it for the United States in the form in which it was written.

I appreciate the fact that the labors imposed upon the President of the United States were so stupendous that no man could go into the details of all of them, and if other nations or any member of those nations had carefully read the labor provisions, I could only excuse their supporting it as I would excuse a drowning man grasping for a straw. They were wounded and bleeding and bankrupt, and they, I fear, would have adopted anything that would have given them a short breathing time.

I have been willing to swallow this whole treaty with all of the obnoxious ingredients contained in Part XIII if I could secure the good results that were intended in the balance of the treaty. My willingness to do so was further supported by a conviction on my part that I did not consider Part XIII to be workable and that it contained the seed of its own destruction. I was willing to allow it to die a natural death.

But I want to read two or three of these subdivisions of Part XIII. One of them reads as follows:

ART. 400. In the event of any representation being made to the international labor office by an industrial association of employers or of workers that any of the members has failed to secure in any respect the effective observance within its jurisdiction of any convention to which it is a party, the governing body may communicate this representation to the government against which it is made and may invite that government to make such statement on the subject as it may think fit.

Who is it that may make charges against any sovereign nation and bring that nation to the bar of that body and compel it to answer before that body for a malfeasance? First, the employers' organization may make complaint. A bankers' association, an association of coal producers, any kind of an association that employs labor, may present its case and make a complaint and bring a nation in its sovereign capacity to its knees to plead for mercy before such august tribunal.

That is not all, Mr. President. Any labor organization can do the same thing. The Industrial Workers of the World, the I. W. W. organization that we are now trying to destroy and attempting to drive out of the country, can lodge a complaint with this body and compel the United States to answer to its charges; and if the United States sends its representative, then this organization may, by a two-thirds vote, refuse to accept the representative sent by the United States. In other words, not only must a great nation come before this organization, bound to kneel and plead before it, but the attorney that nation employs to defend itself may be rejected by the organization. Was ever a sovereign nation reduced to such degradation?

The laborers of the United States do not want this, because they fully recognize the fact that it is impossible to so regulate labor conditions throughout the world and to equalize standards of living and standards of labor. If any nation which did not have the advantages which the United States has in raw materials and in resources attempted to do it, that nation would immediately fall behind all its commercial competitors.

It is impossible to put the Chinese laborers upon a level with the American laborers. It is impossible to put the British laborer on an equality of standard of living with the American laborer. If the labor organizations of Great Britain attempt to do it, they can accomplish it one of two ways only—either pull down the American laborer to their level or, if they attempt to hold themselves up to the American level, they will destroy their own industries, because they could not with equal labor wages compete with the United States. We all understand this, knowing that the scheme is absolutely unworkable.

I want to read another article—article 410:

If no statement is received within a reasonable time from the government in question, or if the statement when received is not deemed to be satisfactory by the governing body, the latter shall have the right to publish the representation and the statement, if any, made in reply to it.

That is bad enough, but let us take article 411, which reads in part as follows:

Any of the members shall have the right to file a complaint with the international labor office if it is not satisfied that any other member is securing the effective observance of any convention which both have ratified in accordance with the foregoing articles.

The governing body may, if it thinks fit, before referring such a complaint to a commission of inquiry, as hereinafter provided for, communicate with the government in question in the manner described in article 409.

It is not even compelled to give the nation a hearing. Again:

When any matter arising out of articles 410 or 411 is being considered by the governing body the government in question shall, if not already represented thereon, be entitled to send a representative to take part in the proceedings of the governing body while the matter is under consideration.

It is given that right to send a representative. What a condescension to be given to a sovereign nation to be represented at the bar of justice of this international conglomerate combination of labor unions of the world.

I do not want to put the United States in a position where we will say that we will have nothing to do with this, but we ought not to have anything to do with it unless it is carefully guarded by legislation of this country. Therefore I provide in this proposed reservation that we decline to enter into the agreement to send these representatives until Congress has passed the necessary legislation which will limit and govern the authority of our delegates and state to what extent the United States shall be bound thereby.

Mr. SMITH of Georgia. Mr. President, I only wish to supplement what the Senator from North Dakota [Mr. MCCUMBER] has said by calling attention to the fact that there are provisions in Part XIII for the enforcement of their decision. Under Part XIII a boycott could be inaugurated through this labor organization against any nation which meets with its displeasure and, being a labor organization, I suppose it would be reasonably easy to call a strike along all the shores and stop all the commerce of any nation which met with its disapproval.

I shall with pleasure support the reservation offered by the Senator from North Dakota.

Mr. McCORMICK. Mr. President, has the reservation offered by the Senator from North Dakota been read under the rule?

Mr. McCUMBER. Yes; it was read and printed. I presented it the other day and I asked especially that it be read so that there would be no question but that it would comply with the rule.

The VICE PRESIDENT. That is the recollection of the Chair, but the Chair is not infallible.

Mr. KING. Mr. President, I move as a substitute for the reservation offered by the Senator from North Dakota the adoption of the following reservation, which was submitted and read a few days ago.

The VICE PRESIDENT. The Secretary will read the proposed substitute.

The SECRETARY. In lieu of the words proposed to be inserted by the Senator from North Dakota, the Senator from Utah moves to substitute the following:

The United States withholds its assent to Part XIII, comprising articles 387 to 427, inclusive, of the said treaty of peace, and excepts and reserves the same from the act of ratification, and the United States declines to participate in any way in the said general conference, or to participate in the election of the governing body of the international labor office constituted by said articles, and declines in any way to contribute or be bound to contribute to the expenditures of said general conference or international labor office.

The VICE PRESIDENT. The question is on the substitute proposed by the Senator from Utah for the reservation offered by the Senator from North Dakota.

Mr. LODGE. Mr. President, I should like very much to have an opportunity to compare these two reservations. I told the Senator from North Dakota that I should certainly vote for his reservation unless I could find a better and a stronger one; and I should like an opportunity to compare the reservations before I vote. I can not find that the reservation of the Senator from North Dakota has been printed.

Mr. SMOOT. Yes; it is in print.

Mr. LODGE. Not in any form that I have seen. I can not find the print at the desk.

Mr. McCUMBER. I will hand it to the Senator at once if he wishes it.

Mr. LODGE. I now find that it is printed in a series; that was the reason I missed it.

Mr. McCUMBER. It is No. 7.

The VICE PRESIDENT. It is the recollection of the Chair in reference to the amendment of the Senator from North Dakota that the Senator inquired last Saturday whether it was necessary to again read it, it having been read once, and the Chair has a distinct recollection that he ruled that a reading of the reservation once was sufficient.

Mr. McCUMBER. But I asked, to make it certain, that the reservation be read, and it was read.

The VICE PRESIDENT. If it is not in the RECORD, there is something wrong with the RECORD.

Mr. McCUMBER. It was read by the Secretary, for I stated at the time that I wanted to take no chances on it.

Mr. LODGE. I am sure it was read two days before the cloture rule was adopted.

Mr. KING. I should like to ask the Senator from Massachusetts whether there is not some other reservation that we could take up, because my substitute, I think, is very important, and is broader than the reservation of the Senator from North Dakota. I am sure that upon examination the substitute which I have offered will commend itself to the judgment of the majority of the Senate in preference to that which was offered by the Senator from North Dakota. I ask unanimous consent that the reservation may go over until to-morrow.

The VICE PRESIDENT. Is there objection?

Mr. LENROOT. I suggest that the Senator from Utah ask that the reservation be temporarily passed over.

Mr. KING. I ask unanimous consent that the reservation may be temporarily passed over.

The VICE PRESIDENT. Is there objection to the request of the Senator from Utah? The Chair hears none.

Mr. OWEN. Mr. President, I now understand that the proposed reservation of the Senator from North Dakota [Mr. McCUMBER] and that of the Senator from Utah [Mr. KING] are temporarily laid aside for purposes of comparison.

Mr. LODGE. They have gone over temporarily.

Mr. REED. I did not understand that unanimous consent had been given.

The VICE PRESIDENT. The Chair asked whether there was objection. That is all the Chair can do.

Mr. OWEN. Mr. President, I wish to call the attention of the Senate to a reservation which I think is of great importance and which I will read:

> The protectorate in Great Britain over Egypt is understood to be merely a means through which the nominal suzerainty of Turkey over Egypt shall be transferred to the Egyptian people, and shall not be construed as a recognition by the United States in Great Britain of any sovereign rights over the Egyptian people or as depriving the people of Egypt of any of their rights of self-government.

The Egyptian people won their own independence from Turkey with the sword; they enjoyed it for decades; and then, when the Suez Canal was built and the Khedive of Egypt became heavily indebted, Great Britain, for the protection of the commercial interests, she holding the stock and bonds of Egypt, bombarded Alexandria, on the ground that the Egyptians were rioting, and put troops into Egypt, took charge substantially of the government, and at the same time made the most earnest assurances to the Egyptian people that they were merely taking the action indicated for the purpose of restoring order. I should very much like Senators to listen to this. I am not going to take any more time than I am compelled to take.

The VICE PRESIDENT rapped with his gavel.

Mr. OWEN. As I was saying, a British fleet bombarded Alexandria, and with the consent of other European powers British soldiers began to occupy Egypt under an agreement—

> Not to seek any territorial advantage, nor any concession of an exclusive privilege, nor any commercial advantage for their subjects other than those which any other nation can equally obtain. (Protocol of June 25, 1882.)

Mr. President, I ask for order.

The VICE PRESIDENT. There seems to be no possibility of having any order in the Senate this afternoon, and yet the Senate insists that the Chair shall preserve order in the galleries.

Mr. OWEN. Mr. President, this is a matter affecting the honor and dignity of liberty throughout the world; it affects the honor of this country. Under article 147 we are practically agreeing to a protectorate in Great Britain over the Egyptian people against their protest. If the Senate wants to do that, it ought to do it with its eyes open.

The Egyptian Government and the people were assured by the admiral of the fleet that in bombarding Alexandria "the sole object is to protect your Highness and the Egyptian people against the rebels." (Official Journal, July 28, 1882.)

The following year the British Government, speaking through its premier, Mr. Gladstone, promised to withdraw from Egypt "as early as possible." (House of Commons, Aug. 9, 1883.)

This status in Egypt continued, and British statesmen from time to time in almost innumerable cases, which I have presented to the Senate and which are in the RECORD, declared their purpose there was merely to preserve order and intending to retire as early as possible. This continued down until the war of 1914. Then the Khedive was suspected of cooperating with Germany. Great Britain by an order deposed him, enthroned another Khedive, and sustained him with British forces, but gave assurances to the Egyptian people at the same time, as evidenced by a letter by the British Government, in the name of the King, to the new Sultan:

> I feel convinced that you will be able, with the cooperation of your ministers and the protectorate of Great Britain, to overcome all influences which are seeking to destroy the independence of Egypt.

I have set that forth at great length before the Senate.

Mr. President, the Egyptians, under the promises which were made, furnished about 1,200,000 troops to help whip Germany. They believed that they were fighting for their own independence and their own liberty. The record is perfectly clear; there is no question about it. It was understood that the British protectorate was merely temporary and was not to interfere with the independence of the people of Egypt. Now, when the war is over, and the people of Egypt demand their independence, they are met with machine guns when they riot. Their representatives were arrested without notice and sent to the island of Malta and kept there in imprisonment for a month, although they were men of great distinction, who certainly represented the Egyptian people. A statement of these matters I put in the CONGRESSIONAL RECORD on Saturday, showing just what the rights of the Egyptian people were.

Mr. McCORMICK. Mr. President, will the Senator yield for a question?

Mr. OWEN. I yield.

Mr. McCORMICK. Assuming that there is justification for this reservation, why would it not apply to the protectorate of Morocco?

Mr. OWEN. I am dealing with one thing at a time, if the Senator pleases; I can not go into more than one at a time, and if I can get this demand recognized I shall be content for the present.

An interview took place on October 13, 1919, between M. Mohamed Said Pasha, the present prime minister of Egypt, and a committee representing all classes of Egyptian people with regard to the Milner Commission. From that interview I desire to quote:

> Question The problem which is occupying the minds of the entire Egyptian people is with regard to the Milner Commission. The people of Egypt are desirous to know your opinion on this subject and when will this commission arrive in Egypt?

The prime minister replied—

Mr. President, I should like to have order, so that I may explain this matter plainly to the Senate.

The VICE PRESIDENT rapped with his gavel.

Mr. OWEN. I will not read it now, but will simply ask consent to put it in the RECORD and be content with that.

The VICE PRESIDENT. Without objection, permission is granted.

The matter referred to is as follows:

> Question. The problem which is occupying the minds of the entire Egyptian people is with regard to the Milner Commission. The people of Egypt are desirous to know your opinion on this subject and when will this commission arrive in Egypt?
>
> PRIME MINISTER. I do not know when this commission will arrive, but as regards my opinion and that of my colleagues I can only say that we have written to England asking that the departure of the committee for Egypt be delayed. We made it clear that the arrival of the Milner Commission in Egypt now would be harmful, and that as the treaty of peace with Turkey has not been established the commission should therefore not come until after the ratification of that treaty and after all other problems in Europe shall have been solved.
>
> Question. What will be your position and that of your colleagues if the commission does come in spite of your advice?
>
> PRIME MINISTER. Our position will then be very clear if the commission came in spite of our advice and opinion. It will mean that we shall not be able to govern the country.
>
> Question. What was the meaning of the meeting of all the governors of the Provinces convened by your excellency last week?
>
> PRIME MINISTER. I told them that my ministry was only an administrative one, and that it should not interfere in the political status of the country. I told the governors, in the presence of the British adviser to the ministry of the interior, that if any Englishman, however high his position may be, demands their interference in favor of the Milner Commission they should let me know at once. The ministry wants every one to be free in the expression of his opinion.
>
> NOTE.—It is to be noted that on accepting the premiership of Egypt about the end of May last, Mohamed Said Pasha made a statement in the Egyptian press to the effect that his ministry was a purely administrative one, and that with regard to the political status of Egypt the question had been invested in the Egyptian delegation by the people of Egypt.

Mr. OWEN. Mr. President, the question which is before us here is whether or not the United States intends to recognize the protectorate of Great Britain permanently over Egypt in spite of the protest of the Egyptian people and in spite of the pledges which were made to the United States by the Entente Allies, which appear in Secretary Lansing's letter of November 5, 1918, as a condition upon which Germany and Austria surrendered on the battle field. If you want to do it, the opportunity is before you. I offer the reservation for such action as the Senate may see fit to take; and I ask for the yeas and nays upon it.

Mr. NORRIS. Mr. President, has the reservation been read?

The VICE PRESIDENT. Not from the desk, but it has been read by the Senator from Oklahoma [Mr. OWEN].

Mr. NORRIS. Let it be read, and I will make my remarks afterwards.

The VICE PRESIDENT. The Secretary will read the reservation proposed by the Senator from Oklahoma.

The Secretary read as follows:

14. The protectorate in Great Britain over Egypt is understood to be merely a means through which the nominal suzerainty of Turkey over Egypt shall be transferred to the Egyptian people, and shall not be construed as a recognition by the United States of any sovereign rights over the Egyptian people in Great Britain or as depriving the people of Egypt of any of their rights of self-government and independence.

Mr. NORRIS. Mr. President, outside of the league-of-nations portion of this treaty there are so many sins and corrupt transactions covered up that one can scarcely scratch anywhere and get under the surface of the long treaty without finding some corruption or something wrong, something sinful, something dishonorable. It is not surprising that the people of the country, and even the Senators, although the debate has been long, are unacquainted with a great many evils in the treaty, for they have not all been disclosed and fully exposed. The country and the Senate have given most of their attention to the league-of-nations part of the treaty.

The Senator from Oklahoma [Mr. OWEN] has briefly outlined one of the sinful things contained in this treaty about which very little has been said and concerning which the people of the country have had very little information. Shantung has been exposed, and everybody realizes that it constitutes an outrage and an infamy, but most people do not know that in reality Egypt constitutes another Shantung; that the same thing that Japan did when she took Korea has practically been done by Great Britain in Egypt; and that it was carefully put into this treaty, in just a few lines, wherein it is stated that Germany recognizes the protectorate established by Great Britain over Egypt. That is all the treaty says about Egypt, but if we are compelling our enemy to recognize the authority of Great Britain over Egypt does it not follow that we and all the other signatories to this treaty also do the same thing?

Mr. President, the story of Egypt and the story of Shantung are almost similar, with the exception probably that Japan, in overrunning China and overrunning Korea, has used methods that are more fiendish and more cruel than Great Britain used in Egypt.

Egypt, like China, was one of our allies. She furnished more than a million men on the battle field. She went into the war enthusiastically. The entire Egyptian nation was behind their soldiers in the fight. They believed what was said by Great Britain at various times in regard to what Great Britain would do when for years she said she stood for the integrity of Egypt. After the beginning of the war in 1914 Great Britain deposed the Khedive and put another man in his place, and the King of England then said, in a letter, as follows:

I feel convinced—

Writing to the Khedive that he had put into office—

that you will be able, with the cooperation of your ministers and the protection of Great Britain, to overcome all influences which are seeking to destroy the independence of Egypt.

Mr. President, I could go on and quote officials of Great Britain where they said practically the same thing; in other words, "We are going to fight for the liberation of the Egyptian people, for the integrity of the Egyptian nation, and make them absolutely free." These representations were believed by the Egyptian people; and because they were against Turkey they followed Great Britain's lead when she deposed their chief officer and put in another one, believing that it meant their national integrity and their freedom at the end of the war.

Egypt fought through the war loyally; and when the peace conference was called the people, 13,000,000 of them, in absolute confidence that Egypt was going to be an independent, free nation, and settle her own affairs like the other nations of the world, immediately selected representatives and sent them to Versailles. The vice president of their assembly, elected by the Egyptian people, headed that commission. There were four of them. No sooner had that been done than Great Britain arrested every one of them, in their homes, before they had an opportunity to go to Paris, without notice, without a charge, without anything except a desire to prevent them from going as commissioners to the peace conference as the representatives of other nations and other belligerents were allowed to do.

There was an uprising that we did not hear much about in this country. There was an uprising in Egypt such as never took place before, similar to what happened over in Korea, when unarmed people all over the nation rose up as one man shouting for liberty and for freedom. This happened in Egypt; and the answer to it was machine-guns turned on them by British soldiers and bombs dropped from the air from flying machines. More than a thousand unarmed Egyptian citizens were killed and other thousands wounded; but the excitement was so great that Gen. Allenby—who was, as we all know, the commander of the forces that took Palestine—made a great complaint. A great many of his soldiers were Egyptians. He sympathized with them. He advised the British Government that they could not carry this matter so far and these men were released, after they had been kept in prison until this conference had been in session for a long time; and when they were released they came to Paris, and when they came to Paris they were denied admission to the peace conference. They never got to the peace table. They were refused admission to the place, behind closed doors, where this great treaty was made. Then they wrote letters, official communications, to Clemenceau, to Lloyd-George, and to President Wilson, and they were never even answered by any of those great leaders. They were absolutely ignored, and this provision that the Senator has read was put into the treaty. In effect it practically turns Egypt over to Great Britain.

Senators who sympathize with and who have voted in this Chamber to put a reservation into this treaty saying, in substance, that we will wash our hands of the Shantung crime—it did not go as far as I wanted it to go, and this does not go as far as I should like to see it go—certainly can not turn their backs on this proposition that has been submitted in the shape of a reservation. It simply says that we understand that the control of Great Britain is only temporary, and that it is taken only for the purpose of transferring the sovereignty to the Egyptian people.

I do not see how anyone can object to it. I could fill the CONGRESSIONAL RECORD with statements made by various British statesmen and leaders, away back before the war, where they said they were always going to stand for the integrity of the Egyptian nation.

Then, too, Mr. President, there is not any question here of mixed races. The Egyptian people existed before Great Britain existed. Egypt is one of the oldest nations in the world. Its boundaries are well defined and well known. There is no question about them. Neither is there any question about a mixture of peoples, such as might exist in Czecho-Slovakia and these other nations that have been formed, where the boundary lines are overrun both ways by nationalities. Here there is nothing but an Egyptian people, all Egyptians, living in a country that has existed for thousands of years—more years than any of the other nations that are signatories to this treaty, and that has a civilization well understood and well known—asking only for freedom and for liberty, which England herself has many and many times officially promised them.

Mr. President, in my judgment it would be a crime for us to adopt these reservations and not put into the treaty the one that is now pending. It is the least we can do, and we certainly ought not to do anything less. If the American people could only know all the facts about this horrible, disgraceful betrayal of one of our allies by Great Britain they would demand the rejection of the entire treaty unless this reservation should be adopted. This sinful treaty divides the most of the world between England and Japan and in two instances—once for Japan and once for England—it betrays faithful allies. Poor China, after being induced to come into the war on our side and after remaining faithful to the end, was carved up and turned over to her worst enemy. Egypt sent a million of her boys to battle for our cause, under promise of Great Britain that she should be free, and at the close of the war, while her allies are celebrating a victory that was purchased in part with the life blood of thousands of her noblest sons, she finds herself betrayed by those she trusted, her national life destroyed, and her citizens vassals of Great Britain—betrayed, conquered, and despoiled.

The VICE PRESIDENT. The question is on the reservation offered by the Senator from Oklahoma [Mr. OWEN].

Mr. LODGE. I suggest the absence of a quorum.

The VICE PRESIDENT. The absence of a quorum is suggested. The Secretary will call the roll.

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

| | | | |
|---|---|---|---|
| Ball | Hale | McLean | Smith, Md. |
| Beckham | Harding | McNary | Smith, S. C. |
| Borah | Harris | Moses | Smoot |
| Brandegee | Harrison | Nelson | Spencer |
| Calder | Henderson | New | Stanley |
| Capper | Hitchcock | Newberry | Sterling |
| Chamberlain | Johnson, Calif. | Norris | Sutherland |
| Colt | Johnson, S. Dak. | Overman | Swanson |
| Cummins | Jones, N. Mex. | Owen | Thomas |
| Curtis | Jones, Wash. | Penrose | Townsend |
| Dial | Kellogg | Phelan | Trammell |
| Dillingham | Kendrick | Phipps | Wadsworth |
| Edge | Keyes | Pomerene | Walsh, Mass. |
| Elkins | King | Ransdell | Walsh, Mont. |
| Fletcher | Kirby | Reed | Warren |
| France | La Follette | Robinson | Watson |
| Frelinghuysen | Lenroot | Sheppard | Williams |
| Gay | Lodge | Shields | Wolcott |
| Gerry | McCormick | Simmons | |
| Gore | McCumber | Smith, Ariz. | |
| Gronna | McKellar | Smith, Ga. | |

The VICE PRESIDENT. Eighty-one Senators have answered to the roll call. There is a quorum present. The pending reservation is the reservation offered by the Senator from Oklahoma [Mr. OWEN].

Mr. OWEN. Let the reservation be read, Mr. President.

The VICE PRESIDENT. The Secretary will read it.

The SECRETARY. It is proposed to add as a new reservation the following:

14. The protectorate in Great Britain over Egypt is understood to be merely a means through which the nominal suzerainty of Turkey over Egypt shall be transferred to the Egyptian people, and shall not be construed as a recognition by the United States of any sovereign rights over the Egyptian people in Great Britain or as depriving the people of Egypt of any of their rights of self-government and independence.

Mr. LODGE. Mr. President, this is not a committee amendment, of course; but in the treaty we are asked to give our approbation to the renunciation of Germany's rights, whatever they may be, in Egypt, and also to a recognition of the protectorate of Great Britain; and the other articles that follow ostensibly provide for turning over to the Egyptian Government the various interests of Germany and some other matters. It comes clearly within the purview of the treaty—it is embedded in the treaty—and therefore comes fairly before the United States for a reservation. It seems to me that the reservation offered by the Senator from Oklahoma is an entirely reasonable one, and I shall support it and vote for it, so far as I am personally concerned.

The VICE PRESIDENT. The question is on the reservation offered by the Senator from Oklahoma.

Mr. NORRIS. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. JOHNSON of South Dakota (when his name was called). I have a pair with the Senator from Maine [Mr. FERNALD], and in his absence I withhold my vote.

Mr. KENDRICK (when his name was called). Making the same announcement of the transfer of my pair as on the former vote, I vote "nay."

The roll call was concluded.

Mr. GERRY. I desire to announce that the junior Senator from Alabama [Mr. UNDERWOOD] is paired with the junior Senator from Ohio [Mr. HARDING], and that the senior Senator from Alabama [Mr. BANKHEAD] is paired with the junior Senator from Vermont [Mr. PAGE].

Mr. HARDING. I inquire if the Senator from Alabama [Mr. UNDERWOOD] has voted?

The VICE PRESIDENT. He has not.

Mr. HARDING. I withhold my vote, as I am paired with that Senator.

Mr. McLEAN (after having voted in the affirmative). Has the senior Senator from Montana [Mr. MYERS] voted?

The VICE PRESIDENT. He has not.

Mr. McLEAN. I have a pair with that Senator, which I will transfer to the Senator from Illinois [Mr. SHERMAN] and let my vote stand.

The result was announced—yeas 37, nays 45, as follows:

YEAS—37.

| | | | |
|---|---|---|---|
| Ball | France | McCormick | Poindexter |
| Borah | Frelinghuysen | McLean | Reed |
| Brandegee | Gore | Moses | Shields |
| Calder | Gronna | New | Smoot |
| Capper | Johnson, Calif. | Newberry | Sutherland |
| Chamberlain | Jones, Wash. | Norris | Walsh, Mass. |
| Cummins | Kenyon | Owen | Watson |
| Curtis | La Follette | Penrose | |
| Dillingham | Lenroot | Phelan | |
| Elkins | Lodge | Phipps | |

NAYS—45.

| | | | |
|---|---|---|---|
| Beckham | Jones, N. Mex. | Pomerene | Swanson |
| Colt | Kellogg | Ransdell | Thomas |
| Dial | Kendrick | Robinson | Townsend |
| Edge | Keyes | Sheppard | Trammell |
| Fletcher | King | Simmons | Wadsworth |
| Gay | Kirby | Smith, Ariz. | Walsh, Mont. |
| Gerry | McCumber | Smith, Ga. | Warren |
| Hale | McKellar | Smith, Md. | Williams |
| Harris | McNary | Smith, S. C. | Wolcott |
| Harrison | Nelson | Spencer | |
| Henderson | Overman | Stanley | |
| Hitchcock | Pittman | Sterling | |

So Mr. OWEN's reservation was rejected.

Mr. LA FOLLETTE. I give notice that I will ask for a vote in the Senate on the reservation just voted upon, offered by the Senator from Oklahoma [Mr. OWEN].

Mr. OWEN. Mr. President, I offer the following reservation, which I send to the desk.

The VICE PRESIDENT. The Secretary will read it.

The Secretary read as follows:

*Resolved*, That the United States in ratifying the covenant of the league of nations does not intend to be understood as modifying in any degree the obligations entered into by the United States and the Entente Allies in the agreement of November 5, 1918, upon which as a basis the German Empire laid down its arms. The United States regards that contract to carry out the principles set forth by the President of the United States on January 8, 1917, and in subsequent addresses, as a world agreement, binding on the great nations which entered into it, and that the principles there set forth will be carried out in due time through the mechanism provided in the covenant, and that article 23, paragraph (b), pledging the members of the league to undertake to secure just treatment of the native inhabitants under their control, involves a pledge to carry out these principles.

Mr. OWEN. Mr. President, I shall take only a few moments to explain the meaning of this reservation.

When the United States and the Entente Allies were fighting with the troops of Germany, and it was decided to bring the war to an end, the President of the United States submitted to the Entente Allies the question as to the conditions upon which the armistice might be obtained. Those conditions were set forth in a letter of Secretary Lansing on November 5, 1918, and involved the principles set forth by the President of the United States on the 8th of January, 1918, involving the principles of liberty, involving the right of people to self-determination, involving the doctrine that all just government rests upon the consent of the governed.

This contract, entered into on November 5, 1918, is the most important ever entered into in the history of the world. It pledged the liberty of men throughout the whole world. It was the thing for which we fought. This matter ought not to be disposed of without the Senate of the United States reiterating those principles upon which this World War was fought and won. This proposed reservation sets them forth in explicit terms. It is for the Senate to pass on it.

The VICE PRESIDENT. The question is on agreeing to the reservation proposed by the Senator from Oklahoma.

The reservation was rejected.

RECESS.

Mr. LODGE. Mr. President, I move that the Senate take a recess until 10 o'clock to-morrow morning, and I give notice that to-morrow I shall ask the Senate to remain in session until we dispose of the amendments and reach the ratifying resolution.

The motion was agreed to; and (at 6 o'clock p. m.) the Senate took a recess until to-morrow, Tuesday, November 18, 1919, at 10 o'clock a. m.

## NOMINATIONS.

*Executive nominations received by the Senate November 17, 1919.*

ASSISTANT ATTORNEY GENERAL.

Thomas J. Spellacy, of Hartford, Conn., to be Assistant Attorney General, vice LaRue Brown, resigned.

UNITED STATES ATTORNEY.

Lester E. Humphreys, of Portland, Oreg., to be United States attorney, district of Oregon, vice B. E. Haney, resigned, effective November 1, 1919.

UNITED STATES MARSHAL.

George B. Witt, of Lynnville, Tenn., to be United States marshal, middle district of Tennessee. (Mr. Witt is now serving under a recess appointment.)

## HOUSE OF REPRESENTATIVES.

MONDAY, *November 17, 1919.*

The House met at 10 o'clock a. m.

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

Teach us, Infinite Spirit, our Heavenly Father, the dignity, the sanctity, of law, that we may practice the art of living together in harmony.

Our fathers gave us a Government based upon the fundamental principles of equal rights for all.

Law is to restrain the vicious and protect the law-abiding citizen in the pursuit of life, liberty, and happiness. Law is the golden rule which makes for freedom in secular as well as in religious pursuits. To practice it brings peace, joy, righteousness to the individual and all concerned.

Render therefore unto Cæsar the things that are Cæsar's, and unto God the things that are God's. In the spirit of the Master. Amen.

The Journal of the proceedings of Saturday, November 15, 1919, was read and approved.

THE RAILROADS.

On motion of Mr. ESCH, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 10453) to provide for

the termination of Federal control of railroads and systems of transportation; to provide for the settlement of disputes between carriers and their employees; to further amend an act entitled "An act to regulate commerce," approved February 4, 1887, as amended, and for other purposes, with Mr. WALSH in the chair.

Mr. ESCH. Mr. Chairman, I make the point of order that there is no quorum present.

The CHAIRMAN. The gentleman from Wisconsin makes the point of order that no quorum is present. The Chair will count. [After counting.] Thirty-two Members present, not a quorum. The Clerk will call the roll.

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

| | | | |
|---|---|---|---|
| Ackerman | Ellsworth | Kendall | Reavis |
| Andrews, Md. | Elston | Kennedy, Iowa | Reber |
| Anthony | Evans, Mont. | Kettner | Reed, N. Y. |
| Ashbrook | Fairfield | Kiess | Reed, W. Va. |
| Bacharach | Ferris | Kreider | Rhodes |
| Bell | Flood | Langley | Riddick, Mont. |
| Benham | Focht | Layton | Riordan |
| Boies | Fordney | Lee, Ga. | Rowan |
| Booher | Fuller, Ill. | Lehlbach | Rubey |
| Britten | Gallagher | Linthicum | Sanders, N. Y. |
| Browne | Gallivan | Lufkin | Sanford |
| Brumbaugh | Gandy, S. Dak. | Luhring | Schall |
| Burroughs | Garland | McAndrews | Scully |
| Cantrill | Garner | McClintic | Sherwood |
| Carew | Godwin, N. C. | McKenzie | Shreve |
| Carter | Good | McKeown | Sinclair |
| Clark, Fla. | Goodall | McPherson | Sinnott |
| Connally | Goodykoontz | Major | Sisson |
| Copley | Graham, Pa. | Mann, Ill. | Smith, N. Y. |
| Crago | Greene, Mass. | Mason | Smithwick |
| Currie, Mich. | Griest | Miller | Steenerson |
| Curry, Calif. | Hamill | Moon | Stephens, Miss. |
| Davey | Harrison | Moore, Pa. | Sullivan |
| Davis, Minn. | Hays | Moores, Ind. | Taylor, Ark. |
| Dempsey | Hersman | Mudd | Temple |
| Denison | Houghton | Neely | Tincher |
| Dent | Howard | Newton, Minn. | Towner |
| Donovan | Hull, Iowa | Nicholls, S. C. | Upshaw |
| Dooling | Humphreys | Nichols, Mich. | Vare |
| Doremus | Jacoway | Nolan | Ward |
| Drane | Johnson, Ky. | O'Connor | Watkins |
| Dunn | Johnson, S. Dak. | Padgett | Woodyard |
| Dupré | Johnston, N. Y. | Peters | Wright |
| Dyer | Juul | Phelan | Yates |
| Eagan | Kahn | Platt | |
| Eagle | Kelley, Mich. | Pou | |
| Edmonds | Kelly, Pa. | Randall, Calif. | |

The committee rose; and the Speaker having resumed the chair, Mr. WALSH, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee having had under consideration the commerce bill, H. R. 10453, found itself without a quorum, whereupon he caused the roll to be called, when 284 Members answered to their names, a quorum, and he reported the names of the absentees to be printed in the Journal and RECORD.

The SPEAKER. A quorum is present. The committee will resume its session.

Mr. HULINGS. Mr. Speaker——

The SPEAKER. Under the rule the Chair has no authority to recognize the gentleman.

The committee resumed its session, with Mr. WALSH in the chair.

Mr. MONDELL. Mr. Chairman, I rise for the purpose of asking unanimous consent to make a brief statement relative to the business before the House. It is our hope——

Mr. BLANTON. Mr. Chairman, a point of order. Would it not be in order to prefer the request for unanimous consent?

Mr. MONDELL. Mr. Chairman, it is our hope to conclude the consideration of the railroad bill to-day. [Applause.] I do not mean to convey the impression that there is any disposition to rush or press unduly this legislation. It should have the thorough consideration to which it is entitled, but it is hoped by those who have charge of the legislation that we may conclude the consideration of the bill to-day, even though it may require a session somewhat into the night, and my thought is that after this legislation is disposed of the House should not attempt to transact further business of importance at this session. [Applause.] It may not be possible to secure an immediate adjournment, but in any event my thought is, and I hope that will be the view of all the Members of the House, that after we have disposed of the railroad bill Members should be at liberty to go home and secure that very brief vacation to which they are so richly entitled.

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

Mr. MONDELL. I yield.

Mr. LONGWORTH. When the gentleman says no other business should be transacted except the railroad bill I take it that he does not exclude some very important revenue legislation that we expect from the Senate to-day or early to-morrow?

Mr. MONDELL. Well, Mr. Chairman, I do not believe that we are justified in insisting upon a quorum here after the railroad bill is disposed of [applause] except for the consideration of such matters as may at that time be before the House or which may be disposed of without delay.

Mr. MADDEN. Will the gentleman yield?

Mr. MONDELL. In just a moment. The resolution which the gentleman from Ohio has in mind is a resolution continuing the authority of the Federal Trade Board over the importation of dyestuffs until the 15th of January. I think if that resolution is before the House when the railroad bill is disposed of it can be adopted immediately. I can imagine no opposition to it, and I think that should be done either to-night or to-morrow. Further than that—and I do not anticipate that would occasion any delay or meet with any objections—I know of no legislation which is of such importance as to justify an attempt to hold a quorum of the House at this time, when Members are so anxious to get home for a few days.

Mr. MADDEN. Will the gentleman yield?

Mr. MONDELL. Yes.

Mr. MADDEN. I want to emphasize what the gentleman has already said—that I think beyond any doubt the extension of time should be granted to the War Trade Board in regard to the importation of dyes. It is more important than anything else except the railroad bill. As I understand the situation, if the extension of time is not granted to the War Trade Board the Germans may dump sufficient dyes on the market to destroy all legislation in regard to that enterprise.

Mr. KEARNS. Why can not that extension of time be given in five minutes?

Mr. MONDELL. I think it can.

Mr. GREEN of Iowa. Will the gentleman yield?

Mr. MONDELL. Yes.

Mr. GREEN of Iowa. In the absence of the gentleman from Michigan [Mr. FORDNEY], the chairman of the Committee on Ways and Means, I will say that that is the only tariff legislation that we expect to consider at this session.

Mr. JOHNSON of Washington. Will the gentleman yield?

Mr. MONDELL. I will.

Mr. JOHNSON of Washington. I hope the gentleman's statement does not mean to foreclose the consideration of the rule to permit the Committee on Immigration and Naturalization to sit during the recess.

Mr. MONDELL. If that authorization can be secured promptly, I think it should be done. I do not think it is of sufficient importance to warrant us in demanding the presence of a quorum after to-day. I hope it may be disposed of this evening or to-morrow by unanimous consent.

Mr. JOHNSON of Washington. It is extremely important that the House should do it.

Mr. HULINGS. Will the gentleman yield?

Mr. MONDELL. I will yield.

Mr. HULINGS. Does the gentleman think it more important for Congress to get home at this time than for Congress to take up certain measures which should be enacted and which the country is expecting Congress to attend to?

Mr. MONDELL. The gentleman's question opens an endless and limitless field for discussion. I expect to remain here myself and shall be here without regard to any adjournment. The gentleman from Pennsylvania will have an opportunity to go home. But this House has been in session for nearly six months continuously, working earnestly and faithfully, and I think the membership are entitled to a few days at home. There never is a time when some one is not demanding something of Congress, but Congress is entitled to a few days' vacation. [Applause.]

Mr. CARAWAY. Will the gentleman yield?

Mr. MONDELL. I will yield to the gentleman from Arkansas.

Mr. CARAWAY. I want to ask the gentleman if it would not be possible to have a day set aside, or a night session, for consideration of bills on the Private Calendar that are not objected to? If any are objected to, they should not be considered.

Mr. MONDELL. Personally I should have no objection and should be pleased to have that done, but, as I have said, the time from now until the beginning of the regular session is so brief that no serious injury can come through the delay of enactment of legislation until the 1st of December, other than that which has been referred to. I do not believe—and let me emphasize again my view in that regard—I do not believe that we are justified in asking a quorum to remain here after the railroad bill is disposed of, and I doubt if gentlemen would be willing to agree to the consideration of the Private Calendar or the Unanimous Consent Calendar after we had reached a determination to practically cease business for the session.

Mr. CARAWAY. I want to say that the calendar could be gone through with and these bills objected to set aside and those that are not objected to passed.

Mr. SIMS. Will the gentleman yield?

Mr. MONDELL. Yes.

Mr. SIMS. The agreement which the gentleman refers to, that there shall be no business done, is in effect on the public business an adjournment. Congress does not sit to do nothing. Why not adjourn after the railroad bill is through with? [Applause.]

Mr. MONDELL. In the beginning of my statement I said that there had been up to this time some difficulty in the way of securing an agreement for an adjournment. We hope, however, that an agreement may be secured very soon. But if that agreement can not be secured for a day or two, my thought is that in the meantime it shall be understood that the House shall transact no business.

Mr. SIMS. Let us introduce a resolution for adjournment, and let it fail where I suppose the gentleman refers to. [Applause.]

Mr. McFADDEN. Does the gentleman from Wyoming mean to imply that the conference report on the foreign financial bill will not be considered?

Mr. MONDELL. I think it might; but I do not consider it so important as to justify a demand for a quorum after to-night.

Mr. BLANTON. Will the gentleman from Wyoming yield for a question?

Mr. GOULD. The regular order, Mr. Speaker.

Mr. BLANTON. I will say that there will be no unanimous consent for a three-day adjournment. I am in favor of an adjournment.

Mr. BLAND of Missouri. Mr. Chairman, on Saturday, in the hurry just before the adjournment, my attention was directed to the fact that the amendment proposed by the gentleman from North Carolina struck out paragraph (b) in the Esch bill, on page 61, and also struck out paragraph (b) in the interstate commerce act.

Mr. SMALL. The gentleman is mistaken; it does not strike out (b) in the present law.

Mr. BLAND of Missouri. The gentleman did not wait until I finished. He is correct in his statement. I therefore ask permission to substitute (b) in my proposed amendment, and I ask unanimous consent to insert the amendment between lines 5 and 6, so as to read paragraph (b) instead of (c), and I understand the chairman in charge of the bill does not object.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent to modify his amendment by inserting it between lines 5 and 6 on page 61 as a part of paragraph (b). Is there objection?

Mr. ESCH. Mr. Chairman, I, of course, could not object to the presentation of the amendment by the gentleman from Missouri.

Mr. BRIGGS. Mr. Chairman, reserving the right to object, may I ask the gentleman from Missouri the nature of the change?

Mr. BLAND of Missouri. Paragraph (b) has been stricken out of the bill under consideration and therefore leaves standing as part of the law paragraph (b) of the commerce act, which provides for a maximum rate only. My amendment is simply to amend paragraph (b) of the commerce act as is proposed in the amendment published on page 9097 of the RECORD of Saturday and in order that the amendment may be considered upon its merits, I make the request.

The CHAIRMAN. Is there objection?

Mr. BRIGGS. Mr. Chairman, I object.

The CHAIRMAN. Objection is made. The question is on the amendment offered by the gentleman from Missouri.

Mr. BLAND of Missouri. Mr. Chairman, I ask unanimous consent to withdraw the amendment offered to paragraph (c).

The CHAIRMAN. The gentleman asks unanimous consent to withdraw his amendment. Is there objection?

There was no objection.

Mr. BLAND of Missouri. Mr. Chairman, I now offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Missouri offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 61, after the word "embraced" and following paragraph (b), being the thirteenth paragraph of section 6 of the commerce act——

Mr. ESCH. Mr. Chairman, the word "embraced" is not there. That is the last word of (b), which was stricken out.

Mr. BLAND of Missouri. I am offering a new amendment.

The CHAIRMAN. The gentleman from Wisconsin directs attention to the fact that the word "embraced" is not in paragraph (b), it having been stricken out.

Mr. BLAND of Missouri. It is in the original commerce act (b), and concludes the paragraph.

The CHAIRMAN. But it has been stricken out of the paragraph to which the gentleman is offering an amendment.

Mr. BLAND of Missouri. Then let it come in preceding line 6, following paragraph (b).

The CHAIRMAN. The gentleman from Missouri asks unanimous consent to modify his amendment so that it may be inserted preceding line 6. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment as modified.

The Clerk read as follows:

Preceding line 6 on page 61 insert: "The absorption out of its port-to-port water rates, or out of its proportional through rate, by a water carrier, of the switching, terminal, lighterage, car rental, trackage, handling, or other charge by a rail carrier, for services within the switching, drayage, lighterage, or corporate limits of a port terminal or district, shall not be held to constitute 'an arrangement for a continuous carriage or shipment' within the meaning of the act to regulate commerce, and shall not subject such water carrier to the provisions of such act."

Mr. BLAND of Missouri. Mr. Chairman, I direct attention of the committee to section 1 of the commerce act, and omitting that portion which relates to the transportation of oil or other commodities, the section would read:

That the provisions of this act shall apply to any common carrier or carriers * * * engaged in the transportation of passengers or property wholly by rail (or partly by rail or partly by water when both are used under a common control, management, or arrangement for a continuous carriage or shipment), from one State or Territory of the United States or the District of Columbia to any other State or Territory of the United States or the District of Columbia, or from one place in a Territory to another place in the same Territory—

And so forth.

The purpose of this amendment which I offer is to enable the water carrier to transport property for the water rate to a warehouse just as the railroads can carry for the rail rate to a warehouse. To illustrate, if the rate by rail from New Orleans to St. Louis is $1, the water rate would be 80 per cent of the rail rate or 80 cents, as the differential of 20 per cent applies to all classes of freight. When the shipment, whether a carload or less than a carload, reaches the docks at St. Louis, it must be transported from the docks to the warehouse. The railroads have their terminals or their switching lines running from the main lines to the different warehouses, and make the warehouse delivery for the one charge—that is, the rail rate—while the water carrier can only transport to the dock and not to the warehouse, unless permitted to absorb the switching, drayage, and so forth, charges, then it could make warehouse delivery and absorb the expense thereof into its water rate.

I know this to be a fact by an experience or acquaintance with conditions for nine or ten years in connection with the operation of boats on the Missouri between St. Louis and Kansas City, and I know, too, that the same condition has obtained since boats have been operated on the Mississippi River—that is to say, warehouse deliveries by water carriers are necessary in order to attract commerce to the river—and to that end the water lines should be permitted to absorb the terminal charges, whether lighterage, car rental, switching, drayage, or other terminal charges into their port-to-port rates or their proportional of the through rates. This could not be a discrimination; it would let the water carriers make warehouse deliveries, just as the railway companies do, where their switch tracks extend to the warehouse or warehouses, and I believe that every friend of water routes or ways, keeping in mind the importance of this matter—yes, I believe that every friend of increased facilities for transportation must have in mind the importance of granting this permission and will vote for the amendment now proposed.

We are not legislating to-day simply for a railroad bill, but it is, or at least it should be, a transportation measure, covering comprehensively water lines and rail lines of this country as far as the bill permits, and this amendment simply enables the water carriers to absorb the terminal charges at ports of destination, thereby making the delivery to the warehouse, as the railways may do, for the one charge or rate, and if it is not permitted, then, under this section which I have just read, such action of the part of the water carrier might be construed as an arrangement for a continuous carriage or shipment, and for that reason be prohibited or prevented by the order of the Interstate Commerce Commission. The happening of such a contingency would be prevented by this amendment, and while it is true, as a matter of fact, that the water carriers, even in the face of knowledge that such a prohibition might possibly be invoked and enforced, have, nevertheless, in order to attract commerce, been compelled to absorb terminal charges into the port-to-port or into the proportional rate, I think it is well to have

the law so explicit that there may be no doubt about the right of the water carriers to take such action when they so elect, and to that end I have introduced this amendment in the interest of water transportation and to increase the commerce over the rivers.

I am indeed sorry to have noticed the unwillingness of the committee to adopt at least that portion of the amendment proposed on Saturday by my colleague from North Carolina [Mr. SMALL], and which appears on page 9079 of the RECORD of that date. It certainly should have been adopted down to the proviso, and if so the amendment would have provided that "where there is an existing line of water transportation, or one is proposed to be immediately established, it shall be unlawful for any railroad which operates between points competitive to said water line to reduce its existing rates, with a view to meeting the difference between water rates and the rail rates, unless after full hearing the commission shall find that such reduction of rail rates is justified in the public interest. In determining the question of public interest the commission shall consider the rates charged by the water line as presumptively reasonable, and shall also consider the advisability or necessity of maintaining increased facilities of transportation."

This amendment would have accomplished a splendid purpose, or at least would have been a step in the right direction, and would have imposed upon the commission the duty of considering many things before permitting a reduction of the rates by rail to water competitive points. It certainly would have not permitted the rate to water competitive points to be lowered, unless after full hearing the commission found such reduction of rail rates to be justified in the public interest, and the public interest would require the commission to consider the advisability or necessity of maintaining increased facilities of transportation, which would clearly include and mean water carriers. Also, under even the present long-and-short-haul rule, the commission would necessarily have to determine the effect on the intermediate points of a reduction in the rail rates to the more distant water competitive points, and it would necessarily be compelled to find, even under its present provision, whether the rates to intermediate points were reasonable within themselves, and were properly related to the existing rate to the more distant water competitive point. In such consideration also it might find, as a fact, that the existing relation, too, is improper, previous to any reduction in the rate to the more distant point, and, in such circumstances, it would find what the proper relation should be if the rate were reduced to the more distant point, maintained as between the intermediate points and the water competitive point by rail for the future.

Thus in this way the rail carrier would naturally be discouraged from making any reductions in rail rates to water competitive points that might cause or compel a reduction of rates to intermediate points in competition with water lines. This amendment, however, was rejected, I regret to say, by the committee, and constitutes one of the many objections to the bill as acted upon by the committee up to this time.

There is another serious omission which unfortunately occurs in the bill. Under section 201, while it is provided that "all of the boats, barges, tugs, and other transportation facilities on the inland, canal, and coastwise waterways" shall be transferred to the Secretary of War, who, through the Chief of Engineers, shall utilize or operate such transportation facilities and assume and carry out the contracts in relation thereto which were entered into by the President, and further provided for the payments to be made on account of the obligations which had been created in the purchase of boats, the bill nowhere, by its terms, creates a going business administration. It simply provides for operation of the boats which have been purchased and should not compel reliance upon an implication of authority where any doubt could have been made certain or removed by proper provisions in the bill.

It should have authorized the Secretary of War to sell any boats, barges, or other equipment which might be deemed unsuitable or unfit for the services intended, and out of such funds to construct or acquire by purchase any additional boats, barges, or other equipment deemed necessary for the development or promotion of water transportation upon the inland waterways of the United States, and to extend the operation thereof, not only as to the waterways upon and over which the boats have been operating, but upon such lateral or tributary waterways—for example, the Ohio and Missouri Rivers—when deemed advisable by the Secretary of War. My judgment has been, and now is, that it would have been better to have placed the operation of the boats in the hands of men who have had practical experience in that direction and whose experience and lives have developed administrative ability and the practical knowledge relative to the operation of boats and the transportation of property.

To-day the country is demanding better and larger transportation facilities and this relief can be afforded best and more rapidly through the use of the waterways than by any other medium of transportation. Men, money, and material can not be secured for enlarged or extensive improvement of rail lines, and the purchase of the necessary equipment to meet the necessities of the country. For example, the great interior producing area, the greater Mississippi Valley possesses a system of waterways naturally the greatest in the world and which, if improved, would enable a large part of the wonderful production of that valley to be transported to the markets of the world. There was never a better time to evidence interest in waterways and to develop the practical use there than now. The country, during the war, appropriated, in round numbers, $10,000,000 for the purchase of boats, barges, and other equipment for use upon the Mississippi River from St. Paul and Minneapolis to the Gulf and with wise and effective legislation directed to the largest possible use of these boats and barges to which I have referred upon the inland waterways of the greater Mississippi Valley, and with a continued and energetic use thereof millions of tons of freight could be transported.

The bill under consideration, while containing some good provisions, falls far short of meeting the proposition and not only the amendment to which I have made reference as having been rejected should have been adopted, but others which were proposed for consideration, and I hesitate to support a bill so lame in so many important particulars and necessary provisions.

Mr. ESCH. Mr. Chairman, I am opposed to the amendment suggested by the gentleman from Missouri. The Interstate Commerce Commission has been given power to determine joint rates on through routes, rail and water. This amendment suggested by the gentleman from Missouri might be used as a device to prevent the commission from exercising the power it now has, and that no doubt may in a way be the purpose of the amendment. For instance, a shipper in Albany, N. Y., wishes to ship to Savannah, Ga., by rail to New York and by water from New York to Savannah. In New York an agent of the water line could pay the wharfage, the lighterage, or cartage charges, and break the shipment and hence the through route. The adoption of this amendment would take away from the commission the power to make a through rate, it would be breaking the bulk, it would be destructive of the continuous shipment, and for that reason I think the amendment should not be adopted.

Mr. STEPHENS of Ohio. Mr. Chairman, I would like to speak a few minutes on this question, and I move to strike out the last word. In the matter of the relationship between the railroads and the water I desire to call the attention of the committee to a certain condition that exists along the Ohio River. I am in favor of this amendment presented by the gentleman from Missouri if it provides for the condition that now exists in river traffic.

In years gone by the Ohio River was the great artery of trade from Pittsburgh to New Orleans. Fleets of coal, iron ore, and other products of manufacture filled the river in every freshet. During the past number of years these boats have disappeared from the river until now you seldom see coal fleets and river packets in the ordinary line of trade. We now have a river that is of very little use, and have come to the conclusion that the railroads have so manipulated transportation that they have taken the traffic from the Ohio River. There are transportation lines now paralleling this river, and every effort is made to kill off river traffic. Millions of dollars have been spent for dams on the Ohio River, and up to the present time they are not worth a damn [laughter and applause], and they never will be unless we can revive river traffic. There is a movement on foot to construct a barge canal from the Ohio River to Lake Erie. The United States engineers are now engaged on four routes, and organizations have formed for the promotion of the project along each of these routes.

We want a canal from Lake Erie to the Ohio River, thus insuring to the Central States adequate and cheaper transportation facilities to the sea. The whole system of transportation will be solved in our country by the connection of these waterways by canals. This will bring the Great Lakes to the Gulf. The freight congestion and future transportation problems of the country will be determined.

The railroads constantly complain of the car shortage and great congestion in ports like New York and other places, yet it seems the policy of the railroads to kill off river traffic and water traffic entirely. An order was recently issued that all

open cars should be used only for the delivery of coal from the mines. This order took these cars away from the men who handled sand, gravel, stone, and so forth.

It is stated that coal can be shipped from the mines from Cincinnati to points in northern Ohio or in Indiana by rail cheaper than coal which is transported down the Ohio River to Cincinnati and then reshipped. In other words, coal reshipped from the river in Cincinnati to towns in Indiana or Ohio would cost 50 or 60 cents more a ton than if the same coal came to Cincinnati by rail.

Now, I have lived along the Ohio River all my life. I remember when the river was alive with coal barges and coal fleets. I remember when these barges and fleets went from Pittsburgh to New Orleans and furnished every city along the Ohio and Mississippi Rivers with coal.

Coal elevators along this river were erected, and were active in elevating coal for the greater part of the year. Large coal yards were filled, and a supply was laid in to last the winter season. Gradually these fleets disappeared from the river and the coal elevators have closed down. In my township we have two such coal elevators. For two years preceding the war neither of these elevators had coal on hand. It was not on account of the river, because the usual freshets that occurred during the year were always able to bring any supply of coal that would be waiting for transportation at the mines.

The conclusion that is arrived at by many of the people is that there must be some collusion between the men who own the mines and the railroad. For years the Cincinnati & Louisville packets carried on a good business between these two cities on the Ohio River. A packet left Cincinnati every evening for Louisville carrying great quantities of freight. About two years ago these boats stopped their activity. The river business between Louisville and Cincinnati was virtually stopped. The boats were tied up to the shore. It was reported—but I do not know with how much truth—that some railroad had purchased the line and then had taken it off entirely.

Mr. RAKER. Will the gentleman yield?

Mr. STEPHENS of Ohio. I will.

Mr. RAKER. Will the amendment offered by the gentleman from Missouri [Mr. BLAND] remedy the condition of which the gentleman speaks?

Mr. STEPHENS of Ohio. I do not know. It is for that reason I am endeavoring to state the situation in my neighborhood, in order to find whether this amendment will remedy or help remedy the condition. I was going to ask the gentleman from Missouri whether or not that will remedy the condition I am now presenting. I would like to understand just what this bill and amendment does mean, in order to vote intelligently when I do vote. I want to know whether it will remedy this transportation question—whether it will keep the railroads from combining and breaking up the river traffic.

Some years ago a friend of mine was taking a trip up the Rhine River. He was admiring the beautiful scenery and the beautiful castles. A gentleman, noticing his interest and admiration of the scenery, told him there was only one place that he knew that exceeded in beauty and scenery the trip along the Rhine River—that is, a trip on the Ohio River from Pittsburgh to Cincinnati or from Cincinnati to Pittsburgh. He said that he had traveled all over the world, and he didn't know of a trip that equaled the beauty of the Ohio River. Its hills and valleys and manufacturing cities afforded a wonderful diversity of scenery and interest. My friend was advised if he ever went to Cincinnati to take this trip. He said he was ashamed to acknowledge to the stranger that he was from Cincinnati, because he had never taken the trip. There are no steamers now running from Cincinnati to Pittsburgh, so it would be impossible to enjoy a trip of this kind.

We are reminded of the old minstrel. You can find plenty of dams by the river site, but you can not find a boat by a dam sight.

Mr. SMALL. Mr. Chairman, I rise to oppose the pro forma amendment.

Mr. ESCH. Mr. Chairman, I ask unanimous consent that the debate on the amendment close in five minutes.

The CHAIRMAN. The gentleman from Wisconsin asks unanimous consent that the debate on the amendment close in five minutes. Is there objection?

Mr. RAKER. Mr. Chairman, I object. If this amendment is as important as the gentleman from Ohio [Mr. STEPHENS] says, we ought to have more discussion on it.

Mr. ESCH. Mr. Chairman, I move that the debate on the amendment close in 10 minutes.

The CHAIRMAN. The gentleman from Wisconsin moves that the debate on the amendment close in 10 minutes. The question is on agreeing to that motion.

The motion was agreed to.

The CHAIRMAN. The gentleman from North Carolina [Mr. SMALL] is recognized.

Mr. SMALL. Mr. Chairman, the amendment offered by the gentleman from Missouri [Mr. BLAND] is a very important amendment, and those who are interested in the development of traffic, particularly upon our interior waterways, should, in my humble judgment, give it their support.

Here is the reason for it, if I may supplement the very clear argument presented by the gentleman from Missouri: Boat lines have found it necessary in competing for traffic to deliver their freight from the boat terminal to the factory or warehouse of the consignee, in the various parts of the district, 1 or 2 or 3 miles distant, because the rail line has switches leading to the places of those particular consignees. Wherever the boat lines have utilized spurs or switches or small sections of rail track to deliver that freight the Interstate Commerce Commission have held—have already held—that thereby jurisdiction is conferred upon the commission. Why? Because under the existing law, referring to traffic by rail and water, this language is used, "And arrange for continuous carriage or shipment by rail or water." It is held that that gives them jurisdiction. They have held for that reason that this switching charge, which the boat line wishes to absorb as a part of its through rate in order to get business, thereby brings the traffic of the boat line within the jurisdiction of the Interstate Commerce Commission, and it is a stretch of the law and is inimical to the boat lines.

This amendment of the gentleman from Missouri is intended to oust any alleged jurisdiction of the Interstate Commerce Commission of water traffic merely because the boat line, in order to get business, agrees to deliver freight to the consignee and in delivering it uses a mile or so of switch tracks or spur tracks for the purpose of doing it. They have held—and I am sure the gentleman from Virginia [Mr. MOORE] will confirm my statement—that such action on the part of the boat line, in seeking business and the delivery of its freight and the utilization of these switch or spur railroad tracks, puts it within the jurisdiction of the Interstate Commerce Commission, and the commission holds generally that any joint use to the slightest extent between a boat line and the rail brings it within their jurisdiction. The boat lines have found that it was inimical to water transportation, and this amendment of the gentleman from Missouri will remedy that condition and leave them free to arrange for the delivery of their traffic and absorb whatever cost may be involved therein, and will permit that traffic still to be considered water traffic and outside of the jurisdiction of the commission. I think it is an important amendment and ought to be adopted.

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

Mr. SMALL. Yes.

The CHAIRMAN. The gentleman from Kansas [Mr. LITTLE] is recognized. Does the gentleman from Kansas withhold?

Mr. LITTLE. I will.

Mr. BARKLEY. It occurs to me that so far as this would apply to lighterage and track charges where the shipment reaches its destination there could be no objection, but the objection raised by the gentleman from Wisconsin [Mr. ESCH] is that it would apply to such charges where the freight has not reached its destination and would apply to every transition from rail to water carrier or from water carrier to rail until it reaches its ultimate destination. Could an amendment be made whereby it would be limited to cases where it had reached its final destination?

The CHAIRMAN. The gentleman from Kansas is recognized for five minutes.

Mr. LITTLE. Mr. Chairman, a railroad can now ship from warehouse to warehouse. That means it can absorb the charge of which the gentleman from Missouri [Mr. BLAND] now speaks. All that this amendment asks, as I understand, is that the water company can absorb the same charge as the railroad company bringing a car into a town and switching it over and putting it up against the warehouse at the water side. As I understand it, the steamboat can not now do so without this amendment. All they ask is to be allowed to absorb that charge.

This bill, the gentleman from Wisconsin suggests, would render it possible that somewhere on the route they could break bulk and avail themselves of the advantage that this process would give them. But this does not do that. This refers to the terminal. If they were to stop somewhere on the route, that would not be at an actual terminal, because the terminal is the place it finally reaches. I had in mind the drawing of an amendment to the effect that this should not apply to anything en route, but on reflection I find it is unnecessary.

We spend large sums annually for the improvement of rivers and harbors. The principal justification for it is found in the fact that large bulks can be carried over the waterways more cheaply than by railroads. Men in a hurry will always seek

transportation by the railroad anyway, but these big bulks on the waterways should be given the privilege of getting into the warehouse on the same terms with other shipments. It would be a waste of money for us to improve the rivers and harbors for water transportation and still withhold from them that opportunity. I am not unfamiliar with the necessities of the water routes. I am sure that the danger suggested by the gentleman from Wisconsin [Mr. ESCH] could not possibly arise. No court would contend that a "terminal" meant any terminal except one where the journey terminates.

Mr. BLAND of Missouri. Mr. Chairman, will the gentleman yield?

Mr. LITTLE. Yes.

Mr. BLAND of Missouri. Is it not a fact that where there is only a difference of 20 per cent between the rail and river rate, if a shipper is compelled to pay the terminal charges from boat line to warehouse that will compel the payment by the shipper of a greater rate than the rail rate to secure the delivery to his warehouse?

Mr. LITTLE. Yes. It may penalize the people who ship by steamboat over waterways. I would be the last one to interfere with the work of this committee. I want to see this bill go through with only essential changes. This matter is a matter of no importance to anybody except those who ship on the waterways. It is very important to gentlemen from a city like that from which the gentleman from Missouri [Mr. BLAND] and I come. The gentleman from Ohio [Mr. STEPHENS] is in the same shape, of course. There is a constant effort all the time to preserve the waterways for use, yet this practice amounts to a penalization of shipments for a long distance, and I hope it will not occur.

This is a small amendment to this big bill, but a very big amendment to the cities from which we come. I earnestly hope that the committee will not oppose the amendment. [Applause.]

The CHAIRMAN. The question is on the amendment of the gentleman from Missouri.

The question being taken, on a division (demanded by Mr. ESCH) there were—ayes 75, noes 49.

Mr. ESCH. I ask for tellers.

Tellers were ordered, and the Chairman appointed Mr. MERRITT and Mr. BLAND of Missouri.

The committee again divided; and the tellers reported—ayes 98, noes 57.

Accordingly the amendment was agreed to.

The Clerk read as follows:

SEC. 415. Section 13 of the commerce act is hereby amended by inserting "(1)" after the section number at the beginning of the first paragraph and "(2)" at the beginning of the second paragraph, and by adding at the end thereof two new paragraphs to read as follows:

"(3) Whenever in any investigation under the provisions of this act, or in any investigation instituted upon petition of the carrier concerned, which petition is hereby authorized to be filed there shall be brought in issue any rate, fare, charge, classification, regulation, or practice made or imposed by authority of any State, the commission, before proceeding to hear and dispose of such issue, shall cause such State or States to be notified of the proceeding. The commission may confer with the authorities of any State having regulatory jurisdiction over the class of persons and corporations subject to this act with respect to the relationship between rate structures and practices of carriers subject to the jurisdiction of such State bodies and of the commission; and to that end is authorized and empowered, under rules to be prescribed by it, and which may be modified from time to time, to hold joint hearings with any such State regulating bodies on any matters wherein the commission is empowered to act and where the rate-making authority of a State is or may be affected by the action taken by the commission. The commission is also authorized to avail itself of the cooperation, services, records, and facilities of such State authorities in the enforcement of any provision of this act.

"(4) The commission shall have authority, after full hearing, to make such findings and orders as may in its judgment tend to remove any undue advantage, preference, or prejudice as between persons or localities in State, and interstate or foreign commerce, respectively, or any undue burden upon interstate or foreign commerce, which is hereby forbidden and declared to be unlawful, and such findings or orders shall be observed while in effect by the carriers parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding."

Mr. SIMS. Mr. Chairman, I move to amend paragraph 4, on lines 14 and 15, page 63, by striking out after the word "respectively," in line 14, the words "or any undue burden upon interstate or foreign commerce."

Mr. Chairman, I will wait a moment, because I do not want to interrupt the greeting which is being extended to the gentleman from Illinois [Mr. MANN], whom we are all glad to see with us again. [Applause.]

This section reads:

The commission shall have authority, after full hearing, to make such findings and orders as may in its judgment tend to remove any undue advantage, preference, or prejudice as between persons or localities in State, and interstate or foreign commerce, respectively.

And then it adds the words—

or any undue burden upon interstate or foreign commerce.

Now, the language, omitting what I propose to strike out, is amply sufficient for any proper use of that authority, and if there are added to it the words—

or any undue burden upon interstate or foreign commerce—

it will be setting up something new that the courts have not passed on, and for the interpretation of which there is no guidance whatever to the commission, leaving it absolutely within its power to judge in and of itself what will constitute an undue burden. This language is unnecessary to accomplish the object and purpose of the whole section. It will set up a standard which nobody knows what it will be when applied by the commission. What will the courts hold is an undue burden? It brings in an element of uncertainty which ought not to be introduced and ought not for a moment to be considered in this connection, because it is not necessary.

Mr. HUDSPETH. What is meant in this bill by an undue burden on interstate commerce? Everything you carry is a burden. Does not the committee mean undue discrimination against interstate commerce?

Mr. SIMS. What I am trying to express is that in which I agree fully with the gentleman's thought, that we do not know what the commission or the courts will hold is an undue burden, and there is no use in putting it in here and introducing a new element for further court decision or any new feature of uncertainty. It will give the power to the Interstate Commerce Commission to control every intrastate rate in the United States if the question is raised that the proposed rate or the existing rate constitutes an undue burden upon interstate commerce. Therefore it will give the commission the power to nullify absolutely everything that the State commission does that in its judgment will operate as or become an undue burden upon interstate commerce. Every dollar you take away from a railroad on its intrastate business is a burden on its interstate business, and therefore if a State commission should reduce an intrastate rate properly and within its authority, it thereby becomes a burden in some measure on interstate business. Whether due or undue would depend entirely upon the finding of the commission or of a Federal court as to whether or not it was an undue burden. If so, the Interstate Commerce Commission can absorb about all the power of the State commissions in connection with what may, in its judgment, constitute such burden. A State commission might order that some improvement, such as the erection of a depot or the construction of a siding or something of that sort, which has always been held to be within the jurisdiction of the State commissions, but may constitute an undue burden on the interstate carrier and nullify the action of the State commission, and it could also hold that the tax imposed by a State, county, or city is an undue burden, and in that way it could perhaps indirectly control taxation.

It may be best for it to do so, but we ought to know where we are going. We are going to give the authority to the commission by act of Congress to strip the State commissions of practically all authority which they have even over intrastate transportation if used in connection with interstate shipments. I think, Mr. Chairman, that this is going a long way, and that the rest of the language of the section is amply sufficient to carry out the Shreveport decision, which is hard enough now on large States like Texas, Georgia, California, and several others, without any extension by act of Congress.

Mr. BRIGGS. I want to ask the gentleman if the other language in this section, without the language which he seeks to strike out, does not embrace the holding of the Supreme Court of the United States in the Shreveport rate case, and certainly goes as far as we can consistently go under the holding in that case?

Mr. SIMS. That is my understanding. That is what I said.

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

Mr. JONES of Texas. Mr. Chairman, I offer a substitute.

The CHAIRMAN. The gentleman from Texas offers a substitute, which the Clerk will report.

The Clerk read as follows:

Mr. JONES of Texas offers a substitute for the amendment offered by Mr. SIMS, as follows: Page 62, line 10, after the word "paragraph," strike out the remainder of the section.

Mr. JONES of Texas. Mr. Chairman, in offering this amendment I have one consolation. By grace of the rules of the House the steam roller can not get me for at least five minutes.

Now, if the provision offered by the gentleman from Arizona [Mr. HAYDEN] with reference to water rates had been adopted, I would not have any objection, or at least no great objection, to section 415. I think the amendment offered by the gentleman from Tennessee [Mr. SIMS] is good as far as it goes,

but it practically leaves in the section all the vice that it possesses at the present time. It remedies the ambiguity, but at the same time leaves what vice is now in the section. So long as you permit a town that is situated on some overgrown creek to have a lower rate for transportation than intermediate towns through which the shipment passes, you are going to have little local squabbles between the little towns and the inland cities that will make the rate situation very complex, and there will always be injustices arising that require little localities to make an appeal for readjustment of rates.

It is practically impossible, on account of the expense and delay incident to coming to the Interstate Commerce Commission, for these localities and inland cities to secure relief.

Now, if you would couple with the transfer of this power to the Interstate Commerce Commission a uniform system of rates, so as to abolish these little injustices that arise in various localities, the Interstate Commerce Commission would be relieved of about 80 per cent of its work, and it could conduct the adjustment of rates all over this country. But so long as you are going to have one little city like Shreveport given a preference over the other towns and cities within hundreds of miles, you are going to have so many complex problems arising out of adjustment of rates that it will be practically impossible for the Interstate Commerce Commission to do its work in a reasonable time. It takes months and months for them to do that.

As a matter of fact, I do not see any good reason why the rate system in this country could not be put on a mileage basis, with a loading and unloading terminal charge. Of course, the objection is always made that in a mountainous section it costs more for transportation than in a level section, but you could give them a greater rate and still leave it on a mileage basis. When you do that there will be no injustice arising, as it does now, between the inland and water cities. The Shreveport Rate case caused five years litigation upon the complaints by various cities before the Interstate Commerce Commission, and towns in my district spent hundreds of thousands of dollars in rates that the Interstate Commerce Commission finally decided were unjust. We never did get that money back, and we spent thousands of dollars in lawyers' fees in order to get it properly presented to the Interstate Commerce Commission. That all arose because, forsooth, the city of Shreveport was given a water rate. It has no water transportation to amount to anything, but has what they call potential navigation, and therefore is entitled to a water rate. Now listen, the sole and the only reason for water-competition rates is the desire on the part of the railway companies to destroy water competition and then put the rates up again.

There is a great car shortage all over the country. If we would utilize the water transportation of this country, we could release the cars for use in rail transportation, and relieve a part of this congestion.

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

Mr. JONES of Texas. I ask for three minutes more.

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

There was no objection.

Mr. JONES of Texas. Mr. Chairman, I do not believe, so long as we have the present complex situation, that a central body should determine these matters. I do not believe the man has lived since the days of Christ who can sit at a desk in Washington and distribute cars equitably all over this broad big country. I do not believe there is any man or set of men who can sit as a body, like the Interstate Commerce Commission, so long as you have the present complex system of rates, and decide within a reasonable time the various problems that will arise by virtue of the complex situation in various localities.

For instance, you can ship from San Francisco through my town in west Texas to St. Louis a great many different articles at a cheaper rate than you can ship to my town. My town is continually filing complaints, and that is but an incident to all of the towns all over the State. That is not only happening in the State of Texas but it happens all over this country.

I am not objecting to the Interstate Commerce Commission as such. I believe in solving national questions in a national way. I believe in the United States Government, in her history, her institutions, and her people, in the glory of her past, and I have implicit confidence in the future. We have the greatest form of government that was ever fashioned by human intelligence in this or any other land, and it has been made more perfect by the knowledge gained by experience. But we have got to eliminate and iron out these little classes of injustice if we are ever going to have these problems solved in a national way. If you would place the rates of the country on a mileage basis, or if you had a provision that you could not charge a less rate for a long haul than you charge for a short haul over the same territory and over the same line of railway, you would eliminate the injustice that arises. If you yoke that proposition with the proposition granting the Interstate Commerce Commission the powers granted by section 415 I will vote for section 415, but if you do not yoke the two together I am opposed to this section. [Applause.]

Now, let me ask you why should Chicago, Kansas City, and other great centers have cheaper rail rates than the inland places and country towns? Having the advantage of water transportation, why should they be given the additional advantage of cheaper rail rates? For instance, the rate on potatoes from Chicago to Jackson, Miss., a distance of 477 miles, is 49 cents per hundred, while the rate from Chicago through Jackson, Miss., to New Orleans, a distance of 929 miles, is 45 cents—twice the distance over the same line of railway at a cheaper rate. Iron bars are shipped from Pittsburgh through Boise City, Idaho, to Portland at 65 cents per hundred, while if they stop at Boise City, which is 500 miles nearer Pittsburgh, the charge is $1 per hundred. Can anybody justify such rank discrimination?

This favoring of certain cities tends to build up great congested centers, which is a bad thing for the country generally.

As a matter of fact in the ultimate analysis even the water cities are injured by such discriminations, for while they have a temporary advantage, when competition is destroyed that city will lose the great natural advantage of its water transportation, while if the rates were made uniform those cities would still continue to enjoy the great advantage of navigation, and the country generally would greatly benefit, because it would have two great means of transportation, whereas from a practical viewpoint it now has but one.

Mr. ESCH. Mr. Chairman, I move that all debate upon this section close in 30 minutes.

The CHAIRMAN. The question is on the motion of the gentleman from Wisconsin that all debate on this section close in 30 minutes.

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

Mr. SANDERS of Indiana. Mr. Chairman, there are two motions pending before the Committee of the Whole. One of them is a motion to strike out the expression in section 415—

or any undue burden upon interstate or foreign commerce.

The other motion is to strike out the entire section. I think that the provision, section 415, writing into the statute a rule of procedure before the Interstate Commerce Commission in order to enforce the rule in the Shreveport case is, perhaps, one of the most vital if not the most vital feature of the bill. There is not anyone who would contend—and certainly the gentleman from Texas [Mr. JONES], who just left the floor, did not contend—that the rule in the Shreveport case was not a wise rule. The addition to that rule that the commission shall have jurisdiction to correct any undue burden upon interstate commerce is merely writing into the bill a provision to enforce by appropriate action before the commission the provision of the Constitution of the United States which protects interstate commerce from undue burden from any source.

Mr. JONES of Texas rose.

Mr. SANDERS of Indiana. No; I can not yield. Outside of that, it is merely the rule in the Shreveport case. This provision affords the opportunity for coordination between the State tribunals and the Interstate Commerce Commission. In the testimony before our committee Commissioner Clark stated the necessity for the legislation as follows:

We have had a good many complaints of undue preference of State shippers and undue prejudice against interstate shippers. The Shreveport case was originally brought by order of the Legislature of the State of Louisiana on account of undue prejudice believed to exist against the shippers of Louisiana and undue preference of shippers in Texas under rates prescribed by the Texas commission. Singularly enough, it was not very long until we had a complaint from Natchez, Miss., against the Louisiana rates prescribed by the Louisiana commission. We have had several complaints from parties in Missouri against the Illinois rates and we have had complaints from parties in Illinois against the Missouri rates. We have had the same situation presented in New England and from various parts of the country. I speak of it simply to show that it is not a narrow situation that existed only within the scope of the Shreveport case. It comes from all sections of the country and it results from a difference in point of view of commissions in different States, although they may be adjoining. East St. Louis, Madison, and Granite City, Ill., and St. Louis and its suburbs in Missouri for a long time have been treated in general as a common-rate district—I should say a common industrial district—to and from which the rates from points more than 100 miles distant have been the same.

Of course, there is rivalry between people on the Missouri side and those on the Illinois side. There are direct competitors on both sides of the river, and they all insist that it shall be a common-rate district, with the one exception, that East St. Louis is nearly on the edge of a substantial deposit of bituminous coal, and, of course, coal is a very

important item in the manufacturing at any of those places. The city of St. Louis consumes enormous quantities of Illinois coal, and the rates on coal to St. Louis from these southern Illinois mines are uniformly 20 cents per ton higher than they are to East St. Louis. That is being resisted by St. Louis interests in a proceeding now pending before our commission, and the present situation is defended by the East St. Louis interests; but aside from that, as I have said, they are practically, if not entirely, unanimous in their desire to have the industrial sections on both sides of the river considered as one, and they do not want any disruption of that by the action of the State commission either in Illinois or Missouri. A substantially similar situation exists at Omaha and Council Bluffs. They have been a common-rate community for a great many years; Kansas City, Mo., and Kansas City, Kans., Rock Island, Moline, and Davenport, and various other places where it happens that these industrial communities are on different sides of an imaginary line, but from a practical standpoint and from a commercial standpoint they are and ought to be considered as one.

There are a great many instances of this kind in the Southeast—Bristol, Tenn., and Bristol, Va.; Texarkana, Tex., and Texarkana, Ark., where the line runs down the middle of the main street. Therefore the necessity for authority or power somewhere to remove these undue preferences and undue prejudices that may result from a desire on the part of one State commission to promote the interests of the shippers or receivers in that State, not indulged in to the same extent by the State commission on the other side of the line, if undue preferences and undue discriminations are to be avoided.

There, for another page in the hearings, is illustrated case after case where complaints have arisen out of the rule in the Shreveport case. What is the provision of this present law? The provision here is that whenever an occasion of that kind arises, when an instance of that kind is presented to the commission, authority is given to coordinate with the State commission:

The commission may confer with the authorities of any State having regulatory jurisdiction over the class of persons and corporations subject to this act with respect to the relationship between rate structures and practices of carriers subject to the jurisdiction of such State bodies and of the commission; and to that end is authorized and empowered, under rules to be prescribed by it, and which may be modified from time to time, to hold joint hearings with any such State regulating bodies on any matters wherein the commission is empowered to act and where the rate-making authority of a State is or may be affected by the action taken by the commission.

Then it is given ample authority. After this action with the State regulatory bodies, after these joint hearings, the Interstate Commerce Commission is then given ample authority to adjust the entire situation, and if the Interstate Commerce Commission is given this authority then it will enable equal justice to be done with reference to all of these complaints.

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

Mr. SANDERS of Indiana. Pardon me, but I can not yield. That arises most frequently in cases like St. Louis, where part of the city is in one State and a part in another; like Kansas City, like Rock Island, Moline, and Davenport, and instances of the same kind in the Southeast—Bristol, Tenn., and Bristol, Va.; Texarkana, Tex., and Texarkana, Ark. In all those cases it is merely a question for the Interstate Commerce Commission——

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

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

The CHAIRMAN. Is there objection?

There was no objection.

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

The CHAIRMAN. Is there objection?

There was no objection.

Mr. STEPHENS of Ohio. Mr. Chairman, I make the same request.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. HASTINGS. Mr. Chairman, I favor relinquishing Federal control over the railroads at the earliest possible date and returning them to their owners. This legislation should have been enacted several months ago. It has been brought in during the closing hours of this extra session, and copies of the bill were not available until last Sunday. The bill came up on Tuesday for consideration. It has 86 pages in it. The special rule adopted requires that we meet at the early hour of 10 o'clock each day. We have done this and have also been holding night sessions, being in session 8 or 10 hours daily, considering the bill.

The general debate was confined largely to the first provisions of the bill and no explanation was made as to that part of the measure included in Title IV, which amends the various provisions of the old law. They are very important provisions, and as each section is reached it should be explained in detail, so as to show what changes have been made in the existing law and what parts of the Federal-control act, which were intended to be temporary only, during the war, are carried forward to be made permanent law.

This bill should have been printed with the amended provisions in different type or in parentheses, so as to enable Members who are not on the Interstate and Foreign Commerce Committee to know exactly what changes have been made and their effect. Title IV begins on page 39 and continues to the end of the bill, on page 86, or 47 pages. These pages contain amendments, either to the old law or carry provisions of the Federal-control act forward and make them permanent law, without any explanation.

The testimony taken at the hearings is very voluminous, and it is impossible for Members to inform themselves with reference to the effect of the amendments.

As stated before, I am more than anxious to return the railroads to the owners, but I am unwilling to strip the various State corporation commissions or railway commissions of their powers. It is clear to everyone that there are two lines of thought in Congress, as well as in the country at large. One favors giving larger jurisdiction to the Interstate Commerce Commission and stripping the State commissions of much, if not all, of their power, but the other believes that the interests of the people will be best served and their convenience looked after if you retain for the State commissions all the power they had prior to the war. One believes in Federal incorporation of railroads, so as to take away from the various States and State commissions any jurisdiction over railroads, either interstate or intrastate; the other in State control. Every railroad in the country favors giving the Interstate Commerce Commission all the jurisdiction it formerly exercised, and in addition take away from the State commissions all the jurisdiction they exercised prior to the war.

I have voted for every amendment looking to the retention by the State commissions of the jurisdiction they had prior to the war. I am going to support others that I know are to be offered. Conferring jurisdiction upon the Interstate Commerce Commission is in effect denying the average citizen any remedy for wrongs suffered.

We have a splendid provision in Oklahoma for a corporation commission. Prior to the war, when it could exercise the powers conferred upon it, it served the people efficiently and well. There was, perhaps, less complaint against the corporation commission of our State than any other branch of the State government. If cars were not provided at any point, the shipper, big or little, called up the State corporation commission, and the commission, in turn, notified the railroad company by telephone or telegraph, when cars would be immediately furnished. What if the individual shipper had to appeal to the Interstate Commerce Commission at Washington for relief? He knows that he could not get any relief. In hundreds of instances he would suffer loss or inconvenience rather than make a futile appeal to the commission here.

Early this fall, when the thrashing season was at its height, a car shortage began in Oklahoma. The farmers there believed that the Government would take the wheat when ready for shipment and insufficient granaries were built. Wheat was thrashed and piled on the ground, and much of it has been wasted, as the fall rains have been heavy. Every Member of the Oklahoma delegation has been asked day after day—by letter and by wire, by the governor, president of the board of agriculture, members of the State corporation commission, and individual shippers, as well as chambers of commerce of the various cities and towns—to secure additional cars from the United States Railroad Administration for shipping wheat. We have personally and in a body, not once but many times, appealed to the Railroad Administration for these cars. Partial relief has been secured only within the past few days. If the jurisdiction had been with the State corporation commission, the shippers at different points would have been advised in advance how many cars could be furnished. As it was, the local agents answered that the matter was with the Railroad Administration at Washington, just as in the future they will answer that it is with the Interstate Commerce Commission, and that, therefore, definite information can not be given.

The Interstate Commerce Commission will be a buffer between the railroads and an outraged public. No one can understand how acute the situation has been in Oklahoma and the entire Southwest who has not received these daily appeals and who has not earnestly tried in every possible way to assist in relieving the situation.

I favor giving to the State corporation commissions all supervision over railroads within their jurisdiction and authority to fix intrastate rates. I fear this bill takes such power away from the State commissions.

Prior to the war the railroads furnished every convenience in my State. If a fire was out in a depot on a cold night and an alert traveling man came in, he telephoned the State corporation commission, who in turn notified the representative of the railroad company. You may rest assured that it did not

occur again. The same is true if the lights were out at a depot where passengers had to take a train at night. Suppose these complaints had to come to Washington. They would never be heard, of course, and no relief would ever be given to the people. They would have to suffer all these inconveniences. The distance is too great for the voice of the small shipper or farmer to reach Washington, but he can secure relief from his State commission because he votes for and elects it.

While this bill appears to return to the State commissions jurisdiction with reference to intrastate rates, I believe that the supervisory jurisdiction given the Interstate Commerce Commission will have the effect of robbing the State commissions of practically all the authority they had before the war. If intrastate rate making under the guise of regulating interstate rates is given to the Interstate Commerce Commission, then the small shipper will never get any relief. For a year and a half the people of Oklahoma have been complaining against certain discriminatory rates. The State corporation in a body and the individual members of it from time to time have come to Washington to get relief. The members of the delegation, singly and in a body, have appealed to the Railroad Administration and their various representatives in every possible way to get early action. Everybody admitted that the rates were discriminatory—no one could deny it. It was shown that wholesale houses across the line in Arkansas could ship goods approximately twice the distance over into Oklahoma at the same rate wholesale and jobbing houses in Oklahoma were charged for shipping half the distance. The same was true from points in southwest Missouri and in Kansas. The representatives of the Railroad Administration did not deny this fact, but admitted it and promised relief. The members of the corporation commission would go home, but no relief would be given. They would wire the members of the delegation, and the delegation would go to see the officers of the Railroad Administration and relief would again be promised. This went on for 15 or 18 months, until finally partial relief was granted.

If the members of the State corporation commission and the entire delegation of a State could not get relief from an admitted discriminatory rate in less than 15 months, what chance has an individual shipper with the Interstate Commerce Commission? The individual shipper could get relief from a discriminatory rate, from any inconvenience or injustice, in 12 hours through a State commission. He could not get it at all from the Interstate Commerce Commission. Members of the Interstate Commerce Commission are appointed for a term of years and are removed from sympathetic touch with the people. Placing the remedy with the Interstate Commerce Commission is denying any remedy at all to the small shipper at home. I have voted for every amendment to retain in the State corporation commissions all their prewar authority.

While I am on my feet, let me say that I voted against the guaranty to railroads for the six months' period after the railroads are returned.

I also voted for the amendment providing for a full settlement of the railroads, upon their being returned to the owners, instead of permitting them to refund their indebtedness, as provided in section 205, reported in the original bill.

No one can fully understand the provisions of this bill who was not a member of the subcommittee or the full committee that sat when the hearings were held and heard the explanations and compared the reported provisions in the bill with the old law, so as to fully understand what effect the changed provisions would have. The chairman of the committee, in a burst of eloquence Friday night, stated that this is a national question. This is the view that every railroad would have us take. The railroads regard any service or convenience required by a State commission as an interference, and they want to get rid of the State commissions. I would give the State commissions more authority, if possible. They are serving the people efficiently and well, and when they are robbed of their power and this power is centered in the Interstate Commerce Commission, to that extent the individual shipper and the plain people of the country are deprived of all remedy. The Interstate Commerce Commission is given so much authority that delay will of necessity be the result. No body of 11 men can examine and pass upon the innumerable questions that will be presented expeditiously, and the result will be that too many questions will be referred to inferior officers for examination and report, and the commission can not pass upon them with first-hand knowledge. The railroads will, of course, have representatives here in Washington to present their views before the commission, but the small shipper will have no one to speak for him. There are many other objectionable provisions in the bill that should be eliminated, but I can not invite attention to all of them in the brief time allotted to me. I shall vote for amendments to restore more power to the State commissions and for a motion to recommit to strike out the guaranty provision, and if they fail I shall vote against the bill.

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

The CHAIRMAN. The Chair will state that there are two amendments pending.

Mr. SCOTT. My point is this: I understand that a substitute has been offered by the gentleman from Texas [Mr. JONES]. The substitute really eliminates the major portion of the paragraph. If the substitute, which I think is a misnomer, is adopted, it will preclude presentation of any perfecting amendments, and I wish to avoid the possibility of being precluded from offering a perfecting amendment.

The CHAIRMAN. The Chair would state that there is an amendment to strike out certain language in lines 14 and 15, on page 63, offered by the gentleman from Tennessee [Mr. SIMS]. The gentleman from Texas [Mr. JONES] offers an amendment to strike out practically the entire section. Of course, he offered that as a substitute, but it is not a substitute. It seems to the Chair that it is an independent amendment.

Mr. MANN of Illinois. Mr. Chairman, I ask for a vote, then, on the amendment of the gentleman from Tennessee to strike out part of the language in lines 14 and 15, and then the gentleman's amendment will be in order.

Mr. RAYBURN. But time has been set at 30 minutes.

Mr. MANN of Illinois. It is 30 minutes on the section, not on the amendment. I ask for a vote on the amendment.

Mr. RAYBURN. I hope the gentleman will not press that.

Mr. MANN of Illinois. I have no objection to the latter proceeding, but the effect of the gentleman's amendment is to prevent the gentleman from Michigan offering his amendment, and that is not fair.

Mr. RAYBURN. No; I think this: If we go ahead and take a vote on the substitute and then the amendment, then the gentleman can offer his amendment.

Mr. MANN of Illinois. Without debate; oh, yes.

Mr. RAYBURN. Well, I am willing to consent that the gentleman's amendment be read for the information of the committee.

Mr. MANN of Illinois. I have no objection; but the Chair ruled the amendment was out of order, which ruling was correct. One gentleman can not offer an amendment to a whole section and hog the whole thing.

Mr. RAYBURN. I understand that; but I will ask unanimous consent that the gentleman's amendment be read for the information of the House. I have no objection to that.

The CHAIRMAN. The amendment will be read for information, to be offered after the vote has been taken on the pending amendment.

The Clerk read as follows:

Amendment by Mr. SCOTT: Page 63, line 13, after the word "prejudice" strike out the balance of line 13 and insert in lieu thereof the word "any."

Mr. SCOTT. Mr. Chairman, I think the purpose of my amendment is obvious. The other night the chairman of the committee introduced an amendment which reserved in large measure the authority of the State railway commissions over intrastate commerce. Now, I insist that if the committee retains the language carried in this section it will create an uncertainty as to the purpose.

Mr. NEWTON of Minnesota. Will the gentleman yield?

Mr. SCOTT. I will.

Mr. NEWTON of Minnesota. The gentleman's amendment, as I understand it, would entirely wipe out the authority that the Interstate Commerce Commission has exercised in the Shreveport case and other decisions, but if I understand the amendment of the gentleman from Tennessee, to strike out a portion of lines 14 and 15, that would leave the Interstate Commerce Commission with its present authority, but it would extend its authority beyond the Shreveport case by using the words "or any undue burden upon interstate or foreign commerce."

Mr. SCOTT. Part of the gentleman's statement is correct, but his premises are not correct.

Mr. ESCH. Section 3 of the interstate commerce act makes it unlawful for any common carrier, and so forth, to make or give an unreasonable preference to any person, and so forth. That is already existing law.

Mr. SCOTT. That is true; but I call attention to this fact: In this section 4 the Interstate Commerce Commission have authority to make an order as between persons or localities in States. Now, if I understand that language, it undoes what was done the other night, because the amendment the gentle-

man introduced the other night preserved to the State commission the authority over intrastate business.

Mr. ESCH. The gentleman did not do that; that was offered on the floor by the gentleman from Iowa.

Mr. SCOTT. I beg the gentleman's pardon. I knew a member of the committee had introduced it, and I supposed it was with concurrence of the chairman.

Mr. STEVENSON. Will the gentleman yield.

Mr. SCOTT. I will.

Mr. STEVENSON. Could not the gentleman accomplish what he desires without coming in contact with the position of the chairman of the committee by striking out the word "or," in line 14, and insert in lieu thereof the words "when the same constituted," so that the regulations as between persons or localities in a State which would be dealing with one regulation where they constitute an undue burden upon interstate and foreign commerce?

Mr. SCOTT. It can be done in that way.

The CHAIRMAN. The time of the gentleman has expired. The Chair will state the time upon amendments to this section has been closed by a vote of the committee, and the Chair has assured certain gentlemen who were on their feet at the time of the vote with reference to closing the debate that he would recognize them during that 30 minutes.

Mr. PARRISH. I was on my feet.

Mr. RAYBURN. I was on my feet.

Mr. PARRISH. I will yield to the gentleman from Texas who is a member of the committee.

Mr. RAYBURN. And I said at the time that I wanted five minutes.

The CHAIRMAN. The Chair will recognize the gentleman from Texas [Mr. PARRISH].

Mr. PARRISH. Mr. Chairman, I will send to the Clerk's desk an amendment, which I ask to be read for the information of the committee.

The CHAIRMAN. The Clerk will read the amendment for the information of the committee.

The Clerk read as follows:

Amendment by Mr. PARRISH: Page 63, line 16, after the word "unlawful," strike out the comma and the remainder of line 16 and all of lines 17, 18, 19, and 20 and insert in lieu thereof a colon and the following: "*Provided, however,* That full faith and credit shall be given to all rates, laws, and regulations made by any State or its agencies under its authority; and the findings of the Interstate Commerce Commission shall have the effect only of authorizing the complaining party to institute suits in the proper courts for the annulment of any such State rate, law, or regulation under the general law."

Mr. SWEET rose.

The CHAIRMAN. The gentleman from Iowa is recognized for five minutes.

Mr. SWEET. Mr. Chairman and gentlemen of the committee, this, to my mind, is a very important question, because it involves the jurisdiction of the State regulatory bodies in regard to intrastate rates and the jurisdiction of the Interstate Commerce Commission in regard to interstate rates.

The gentleman from Tennessee [Mr. SIMS] has offered an amendment striking out a portion of subdivision (4) of section 415, in regard to undue burden on interstate and foreign commerce, the language of the bill being:

(4) The commission shall have authority, after full hearing, to make such findings and orders as may in its judgment tend to remove any undue advantage, preference, or prejudice as between persons or localities in State, and interstate or foreign commerce, respectively, or any undue burden upon interstate or foreign commerce.

The amendment of the gentleman from Tennessee, I believe, should be adopted. The language should be stricken from the bill, because it injects a new element into this kind of legislation. The committee, in making a report upon what is known as the Cummins bill, S. 641, expressed itself as adhering to the proposition that the State regulatory bodies should have practically complete jurisdiction over intrastate rates and that the Interstate Commerce Commission should have complete jurisdiction over interstate rates, and that they were following the decision in the Shreveport case. In my judgment, the language in the bill goes beyond the Shreveport case. The question naturally arises, What is an undue burden on interstate commerce? The question of the reasonableness of the rate can not be considered. They are adopting a rule here which is a departure from the present law, and it seems to me that we should stick to the language in the Shreveport case.

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

Mr. SWEET. I can not yield.

The CHAIRMAN. The gentleman declines to yield.

Mr. SWEET. It was my intention to introduce an amendment to subdivision (4) which would read as follows:

(4) The commission shall have authority, after a full hearing, to make such findings and orders as may, in its judgment, tend to remove any undue preference, prejudice, or advantage found to exist.

I believe that the language I have just read expresses the intent of the Shreveport case. But when you add to that the language, "undue burden on interstate commerce," you are going beyond the decision in the Shreveport case, and you are granting power which, if exercised by the Interstate Commerce Commission, would in a measure be destructive of the jurisdiction of State regulatory bodies over intrastate rates.

Some will say that you might grant this power to the Interstate Commerce Commission and they will exercise it in a just manner. Gentlemen, I want to say to you that I am tired of granting any commission undue power with the thought that they will not exercise it, for they will exercise it. [Applause.] The Sims amendment is similar to the amendment that I expected to present. So I say to you, gentlemen, that I am not in favor of striking out all this section, but I am in favor of perfecting subdivision (4). The amendment proposed by the gentleman from Tennessee should be adopted.

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

Mr. JONES of Texas. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The gentleman's time has expired.

Mr. ESCH. How much time have I left?

The CHAIRMAN. Five minutes.

Mr. ESCH. Mr. Chairman, the amendment offered by the gentleman from Texas [Mr. JONES], striking out practically all of the section, strikes out subsection (3), which provides for joint operation of State and Federal commissions. That plan has met with the indorsement of the National Association of Railway and Utility Commissioners, being representative of every State commission in the Union. This association took this position in its meeting in this city in 1917, and ever since that time it has reiterated its position, namely, that in disputes that arise between interstate and intrastate rates the Interstate Commerce Commission shall hold hearings, at which hearings the State commissions could sit and be heard but the final judgment should rest with the Interstate Commerce Commission. This cooperation would be impossible if the amendment of the gentleman from Texas prevailed. I believe that the plan is very valuable and will tend to reduce the number of Shreveport cases in the United States. The friendly feeling between the Interstate Commerce Commission and the State commissions that now exists will be promoted if this section remains in the bill. Strike it out and you promote Shreveport cases.

The other amendments are directed against the expression "undue burden on interstate commerce." Let me read an extract from the decision of the Supreme Court in the Shreveport case:

While these decisions sustaining the Federal power relate to measures adopted in the interest of the safety of persons and property, they illustrate the principle that Congress in the exercise of its paramount power may prevent the common instrumentalities of interstate and intrastate commercial intercourse from being used in their intrastate operations to the injury of interstate commerce. This is not to say that Congress possesses the authority to regulate the internal commerce of a State as such, but that it does possess the power to foster and protect interstate commerce and to take all measures necessary or appropriate to that end, although intrastate transactions of interstate carriers may thereby be controlled.

In order to remove the doubt expressed by the gentleman, I offer an amendment to be read in my time.

The CHAIRMAN. The Clerk will report the amendment for information.

The Clerk read as follows:

Page 63, line 13, strike out the word "State" and insert in lieu thereof the following: "intrastate commerce on the one hand"; and in line 14 strike out the word "respectively" and the comma before it and insert the words "on the other hand," so that it will read:

"(4) The commission shall have authority, after full hearing, to make such findings and orders as may in its judgment tend to remove any undue advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand, and interstate or foreign commerce on the other hand, or any undue"—

And so forth.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee [Mr. SIMS], to strike out certain language in lines 14 and 15, page 63.

Mr. SWEET. Mr. Chairman, before the vote is taken I would like to have the amendment read.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

The amendment was again reported.

The question was taken; and on a division (demanded by Mr. SIMS and Mr. RAYBURN) there were—70 ayes and 98 noes.

Mr. RAYBURN. Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. DENISON and Mr. SIMS.

The committee again divided; and the tellers reported that there were—69 ayes and 99 noes.

So the amendment was rejected.

Mr. BRIGGS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BRIGGS. Is it in order to offer an amendment to strike out paragraph 4, page 63?

The CHAIRMAN. The Chair will state that the gentleman from Michigan has an amendment which will be considered first.

Mr. JONES of Texas. A parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. JONES of Texas. Is it in order to ask unanimous consent to strike out paragraph 4? In order to meet the objection offered by the gentleman from Wisconsin, I ask to modify my amendment so that it will simply strike out paragraph 4.

Mr. ESCH. I shall have to object to that; I have offered a perfecting amendment.

The CHAIRMAN. The gentleman from Michigan had previously offered a perfecting amendment.

Mr. SCOTT. Mr. Chairman, the amendment offered by the gentleman from Wisconsin is to accomplish the same result which was intended by my amendment, and therefore I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. That is not necessary; the amendment was only read for information. The gentleman from Wisconsin offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 63, line 13, strike out the word "State" and insert in lieu thereof the following: "intrastate commerce, on the one hand," and in line 14 strike out the word "respectively" and the comma before it and insert the words "on the other hand."

Mr. PARRISH. Mr. Chairman, I had an amendment sent to the Clerk's desk and read for information just behind that of the gentleman from Michigan.

The CHAIRMAN. The gentleman will be recognized later. The question is on the amendment offered by the gentleman from Wisconsin.

The amendment was agreed to.

Mr. PARRISH. Now, Mr. Chairman, I offer my amendment, and ask unanimous consent that it be read again.

The CHAIRMAN. The gentleman from Texas offers the amendment, which the Clerk will report.

The Clerk read as follows:

Page 63, line 16, after the word "unlawful," strike out the comma and the remainder of line 16, all of lines 17, 18, 19, and 20, and insert in lieu thereof a colon and the following:

"*Provided, however*, That full faith and credit shall be given all rates, laws, and regulations made by any State or its agencies under its authority, and the findings of the Interstate Commerce Commission shall have the effect only of authorizing the complaining party to institute suit in the proper court for the annulment of any State law or regulation under general law."

The CHAIRMAN. The question is on the amendment of the gentleman from Texas.

The question was taken, and the amendment was rejected.

Mr. JONES of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman has one amendment pending.

Mr. JONES of Texas. I offer it as a substitute for that one.

Mr. BRIGGS. I offer an amendment to strike out paragraph 4, page 63, leaving the law as it exists at the present time.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. BRIGGS: Page 63, line 10, strike out all of paragraph 4.

The CHAIRMAN. The question is on the amendment.

Mr. DENISON. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DENISON. Was the amendment of the gentleman from Texas offered before, or is it being offered now?

The CHAIRMAN. It is being offered now. The question is on the amendment of the gentleman from Texas.

The question was taken; and on a division (demanded by Mr. BRIGGS) there were—ayes 37, noes 92.

Accordingly the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. JONES] to strike out all of the paragraph, after the word "paragraph," in line 10, page 62.

Mr. HASTINGS. Mr. Chairman, I have a perfecting amendment to this section which I desire to offer.

The CHAIRMAN. The gentleman from Oklahoma offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. HASTINGS: Page 62, line 20, after the word "commission," strike out "may" and insert "shall."

Mr. HASTINGS. That makes it mandatory. Instead of "may" do it, they "shall" do it.

The CHAIRMAN. Debate is exhausted. The question is on the amendment offered by the gentleman from Oklahoma.

The question was taken; and on a division (demanded by Mr. RAYBURN) there were—ayes 29, noes 78.

Accordingly the amendment was rejected.

Mr. HASTINGS. Mr. Chairman, I offer another amendment.

The CHAIRMAN. The gentleman from Oklahoma offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. HASTINGS: Page 63, line 6, after the word "commission," strike out "is also authorized to" and insert "shall."

The CHAIRMAN. The question is on the amendment of the gentleman from Oklahoma.

The question being taken, the amendment was rejected.

Mr. HASTINGS. I offer another amendment.

The CHAIRMAN. The gentleman from Oklahoma offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. HASTINGS: Page 63, line 18, after the word "thereby," strike out the comma, insert a period, and strike out the rest of the section.

The CHAIRMAN. The question is on the amendment of the gentleman from Oklahoma [Mr. HASTINGS].

The amendment was rejected.

The CHAIRMAN. The question is on the amendment of the gentleman from Texas [Mr. JONES] to strike out all of the section after the word "paragraph" in line 10, page 62.

The amendment was rejected.

Mr. JONES of Texas. Mr. Chairman, I have another amendment.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. JONES of Texas: Page 63, line 20, after the word "notwithstanding," strike out the period, insert a comma, and the following: "*Provided*, This section shall not be construed to empower the commission to change any such intrastate rate by substituting any greater compensation in the aggregate for the transportation of passengers, or of property of like kind or kinds, for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as a through route than the intermediate rates subject to the provision of this act."

Mr. ESCH. Mr. Chairman, I make a point of order on that amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ESCH. It is not germane to the paragraph.

Mr. BARKLEY. I make the further point of order that that was voted on on Saturday.

Mr. JONES of Texas. It never has been voted on.

Mr. Chairman, I should like to be heard on the point of order, if there is any doubt about it.

The CHAIRMAN. The Chair will hear the gentleman on the point of order.

Mr. JONES of Texas. As I understand it, there are two points of order made. The second is that made by the gentleman from Kentucky [Mr. BARKLEY] that this amendment has been voted on. I wish to state to the gentleman that that is not correct. The one that was voted on Saturday, which was largely in the same language, had reference exclusively to interstate rates. This has reference exclusively to intrastate rates, and provides that if a State commission has fixed a rate and the Interstate Commerce Commission under the powers provided in this act shall decide to substitute that rate, they shall not substitute an intrastate rate which authorizes the charge of a greater rate of compensation for a shorter haul than they authorize for a longer haul. In other words, it is the long-and-short-haul clause applied exclusively to intrastate rates.

Now, the other point of order, made by the gentleman from Wisconsin, is that this amendment is not germane to the paragraph. The paragraph authorizes the Interstate Commerce Commission to change any intrastate rate that has a tendency to create an undue advantage, preference, or prejudice as between persons or localities. Now, by the amendment which I have offered I simply say that such a change shall not have the effect of authorizing the charging of a greater rate for a shorter than for a longer distance. It simply qualifies the power that is granted, and applies to the same power that is granted in paragraph 4 of the section. I do not see how it can be otherwise than germane, inasmuch as it applies to the same power, and simply qualifies and restricts the power with reference to the same rates that are granted in section 415.

Mr. DENISON. Mr. Chairman, I should like to call the attention of the Chair and of the gentleman from Texas to the fact that the Interstate Commerce Commission would not have

the power to fix the intrastate rates, and does not have that power even under the Shreveport case as I understand it. The Interstate Commerce Commission simply has the power to hold that an intrastate rate is an improper rate, leaving it to the State commission to fix the proper rate. Now, the amendment offered by the gentleman from Texas [Mr. JONES] is not germane to anything in this part of the bill and is not germane to the bill since the amendment was adopted day before yesterday by the committee.

Mr. JONES of Texas. Mr. Chairman, I want to say, in answer to that, that while the Interstate Commerce Commission is not given specific authority to fix an intrastate rate, it is given specific authority to authorize a change in the rate, and they did in effect fix a rate in the Shreveport case. They entered an order that the Texas railroads should file a new schedule of rates so that outbound rates should be no less than inbound rates, the effect of which was to fix outbound rates the same as inbound rates, and they do have authority under the provisions of this act to make findings as to rates. They can not only set aside the rate that is provided by the State commission, but they can go further and authorize a rate which will not be, according to their judgment, an undue preference. In effect they can fix the rates.

Mr. ESCH. Mr. Chairman, the amendment that was voted down on Saturday was an amendment which gave the Interstate Commerce Commission power over all rates over which it had jurisdiction. That would include intrastate rates as involved in this section, and the greater contains the less.

Mr. JONES of Texas. But we had not reached this section then, and this section enlarges the commission's jurisdiction.

The CHAIRMAN. The section under consideration is section 415 of the bill, which is to amend section 13 of the commerce act. Section 13 of the commerce act deals with complaints and investigation of complaints, and the issuance of orders by the Interstate Commerce Commission as a result of its investigation. This is offered as an amendment to paragraph (4) of the section, which paragraph gives the commission authority to make such findings and orders as may tend to remove undue advantage, preference, or prejudice between persons or localities in intrastate commerce on the one hand and interstate and foreign commerce on the other hand, or any undue burden upon interstate and foreign commerce, which is forbidden and declared to be unlawful, and it further provides that such findings and orders shall be observed while in effect by the carriers parties to such proceedings affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding.

The amendment proposed by the gentleman from Texas is a proviso to the effect that the authority given in paragraph (4) particularly and the section of the bill shall not be construed to empower the commission to change any such intrastate rates by substituting a greater compensation in the aggregate for the transportation of passengers, and so forth, for the shorter than for a longer distance over the same line in the same direction.

The Chair is of opinion that this is a restriction placed upon the Interstate Commerce Commission in making its findings, namely, that after it has investigated and had these joint hearings with the State commissions or boards, and comes to make its findings, in making its finding it shall not change any intrastate rates by substituting as proposed, and the Chair overrules the point of order. The question is on the amendment offered by the gentleman from Texas.

The amendment was rejected.

Mr. EVANS of Nevada. Mr. Chairman, this will be the greatest Thanksgiving of my life—thankful for the kindly help and courtesy of Congress. Will those Members not present during Saturday's debate do me the further honor to read my remarks upon page 8581 of the RECORD?

This Congress desires to return the rails to owners, large and small, who have large and small blocks of stock in safety boxes in every county of our land. The men from whom the Government took control of the rails did not own and do not intend to own the stock. They obey the law in annual meeting, voting themselves into power with proxies; thus a very small minority controls against a large unorganized majority. Absolute control and preknowledge on important action gives them certain stock-market advantage. Gentlemen of the committee, you have worked hard, with rugged honesty of purpose, and builded an imposing structure upon a decayed foundation. Of the three great interests—labor, the owners, and the public—you consider only the operators, who under false pretense call themselves owners; yet labor is recognized with innuendo—the tender-hearted and hard-handed toilers upon whom this Government in a crisis has never yet appealed in vain.

Gentlemen, when these roads are restored the bona fide owners must come before Congress and be identified. When you place the rails into competent management with the real owners, the price of those securities will naturally advance upon merit, because they are grand properties, serving a great Nation. New brains will turn liability into an asset, being the only guaranty required. There is nothing complex about railroads. One hundred per cent Americanism of the American Expeditionary Forces to replace the previous sinister mismanagement will give record service at reasonable cost.

The actual owners of rail securities look to this Congress for protection of their splendid properties by removing those pretenders from operation and placing the rails in charge of men proven capable of meeting all emergencies.

The Clerk read as follows:

SEC. 417. The first four paragraphs of section 15 of the commerce act are hereby amended to read as follows:

"SEC. 15. (1) That whenever after full hearing, upon a complaint made as provided in section 13 of this act, or after full hearing under an order for investigation and hearing made by the commission on its own initiative, either in extension of any pending complaint or without any complaint whatever, the commission shall be of opinion that any individual or joint rate, fare, or charge whatsoever demanded, charged, or collected by any common carrier or carriers subject to this act for the transportation of persons or property or for the transmission of messages as defined in the first section of this act, or that any individual or joint classification, regulation, or practice whatsoever of such carrier or carriers subject to the provisions of this act, is or will be unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this act, the commission is hereby authorized and empowered to determine and prescribe what will be the just and reasonable individual or joint rate, fare, or charge, or rates, fares, or charges, to be thereafter observed in such case, or the maximum or minimum, or maximum and minimum, to be charged, and what individual or joint classification, regulation, or practice is or will be just, fair, and reasonable, to be thereafter followed, and to make an order that the carrier or carriers shall cease and desist from such violation to the extent to which the commission finds that the same does or will exist, and shall not thereafter publish, demand, or collect any rate, fare, or charge for such transportation or transmission other than the rate, fare, or charge so prescribed, or in excess of the maximum or less than the minimum so prescribed, as the case may be, and shall adopt the classification and shall conform to and observe the regulation or practice so prescribed. The commission shall be charged with the duty and responsibility of observing and keeping informed as to the transportation needs and the transportation facilities and service of the country, and as to the operating revenues necessary to the adequacy and efficiency of such transportation facilities and service. In reaching its conclusions as to the justness and reasonableness of any rate, fare, charge, classification, regulation, or practice the commission shall take into consideration the interest of the public, the shippers, the reasonable cost of maintenance and operation (including the wages of labor, depreciation, and taxes), and a fair return upon the value of the property used or held for the service of transportation.

"(2) Except as otherwise provided in this act, all orders of the commission, other than orders for the payment of money, shall take effect within such reasonable time, not less than 30 days, and shall continue in force until its further order, or for a specified period of time, according as shall be prescribed in the order, unless the same shall be suspended or modified or set aside by the commission or be suspended or set aside by a court of competent jurisdiction.

"(3) Whenever, after full hearing upon complaint or upon its own initiative, the commission is of opinion that the divisions of joint rates, fares, or charges, applicable to the transportation of passengers or property, are or will be unjust, unreasonable, or unduly preferential or prejudicial as between the carriers parties thereto (whether agreed upon by such carriers, or any of them, or otherwise established), the commission shall by order prescribe the just and reasonable divisions thereof to be received by the several carriers, and in cases where the joint rate, fare, or charge was established pursuant to a finding or order of the commission and the divisions thereof are found by it to have been unjust, unreasonable, or unduly preferential or prejudicial, the commission may also by order determine what (for the period subsequent to the filing of the complaint or petition or the making of the order of investigation) would have been the just and reasonable divisions thereof to be received by the several carriers, and require adjustment to be made in accordance therewith. The commission may also, after full hearing upon complaint or upon its own initiative, establish through routes, joint classification, and joint rates, fares, or charges, applicable to the transportation of passengers or property, or the maxima or minima, or maxima and minima, to be charged, and the divisions of such rates, fares, or charges as hereinbefore provided, and the terms and conditions under which such through routes shall be operated; and this provision shall apply when one of the carriers is a water line. The commission shall not, however, establish any through route, classification, or rate between street electric passenger railways not engaged in the general business of transporting freight in addition to their passenger and express business and railroads of a different character; nor shall the commission have the right to establish any route, classification, rate, fare, or charge when the transportation is wholly by water, and any transportation by water affected by this act shall be subject to the laws and regulations applicable to transportation by water. And in establishing such through route the commission shall not, except as provided in section 3, require any carrier by railroad, without its consent, to embrace in such route substantially less than the entire length of its railroad and of any intermediate railroad operated in conjunction and under a common management or control therewith, which lies between the termini of such proposed through route, unless such inclusion of lines would make the through route unreasonably long as compared with another practicable through route which could otherwise be established: *Provided*, That in time of shortage of equipment, congestion of traffic, or other emergency declared by the commission it may (either upon complaint or upon its own initiative without complaint, at once, if it so orders, without answer or other formal pleadings by the interested carrier or carriers, and with or without notice, hearing, or the

making or filing of a report, according as the commission may determine) establish temporarily such through routes as, in its opinion, are necessary or desirable in the public interest.

"(4) Whenever there shall be filed with the commission any schedule stating a new individual or joint rate, fare, or charge, or any new individual or joint classification, or any new individual or joint regulation or practice affecting any rate, fare, or charge, the commission shall have, and it is hereby given, authority, either upon complaint or upon its own initiative without complaint, at once, and if it so orders without answer or other formal pleading by the interested carrier or carriers, but upon reasonable notice to enter upon a hearing concerning the lawfulness of such rate, fare, charge, classification, regulation, or practice; and pending such hearing and the decision thereon the commission, upon filing with such schedule and delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, fare, charge, classification, regulation, or practice, but not for a longer period than 120 days beyond the time when it would otherwise go into effect; and after full hearing, whether completed before or after the rate, fare, charge, classification, regulation, or practice goes into effect, the commission may make such order with reference thereto as would be proper in a proceeding initiated after it had become effective. If any such hearing can not be concluded within the period of suspension, as above stated, the proposed change of rate, fare, charge, classification, regulation, or practice shall go into effect at the end of such period, but, in case of a proposed increased rate or charge for or in respect to the transportation of property, the commission may by order require the interested carrier or carriers to keep accurate account in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts are paid, and upon completion of the hearing and decision may by further order require the interested carrier or carriers to refund, with interest, to the persons in whose behalf such amounts were paid such portion of such increased rates or charges as by its decision shall be found not justified. At any hearing involving a rate, fare, or charge increased after January 1, 1910, or of a rate, fare, or charge sought to be increased after the passage of this act, the burden of proof to show that the increased rate, fare, or charge, or proposed increased rate, fare, or charge, is just and reasonable shall be upon the common carrier, and the commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible."

Mr. ESCH. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by the committee: Page 67, line 21, after the word "length," insert a comma.

The amendment was agreed to.

Mr. BARKLEY. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Page 65, line 9, after the word "prescribed," strike out the remainder of paragraph (1).

Mr. BARKLEY. Mr. Chairman, before I proceed with my argument, I desire to propound a parliamentary inquiry. In the event that this amendment is rejected, which strikes out what we know as the rule of rate making, fixed by the full committee in this bill, and the language remains in the bill, will it then be in order to amend the language as left in the bill?

The CHAIRMAN. It would be in order.

Mr. BARKLEY. Mr. Chairman, I hope that this language will be stricken out of the bill, and if it should not be it is my purpose to offer an amendment which will certainly give the commission greater discretion than it has under this language in the matter of fixing rates. Heretofore, for 30 years, ever since the establishment of the Interstate Commerce Commission, the rule of rate making has been that all rates, fares, charges, classifications, and regulations shall be just and reasonable. On page 42 of the bill you will find that that same language is used. I read from page 42, paragraph (5):

(5) All charges made for any service rendered or to be rendered in the transportation of passengers or property or in the transmission of intelligence by wire or wireless, as aforesaid, or in connection therewith, shall be just and reasonable, and every unjust and unreasonable charge for such service or any part thereof is prohibited and declared to be unlawful.

Under that language of the present law, in the act to regulate commerce, the Interstate Commerce Commission has built up a line of decisions, based upon the language which has been in the statute for the past 30 years, and also based on that language the Supreme Court has in a long line of decisions interpreted what was to be considered and might be considered in determining what is a just and reasonable rate. Heretofore Congress has never attempted to prescribe the power of the Interstate Commerce Commission in considering what would be a fair, just, and reasonable rate.

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

Mr. BARKLEY. Yes.

Mr. PARKER. Has the Supreme Court ever determined what a just and reasonable rate is? Have they not always determined what is a confiscatory rate?

Mr. BARKLEY. The Supreme Court has not determined what is a just and reasonable rate, because they have left that discretion to the Interstate Commerce Commission, where Congress put it, and only in cases where the rate was confiscatory has the Supreme Court nullified the rate; but they have not attempted in these decisions to say what would be a reasonable and just rate.

Mr. PARKER. They never assumed that power.

Mr. BARKLEY. They have not the power to render any such decision.

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

Mr. BARKLEY. Yes.

Mr. TOWNER. I am in entire sympathy with the gentleman's amendment, but I suggest that he has commenced a sentence too soon. To commence with the sentence on line 9 does not effect the proposition the gentleman is asking. He only suggests what the commisssion might do, but I prepared an amendment to strike out the succeeding sentence, which goes directly to the things that the commission may consider.

Mr. BARKLEY. I understand that, but this whole language was put in as an amendment by the full committee. It was not in the bill as originally drawn.

Mr. TOWNER. I would suggest to the gentleman that in order to reach the very proposition that he has in mind he modify his amendment so as to strike out the succeeding sentence, commencing at "in," in line 14. That would be exactly what he wishes.

Mr. BARKLEY. I understand that, but does the gentleman from Iowa think that the Interstate Commerce Commission ought to be affirmatively charged by Congress with the duty of surveying the whole transportation situation and with a view to ascertaining how much revenues the roads might need? That language was taken from a bill in another body which creates a transportation board and charges that board with the duty which the language referred to here seeks to impose on the commission.

Mr. TOWNER. I will say to the gentleman I do not care, it is absolutely immaterial to me; but when it comes to the question of determining the proposition, then what may be considered by them in determining is vital; that is the only thing.

Mr. BARKLEY. I will say to the gentleman the reason I offered the motion to strike out this entire language, which includes the language which fixes the rule of rate making, is that the Interstate Commerce Commission is now burdened with sufficient duties, in my opinion, and we ought not to place upon their shoulders the responsibility of saying what this language does. It says the commission shall be charged with the duty and responsibility of observing and keeping informed as to the transportation needs and the transportation facilities and service of the country and as to the operating revenues necessary to the adequacy and efficiency of such transportation facilities and service. Now, if the House wants to put the burden on them of the investigation of keeping thus informed as to the needs of the railroads in reference to revenues, I have no particular objection to it, but I can not understand why the Interstate Commerce Commission ought to be burdened with the duty of making a survey of the revenues necessary for their operation unless it is to be used in connection with the following sentence, which says that in fixing the rates and in passing upon the justness and reasonableness of the rates they must take into consideration a fair return upon the value of their property.

Mr. SANDERS of Indiana. Will the gentleman yield?

Mr. BARKLEY. I yield, but I have very little time.

Mr. SANDERS of Indiana. I will ask that the gentleman have more time.

Mr. BARKLEY. I will yield to the gentleman.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BARKLEY. I ask unanimous consent that I be permitted to speak for 10 minutes additional.

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

Mr. BARKLEY. I yield to the gentleman from Indiana.

Mr. SANDERS of Indiana. Now, this part of the paragraph which is sought to be striken out by the gentleman's motion deals with the question of rate making?

Mr. BARKLEY. Yes.

Mr. SANDERS of Indiana. I would like to have the gentleman's opinion upon this question: Is there anything included in the rule of rate making which the gentleman thinks ought not to be taken into consideration by the commission?

Mr. BARKLEY. I will answer that by saying there is nothing in the language here that is not now taken into consideration by the commission in making rates, and therefore it follows, of course, there is nothing that ought not to be considered, but here is the serious objection: They do that already, but in addition to that they take into consideration perhaps dozens, scores, and hundreds of other things that enter into the question of reasonableness and justness of rates.

Mr. MONTAGUE. Will my colleague permit a question at that point?

Mr. BARKLEY. I will.

Mr. MONTAGUE. Is there anything in this statute or bill that precludes the commission from taking into consideration the dozens, scores, and hundreds of other things which the gentleman from Kentucky mentions?

Mr. BARKLEY. That is one of the objections that I have to the use of this language. Heretofore the Interstate Commerce Commission had the right to consider not only the question of cost and labor and material, which they do consider—there has never been but one case that has ever gone to the Supreme Court, or even to the commission itself, where they did not consider the matter of the cost of the material and cost of labor, and that was the famous import case, where it was not involved.

Mr. SANDERS of Indiana. Will the gentleman yield?

Mr. BARKLEY. For a short question. I will yield to the gentleman.

Mr. SANDERS of Indiana. That is all right; I do not care to interfere with the gentleman's argument.

Mr. BARKLEY. By mentioning only a few things the Interstate Commerce Commission has heretofore considered, and which under the law and under the Supreme Court decisions they have the right to consider, we incur the danger by implication of excluding all these other things they have considered, and one of those things which they ought to consider is the question of whether the road is economically and efficiently managed. We may exclude that consideration by merely mentioning the fact they are entitled to a fair return upon the value of the property and in mentioning specifically in the statute certain things the Interstate Commerce Commission must consider we may run the risk, or incur danger, as I believe we do, by implication at least, of excluding all the other dozens, scores, and hundreds of things that enter into the question of whether the rate is reasonable and just. Now, it is held and has been decided in the famous case of Smythe against Ames, by the United States Supreme Court, that while it is true that the Interstate Commerce Commission may consider whether a rate fixed by the commission upon roads will bring a fair return upon the value of the property, the right of the road to a fair return is subject to the right of the public to have reasonable and just rates.

Mr. MADDEN. Will the gentleman yield?

Mr. BARKLEY. I will yield to the gentleman for a question.

Mr. MADDEN. I was going to ask the gentleman if he does not think that, on line 17, page 65, the words "among other things the commission shall take into consideration," will obviate the necessity of offering the amendment?

Mr. BARKLEY. No, I do not. In the first place, I am fundamentally against fixing an iron-clad statutory rule of rate making.

Mr. MADDEN. And so am I——

Mr. BARKLEY. If this amendment of mine to strike out the language is defeated, then I propose to offer an amendment which will give the Interstate Commerce Commission the power to take into consideration something else besides what they are given the power to consider here.

Mr. MADDEN. The suggestion that I made will do that.

Mr. BARKLEY. That will help some, but it does not go far enough. This language in this section, in my opinion, goes further to give justification to the charge that has been made that it legalizes and recognizes a lot of watered stock that is now in the railroads of the country than any other provision in the bill.

In the first place, what would be the standard of valuation which the commission might consider in fixing a fair return or allowing a fair return to be fixed on the value of the property? We have authorized the Interstate Commerce Commission to enter upon a valuation of the property. According to the testimony of the commission, it will be about three years before that valuation has been completed. In the meantime, what is to be the standard of the valuation fixed by the commission or anybody else to fix rates that will bring a fair return? The only valuation that the commission could consider, I fear, would be the valuation that is presented to them by the railroads in their reports, or the book value, fixed by the railroads themselves.

Mr. REED of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. BARKLEY. Yes.

Mr. REED of West Virginia. Will the gentleman give us his opinion as to what effect this will have upon the moneyed men in the country, the men who build railroads? We have many parts of the country that need new railroads, and they will not be built unless the capital is sufficiently protected to give the men with capital the assurance that their investments will be safe.

Mr. BARKLEY. Oh, we have many men in this country who want to invest their money in other enterprises as well as railroads, and I do not feel that the Government of the United States should say between classes of investors that one class is to be guaranteed a fair return upon the investment it makes upon some railroad, while other men who take their money in their hands in the same way take their chances and invest in other enterprises that may be just as useful and necessary as investments in railroads.

Under this rule the rate making, as fixed by this bill, if it becomes a law, every railroad in the United States which in the past has failed to yield dividends to its stockholders will be authorized to come in and demand a rate that will enable those stockholders to receive a dividend. We know that there are many railroads in the United States that have not made anything on their investment.

Mr. MERRITT. Mr. Chairman, will the gentleman yield there?

Mr. BARKLEY. No; I can not yield. The gentleman from Connecticut says that is ridiculous. The owners of these railroads are not the presidents and vice presidents and other officials who draw large salaries, but the owners are the stockholders, the men who have invested their money in the purchase of stock, and a fair return from these railroads means dividends on the value of their holdings.

Mr. MERRITT. Does the gentleman see anything in the bill that says that there shall be a fair return on the stock of any of the railroads?

Mr. BARKLEY. It says the value of property, and the value of the property is supposed to be represented by the stock. If there is any value in the property, there is value in the stock.

Mr. MERRITT. But there is no value in the stock.

Mr. BARKLEY. Oh, the reason why there is no value in the stock may be that many of the railroads have been badly managed and badly handled, and extravagantly handled, and they have not earned anything on the value of the property. But this would enable every railroad that in the past has not earned anything to say to the commission that the commission shall consider the question of a fair return, and fix what they consider a fair return on the value of the property; and if the commission shall have the jurisdiction and discretion as to what weight they will give to that return, the railroads would reply by pointing to this language, never before put into an interstate commerce act, and say the intention was to force the commission to fix such rates as would produce what they would call a fair return in the case of railroads which in the past have never brought a fair return or any other return sufficient to pay the operating expenses of the roads, many of which were not entitled to a return, because not efficiently or economically operated.

Gentleman, we do not want, as has been charged in the debates on this bill, to give to the owners of roads that have been inefficiently and uneconomically administered in the past the right to come before the commission and say, "By reason of this language you are compelled to fix a rate that will bring in a fair return."

Mr. MERRITT. I will say to the gentleman, inasmuch as he had a colloquy with me, that I agree with him fully on that. They can not do it under this bill.

Mr. PARKER. Mr. Chairman, in my time I want to ask the gentleman from Kentucky [Mr. BARKLEY] a question. The gentleman from Kentucky was talking about the value of the roads. I think he admitted earlier in his statement that now a return on the money invested was considered by the Interstate Commerce Commission. Does not the gentleman concede that to be a fact?

Mr. BARKLEY. I concede that the Supreme Court has decided that the commission has the right to consider the question of a fair return, but in addition to that——

Mr. PARKER. As a matter of practical operation, does not the gentleman concede that the commission now takes into consideration the fair return on the valuation, as a matter of practical experience?

Mr. BARKLEY. They do, but in addition to that——

Mr. PARKER. I do not say that is the only thing, but——

Mr. BARKLEY. The Supreme Court has also held that they have a right to consider the question of their location, the question as to the advisability of construction, the volume of trade, and a hundred other things that enter into the question of whether a rate is reasonable and just.

Mr. PARKER. But this item as to the question of the valuation is taken into consideration. They can take the valuation into consideration under these rules of rate making that are in this bill.

Mr. BARKLEY. Where is the necessity or the advisability of inserting it here, when a fair return is already considered, and leaving out everything else?

Mr. PARKER. You have taken into consideration the interest of the public, and the interest of the shippers, and the wages of the employees, and the cost of maintenance, and all those things. I do not think you can fairly say that the only thing considered is the question of a fair return. But at all events the gentleman himself admitted in his statement that all these things were taken into consideration. Then, why not stand up here and say so, and make it obligatory and compulsory, if you please, that it shall be considered?

Mr. BARKLEY. Does the gentleman want me to answer?

Mr. PARKER. Yes.

Mr. BARKLEY. The reason why I object to it is because you single out four items out of perhaps a hundred items and say that the commission shall consider those four things without mentioning the others.

Mr. PARKER. Mr. Chairman, as far as I am concerned, being one of the members of the committee who voted against the subcommittee, I am perfectly willing to put in the clause suggested by the gentleman from Illinois [Mr. MADDEN], among other things. I suggested that in the committee, if you will remember. I am perfectly willing to put that in; but I honestly believe these things should be considered, and the commission themselves, as Commissioner Clark testified, wanted a rule of rate making.

Mr. BARKLEY. Will the gentleman yield there?

Mr. PARKER. Yes.

Mr. BARKLEY. No matter how much you amend it, under this principle the very smallest class rate coming before the commission would have to be investigated as to its bearing upon the question of a fair return upon the value of the property. It might be an insignificant thing, and yet under this language the commission is compelled to consider its relation to a fair return upon the value of the property, and it would make no difference whether it was a commodity rate, or a class rate, or a differential rate, one among the thousands that come before the commission, no matter how small it might be, the commission would have to take into consideration the question of a fair return, and it might be impossible to figure out the economic bearing of any particular rate upon the question of a fair return.

Mr. PARKER. At the same time you would have to take into consideration every other item that is mentioned, and they certainly do all enter in. For instance, you read in the morning paper that wages had been increased by over $3,000,000 a month.

Mr. BARKLEY. Yes.

Mr. PARKER. That certainly is going to be taken into consideration.

Mr. BARKLEY. The commission have taken it into consideration already.

Mr. PARKER. All right, then; why should we not come out and say, man fashion, that the interests of the people who own the railroads should be given their fair consideration? They are not owned by the president of the road or by Wall Street, but they are owned by the people. I do not say it is paramount, but we certainly are not free to stand up here and say that the man who owns a railroad bond or shares of stock is not entitled to his day in court as much as the shipper. He is entitled to no more, but he is entitled to a fair, square deal, and that is why the majority of the committee asked to have this provision put into this bill over the heads, it is true, of the subcommittee. We simply asked that you recognize the fact that the men who own the stock and own the bonds have a right to be considered.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PARKER. I ask unanimous consent that I may have five minutes more.

The CHAIRMAN. The gentleman from New York asks unanimous consent that his time be extended five minutes. Is there objection?

Mr. SNYDER. Reserving the right to object, the gentleman from New York has had his five minutes, and he allowed the gentleman from Kentucky [Mr. BARKLEY] to use the whole five minutes for him. I am willing to submit to requests for time, but I think we have had oratory enough on this bill, and if we want to finish it to-night the debate ought to be confined to the amount of time to which a man is entitled, and I therefore serve notice now that I will object to the next request of this kind.

Mr. RAYBURN. Reserving the right to object, I hope the gentleman from New York [Mr. SNYDER] will not pursue that course with reference to this amendment, because this is the one very much controverted amendment that remains in the bill, and the committee themselves are practically evenly divided upon it. I hope liberal time will be allowed.

Mr. SNYDER. I recognize that it is of extreme importance, but I do not think it is necessary to consume so much time for each individual. If a man has got something to say, and will direct his attention entirely to the section, I am willing to listen; but I think we ought to confine ourselves strictly to the business in hand.

The CHAIRMAN. The gentleman from New York asks unanimous consent that his time be extended five minutes. Is there objection?

There was no objection.

Mr. PARKER. My object in discussing this measure with the gentleman from Kentucky was simply and solely so that the membership of the House could get his viewpoint and the viewpoint of the majority of the committee.

Mr. BARKLEY. Will the gentleman yield for a question, with the permission of the gentleman from New York?

Mr. PARKER. Certainly.

Mr. BARKLEY. I would like to ask the gentleman if the elimination of this language takes away from the railroads any right that they now have before the Interstate Commerce Commission?

Mr. PARKER. I want to be perfectly frank with the gentleman. I do not think it does.

Mr. BARKLEY. Why is it necessary to specify a few things that the commission can consider in behalf of the railroads and eliminate all the other things which the public are entitled to have considered?

Mr. PARKER. I do not think that question is quite fair. I do not mean to accuse the gentleman of being unfair.

Mr. BARKLEY. I understand.

Mr. PARKER. But when you say "the railroads" it carries the idea of the management.

Mr. BARKLEY. No; I mean the owners of the railroads.

Mr. PARKER. I am trying to see, if I can, that there is written into this bill some provision that will at least give the owners of these roads an opportunity to have their day in court. I fully agree with the gentleman from Kentucky that all of this is now being considered by the Interstate Commerce Commission. I do not think that as a matter of practical rate making this is going to make any difference, and I do not believe it will have any different effect in the establishment of rates hereafter as fixed by the commission, because the commission has realized and recognized that the owners of the roads are entitled to consideration. Let me read to you what Commissioner Clark said about this very thing in the hearing before the Committee on Interstate and Foreign Commerce. The gentleman from Indiana [Mr. SANDERS] asked this very question:

Do you think there should be a standard fixed by Congress as a matter of public policy?

Commissioner Clark answered:

I think in the light of recent events and present conditions it would be a desirable thing.

I am reading from the record of Commissioner Clark's testimony.

You all know, gentlemen, that the history of the Interstate Commerce Commission has not been one that has been noted for its liberality to the railroads, to the investment public, but here is what Commissioner Clark says about that:

It is in the public interest that the carriers should be permitted to earn a reasonable return on the value of the property they devote to the public use.

That is the statement in the testimony of Commissioner Clark. We had a controversy the other day over a resolution from the Senate, and I want to quote a little of what ex-Speaker CLARK so wisely said in his speech before the House. He said:

There are three parties to the controversy—the capitalists, the labor unions, and the consumer. I will tell you something that most people do not seem to think about.

And so forth.

He concludes by saying:

Capital is entitled to a fair return on its investment, and the consumer is entitled to be justly treated and not to be gouged or imposed upon by either side.

That is a quotation from a speech made by the gentleman from Missouri the other day. What I would like to see written in this bill is a provision whereby the men who own the roads will be fairly treated at least—no more, no less.

Mr. ESCH. Mr. Chairman, I ask unanimous consent that all debate on the rate-making paragraph be limited to 1 hour and 20 minutes. That is paragraph 1, and one half of the time be controlled by the gentleman from Kentucky [Mr. BARKLEY] and the other half by the gentleman from New York [Mr. PARKER].

The CHAIRMAN. The gentleman from Wisconsin asks unanimous consent that all debate close in 1 hour and 20 minutes, one half of the time to be controlled by the gentleman from Kentucky [Mr. BARKLEY] and the other half by the gentleman from New York [Mr. PARKER]. Is there objection?

Mr. SIMS. Mr. Chairman, I want an understanding of what the gentleman from Wisconsin asked for.

Mr. ESCH. It is on the rate-making paragraph.

Mr. SIMS. It is the paragraph which includes the Webster amendment. A motion has been made to strike out the Webster amendment.

Mr. ESCH. Paragraph 1, section 15, on pages 64 and 65.

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

Mr. SIMS. The motion is only to strike out the Webster amendment.

The CHAIRMAN. Is there objection?

Mr. SMALL. Reserving the right to object, the limitation only applies to paragraph 1.

Mr. ESCH. Yes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BARKLEY. Mr. Chairman, I yield five minutes to the gentleman from Louisiana [Mr. SANDERS].

Mr. SANDERS of Louisiana. Mr. Chairman, the question I propose to address myself to is the amendment offered by the gentleman from Kentucky [Mr. BARKLEY], which strikes out the so-called Webster amendment. This amendment can be found on page 65, beginning on line 9 and running down to and including line 21. This portion of the bill undertakes to establish a rule for rate making. It not only undertakes to establish that kind of a rule but it establishes it, Mr. Chairman and gentlemen of the committee, in a manner and mode that is going to unduly tax the people of this country to sustain roads that are not efficiently, economically, or even honestly managed.

There is or ought to be but one rule of rate making, and that is the rule that the Interstate Commerce Commission has laid down, and a rule with a long line of decisions the court has maintained. The present law is sufficient for all purposes. If you change the present law by adopting this last sentence in the paragraph 1, found on page 65, you have written in the bill that in arriving at the rate to be charged for freight the value of the road must be taken into consideration and a fair return allowed thereon.

Gentlemen, we get at once into a maze of uncertainty, we proceed to sail an uncharted sea. We proceed by this amendment to set up new rules and regulations for the Interstate Commerce Commission to follow, and we are not doing it for the advantage of the shipper; it is not being placed here for the advantage of the consumer; it is simply and solely to take care of roads which can not and do not take care of themselves. There is no excuse that I can see for this provision.

Mr. PARKER. Mr. Chairman, I wish the gentleman would point out where it comes in.

Mr. SANDERS of Louisiana. I will point the gentleman to the so-called Webster amendment, beginning in line 9 and running down to and including line 21.

Mr. PARKER. Yes.

Mr. SANDERS of Louisiana. There is not a thought or an idea in the amendment which does not lead up to and mean just exactly what I have said. Of course, it is placed in there for that purpose. It could have been placed in the bill for no other purpose.

Mr. PARKER. What is that purpose?

Mr. SANDERS of Louisiana. The purpose is to make a fair return upon the value of the property, irrespective of how the value is arrived at. It does not state who shall be the judge of the value. A fair return must be made upon it, whether that value had been established by honest management or dishonest management, whether it has been arrived at by economical management or a wasteful management, whether the value has been arrived at by efficiency and competency or the reverse.

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

Mr. PARKER. Mr. Chairman, I yield 15 minutes to the gentleman from Virginia [Mr. MONTAGUE].

Mr. MONTAGUE. Mr. Chairman, I view the amendment as much ado about nothing. It is conceded that there is nothing here prescribed for consideration in making the rule but what is now the law and is followed by the Interstate Commerce Commission. I have no objection to the words "among other things," because obviously that is what the language now means. The language in the bill is not conclusive or exclusive of the consideration by the commission of any other fact, matter, or principle in fixing a rate. In other words, the language is directory, not mandatory. It does not exclude other things; it simply says that the commission shall consider these things, but there is nothing in the language requiring the commission to apportion in its findings the elements enumerated.

The gentleman from Louisiana [Mr. SANDERS] seems to be more concerned about "fair return" than any other language. The Supreme Court of the United States in the case of Smith *v.* Ames (169 U. S. Repts.) has distinctly said that in making a rate, the body that fixes the rate or the toll shall consider a "fair return" upon the value of the property. There is nothing here requiring the commission to fix a rate upon fraudulent or watered or valueless property. The legal assumption is that the commission will do its duty, and fix a fair and just value and return. Gentlemen say the commission does this now; therefore, why put it in the statute? The reverse argument is equally tenable. If the commission does it now, why not put it into the statute? Why have your laws hidden from the people? Why should one be an expert to find out what is the rule of rate making by construction and interpretation of the decisions of the commission and the courts? Why revert to the old rule that once obtained in Athens, where the laws were admirable, but they were hung so high on the walls that the people could not read them? Why not put your laws within reach of the ordinary investor? Why not let him read the law of the land?

There is nothing in this bill that gives any undue encouragement to the investment of capital in railroads. There are sections of America that sadly need additional railroads and railroad facilities. Let me read a statement from the records of the Interstate Commerce Commission. The country is divided in this statement into three districts—the western, the eastern, the southern—and the number of miles of railroads per hundred square miles of territory in these several districts is as follows:

In the southern district there are 11.084 miles of railroad for every 100 square miles of territory; in the western district, 6.236 miles of railroad for every 100 square miles of territory; and in the eastern district, 19.139 miles for every 100 square miles of territory.

The western district, which has the smallest mileage, includes the States of Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming. In that territory or area there are only 6 miles of railroad for every 100 square miles of territory.

The southern district comprises the States of Alabama, Colorado, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, and in them are 11 miles for every 100 square miles of territory.

In the eastern district are comprised the States of Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, and Pennsylvania, and in that district are 19 miles of railroad to every 100 square miles of territory.

Mr. BROOKS of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. MONTAGUE. Yes.

Mr. BROOKS of Pennsylvania. I would like to know whether you have the figures in respect to the relative population in those districts?

Mr. MONTAGUE. I have not. I am simply bringing these facts in a broad way to the attention of the committee, so that they may realize that there is a great necessity for the development of new railroads, and that we should not unnecessarily shut the doors against investors who wish to enter such a field.

That my language may not be misunderstood in referring to the case alluded to a while ago, I desire to read its syllabus, because it will save reading detached portions from the opinion:

> It may not fix its rates solely to its own interest and ignore the rights of the public, but the rights of the public would be ignored if rates for transportation of persons or property on a railroad were exacted without reference to the fair value of the property used for the public or of the services rendered.

Therefore I submit as beyond question that the rule prescribed in the bill for fixing rates falls clearly within this adjudication so far as it affects a return upon the fair value of the property of the carrier.

Mr. Chairman, I wish to observe that there were practically no railroads built for some time before this war broke out. There was little or no railroad development comparatively in America. Now, something will have to be done to encourage such investments or we are heading toward governmental railroad ownership. I do not desire now to discuss that question save to suggest that unless we now wisely avert this catastrophe it will perplex this and other Congresses for years to come.

Under Government ownership rates will be a political question in every campaign in this country. The establishment of a depot or union station will be a political question. We may perhaps pass beyond all the judicial restrictions that we have followed all of these years. The great safeguard of the country is to be found in the courts for whatever rates are made, their justness and reasonableness are in the final analysis to be determined by the courts of the land. In other words, it is distinctively a juridicial question and not a legislative question; that is to say, the legislature has the right to make the rates, but the courts have the right to determine whether those rates are reasonable and just, whether confiscatory either of the property of the roads or of the shipper. The courts will protect each alike.

I can not shut out of mind one other question, and that is the increase in number and power of Federal officials. Under governmental control we have had an increased number of officials and employees. We have increased under the present control over 140,000, I understand.

Mr. BARKLEY. Will the gentleman yield?

Mr. MONTAGUE. I do.

Mr. BARKLEY. Will my colleague yield for just this suggestion, that not all of its increase was due to Government control, but through the operation of the eight-hour law to a very large extent?

Mr. MONTAGUE. I am not undertaking now to assign or apportion the cause of that increase, I am simply suggesting the increase. The thought in my mind is this, that we are not going to decrease or diminish this increase by Government ownership and control. We will then steadily increase until we reach that unhappy political and economical state when the office-holding class will be larger than the residue of the electorate. That is a great question that confronts the American people, whether by legislation or whether by what Theodore Roosevelt called "secret and hidden government" we may not have an electorate of official employees that will overcome the residue of the American voters. If we have such a system, we have taken the pathway that leads from progressive government, and we have reverted to forms of governments that have tried and failed in other peoples and ages. A representative form of democracy was a new path in the history of governments.

Now, I submit we ought not to extend politics into every form or activity of American economic and business life. [Applause.] If we are to adopt Government ownership, let us do so under clear necessity.

Mr. CARAWAY. Will the gentleman yield? I do not care to interrupt the gentleman.

Mr. MONTAGUE. I will yield.

Mr. CARAWAY. I want to ask the gentleman from Virginia this question: As I understand, the question was whether we should say "among other things" that we consider. Now, is not the rule that if you enumerate certain duties and obligations, you by that very rule exclude all those not mentioned? If the gentleman will pardon me, I am afraid if the language now written in the bill shall be retained——

Mr. MONTAGUE. I am perfectly willing to accept the words "among other things," I will say to the gentleman. And I understand that other gentlemen of the committee will gladly accept the words, as they believe this language bears no other construction. If it were said these elements shall determine and conclude rate making, there would be weight in the gentleman's suggestion, but when they are only elements or matters for consideration in rate making, I do not think the suggestion comes within the rule stated by the gentleman from Arkansas.

Mr. CARAWAY. May I ask the gentleman this: What do you mean by "shall be considered" if you do not mean that establishes the rule by which they shall be governed?

Mr. MONTAGUE. The commission is to determine how far those various considerations enter into its final conclusion. These elements are not conclusive or exhaustive; they need not be severally identified, assessed, or apportioned; they are among the elements or matters to be considered, and the Supreme Court and justice and common sense have so declared. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. BARKLEY. Mr. Chairman, I yield eight minutes to the gentleman from Iowa [Mr. TOWNER].

Mr. TOWNER. Mr. Chairman and gentlemen of the committee, section 15 lays down in clear and explicit terms the rule that shall govern the commission regarding the classification of freights and in the fixing of rates. It says that whenever after full hearing the commission shall be of opinion that any individual or joint rate, fare, or charge whatsoever demanded, charged, or collected by any common carrier or carriers subject to this act, or that an individual or joint classification, regulation, or practice, whatsoever by such carrier or carriers subject to the provisions of this act is or will be unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial or otherwise in violation of any provision of this act, the commission is hereby authorized and empowered to determine and prescribe what will be a just and reasonable individual or joint rate, fare, or charge, or rate, fare, or charge, to be thereafter observed in such case.

I am reading that completely so that gentlemen shall understand that this rule is fully and completely stated. Nothing that could be afterwards said as to what shall be considered by the commission can be anything except a limitation upon the power thus granted. To put a limitation upon the language in any manner hurts the railroads, and it hurts the shippers and it hurts the public, because it is necessary in any case that the commission have all the matters which may effect reasonableness and justness before them. Now, we come to the language of page 65, which says that in reaching its conclusions as to the justness and reasonableness of the rate, fare, or charge certain things shall be taken into consideration by the commission.

The unfortunate thing about that matter is that whenever you place in a statute a classification following a general rule, it is the classification that governs, and not the general rule; and that rule has been laid down by every court in the United States without exception, including the Supreme Court of the United States. I have brought here the language of the United States Supreme Court that applies absolutely to this case, in an opinion rendered in the case of Raleigh against Reid, 13 Wallace, page 269, where the court held that—

> When a statute limits a thing to be done to a particular mode, it includes a negation of any other mode.

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

Mr. TOWNER. I regret I can not. I have not the time. The case of Stevens against Smith, 10 Wallace, page 321, holds that—

> When a thing is to be done in a particular way, by necessary implication the doing of the thing in any other way is prohibited.

So, gentlemen, it is not a question of whether you want or do not want this limitation to be operative. It is operative, and the courts will so hold, and in every given case they will not be discussing whether or not it is just and fair and reasonable according to this general rule, but they will be discussing whether it falls within one of the four particular manners and things that may be considered, in the language which we seek to eliminate.

Mr. YATES. "Inclusio unius exclusio alterius."

Mr. TOWNER. Exactly. That is the old maxim of the law. This is the proposition: Gentlemen say we ought to have these things stated in order to be fair to the roads. The gentleman from Virginia [Mr. MONTAGUE] states that these matters ought to be considered in justice and fairness to the railroads. This general rule first laid down is just as much for the benefit of the railroads as it is for the shippers, and as it is for the public. It includes and applies to everybody. Seek to limit it and you hurt everybody. Gentlemen here who are arguing for this limitation on the general rule in its application are not arguing for the railroads; they are arguing against them if they want to have a fair and just rule established in the United States. And so, gentlemen, this is a proposition which is of interest to every one. I do not think there should be a particle of question as to what the committee ought to do in justice and fairness to every one in this case. The general rule stated is a fair and just rule and has been almost unanimously approved. It should neither be abandoned nor restricted.

Mr. MONTAGUE. Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

The CHAIRMAN (Mr. LONGWORTH). Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. FOCHT. Mr. Chairman, I make the same request.

The CHAIRMAN. The gentleman from Pennsylvania makes the same request. Is there objection?

There was no objection.

Mr. BARKLEY. Mr. Chairman, how does the time stand now?

The CHAIRMAN. The gentleman from New York has 25 minutes remaining and the gentleman from Kentucky has 28 minutes.

Mr. BARKLEY. Mr. Chairman, I yield three minutes to the gentleman from Nebraska [Mr. JEFFERIS].

The CHAIRMAN. The gentleman from Nebraska is recognized for three minutes.

Mr. JEFFERIS. Mr. Chairman, as I understand the language of the bill, all matters pertaining to the reasonableness or fairness of railroad rates are left to the sound judgment of the Interstate Commerce Commission. But under the language here it is made mandatory that four certain things are to be taken into consideration. In other words, it is to make it mandatory upon the commission to consider these four essential things in arriving at what is a just and reasonable rate.

Now, why should those be made mandatory and the others left entirely to the discretion of the commission as to what weight they shall have? In other words, it seems to me in the proposed bill you are limiting the power of the railway commission and compelling it to consider some things above and beyond others, and possibly to the exclusion of the others that should control in fixing a reasonable and fair rate.

For my part, I can not see why it is only discretionary for it to consider some things and mandatory to consider others; and, for my part, it seems that the amendment of the gentleman from Kentucky [Mr. BARKLEY] should be adopted by this House or else other matters should be made equally mandatory for the commission to consider in arriving at a just and reasonable rate.

Mr. PARKER. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois [Mr. DENISON].

The CHAIRMAN. The gentleman from Illinois is recognized for 10 minutes.

Mr. DENISON. Mr. Chairman and gentlemen, in order that there may be no misapprehension, and that the gentleman from Iowa [Mr. TOWNER] may not have any fears, I propose at the proper time to offer an amendment inserting the words "among other things," after the word "consideration," in line 17, so that no one can contend that anyone connected with the committee is trying to limit the Interstate Commerce Commission to the consideration of a specified number of things. Like the gentleman from Virginia [Mr. MONTAGUE], I do not think it is necessary to put it in there, but I do not want anyone to have any excuse to vote against this bill on that account, and therefore I shall offer that amendment at the proper time.

Now, gentlemen of the committee, I want to make this brief statement in regard to this provision of the bill: We have led the country to believe that the consideration which the committee has been giving to the railroad question during this long summer and fall was going to result in some real constructive legislation. Now, if you strike out this provision of the bill, you are striking the heart out of it as a measure of constructive railroad legislation. If you strike it out, you are saying to the country that Congress has not the courage and the willingness to tell the Interstate Commerce Commission what to do in fixing railroad rates. You are "passing the buck" back to the Interstate Commerce Commission. That is all there is to it.

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

Mr. DENISON. I am sorry, but I have not the time. I would like especially to yield to the gentleman from Kentucky, but I shall not have the time.

Now, then, the best authorities in the country upon railroads and railroad economics, representatives of the stockholders, of the security holders, of the executives, and other students of railroad economics have come before our committee and testified; and everyone that I remember has recommended that there should be some rule of rate making embodied in this legislation. Those who have opposed it have been simply the representatives of certain traffic associations. The representative of the Interstate Commerce Commission's legislative committee, Mr. Clark, recommended that Congress assume the responsibility as the wiser policy.

I think it is the most important provision in the bill. Gentlemen, if Congress intends to do anything at all to rehabilitate the railroads of this country, it had better leave this rule of rate making in the bill. The railroads of this country have been constructed and thus far maintained upon the principle that each could look after itself and ruin the others if it chose to do so; they resorted to all kinds of ruinous and unfair practices until finally Congress began to correct the evils by restraining and regulatory legislation. Congress created the Interstate Commerce Commission, and passed the commerce act. Since the Interstate Commerce Commission was created, Congress has from time to time passed various laws to put checks and restraints on them. There has never been any legislation enacted for the purpose of helping to provide the country with an adequate system of transportation. If we do not do something in this bill to help give the country an adequate system of transportation that will materially aid in the further development of transportation facilities, we shall have failed in our duty.

We start with this premise, that the country is bound to have an adequate system of transportation. We can only do this through Government ownership and operation, or through the use of private capital and private management, one or the other. And I think that if you strike this provision for rate making out of the bill you are going to do more to bring about the necessity for Government ownership than in any other way. The time has come when Congress must do something affirmatively to see that the country has a transportation system that can live and give the people adequate service.

When a man is sick with a disease of his digestive apparatus, what he needs is a physician to prescribe for his ills, and give him advice and a good tonic, so he can remain well in the future. He does not need a surgeon to say, "Go ahead and eat anything you want to, and if it hurts you I will cut it out." Now that is what Congress has heretofore done with the railroads. That has always been the policy of the Government toward the railroads. Whenever anything was wrong, if it was claimed that a rate was unreasonable or unjust, the surgeon, the Interstate Commerce Commission, has been called in; and the commission has only been performing operations when called upon to do so to save the lives of either the railroads or the shippers. What we should do by this legislation is to help restore them to a healthy growing condition so they can furnish to the country adequate and efficient transportation.

Now, the gentleman from Kentucky [Mr. BARKLEY] is entirely wrong about the meaning of the term "a fair return on the property invested." It might be that under certain circumstances a "fair return" on the property of a railroad would not be more than enough to pay the interest on its bonds, and the stockholders would not get anything. It might be that a "fair return" on this property or that property would not be more than enough to pay operating expenses, with no interest on the bonds and no dividend on the stocks. That would be a question for the commission to determine, under all the circumstances of the particular cases. The contention that a "fair return" on the property means that the company would be allowed to earn a good healthy dividend on its stock is an unreasonable construction of this language and would not stand before any court. A "fair return" on the property means a fair return considering the condition of the road and all the circumstances connected with it. There are roads in this country that never will pay dividends on their stock and interest on their bonds, and perhaps ought not to. You could not give such roads legal rates that would enable them to do it. So the construction placed upon that provision by the gentleman from Kentucky is farfetched and is not well taken, in my judgment. I think we ought to do something to give the railroads of the country better credit so that they can get private capital to improve them and extend them and develop the country where railroad facilities are now needed. And, gentlemen, there is not a provision in the bill that will do more to rehabilitate the railroads and give them credit so that they can get sufficient capital without having to come to the Government for it than this very provision that we are now discussing. What we are trying to do, I assume, is to get them out of the hands of the Government, and to get them out of the Treasury of the Government. That is what we are trying to do; but if you strike out this provision you are merely getting them out of the hands of the Government, while you are leaving them with their hands in the Treasury of the Government. If railroads are hereafter to be owned by private companies and financed with private capital, they have got to have credit. To strike out this provision of the bill will absolutely emasculate it as a piece of reconstructive legislation.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BARKLEY. Mr. Chairman, I yield five minutes to the gentleman from Minnesota [Mr. ELLSWORTH].

Mr. ELLSWORTH. Mr. Chairman, my colleague from Illinois on the committee, Mr. DENISON, says he believes this language is for the purpose of keeping the railroads out of the Treasury of the Government. Just so. The very thing that I do not like about this bill is the fact that we establish a policy here under which in the years to come the railroads will be expected to get assistance out of the Treasury of the Government. We give them a guaranty. We provide for this refunding proposition. We provide for new loans, and seek to put aside $250,000,000, or a quarter of a billion dollars, for new loans. We turn them back with a lot of new equipment, on which they are to pay annually an equal installment, where otherwise they would have to pay the rolling mill that furnished them the steel or to pay the companies that furnished them the equipment on delivery. This part of the bill was an amendment of the committee not brought in by the subcommittee, but it contains the kind of language that is contained in another bill in another body. Even if this were stricken out perhaps it might be in the railroad bill in its final form, and it is the very thing which I object to. It is one of the things in this railroad legislation which it seems to me shows conclusively that the Government

proposes to assume a perpetual guardianship over the railroads of this country. Now, if this is mere language, if this does not mean anything, then there is certainly no object to put it in this bill—nothing to fight for—and it ought not to be in any other bill where, if it is taken out of this one in the House, it would finally be included in the railroad legislation in its final form. The gentleman from Illinois, who preceded me, asked if we sought to escape responsibility. The thing that strikes me as the objectionable feature in this bill is that Congress assumes the responsibility not only for the present decisions of the Interstate Commerce Commission, but its prospective decisions, and Congress proposes in this bill, in page after page, to indicate what we expect the Interstate Commerce Commission to do in the future. It is true that we do not make it mandatory, and Congress would never make mandatory anything which would very materially change the decisions of any court. But we inaugurate in this bill a principle fundamentally against what Congress ought to do. We turn the railroads back to them financially better than they were before the war. I know 125 miles on the Northern Pacific Railroad in Minnesota in which 90-pound steel rails were put down after the armistice and other steel taken up which was practically as good as that. They would have to pay the rolling mills for them, but now they have the opportunity of funding it on installment basis. Two thousand six hundred box cars have stood in the yards of Chicago since last August.

Mr. PARKER. Will the gentleman yield?

Mr. ELLSWORTH. Yes.

Mr. PARKER. Does the gentleman think that the Northern Pacific is going to pay 6 per cent in order to take advantage of this?

Mr. ELLSWORTH. No; I was only speaking of that because I know the Northern Pacific will be allowed to set off and take advantage of the 10-year installment. The proposition of funding has nothing to do with new loans. Now, I propose to vote against this bill whether this language remains in the bill or not, for the whole legislation looks toward the launching of a principle of Government subsidies for railroads with an undue preference for the trunk lines and wholly in disregard of water or other possible transportation development.

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

Mr. PARKER. Mr. Chairman, I yield three minutes to the gentleman from Kansas [Mr. LITTLE].

Mr. LITTLE. Mr. Chairman, the motion to strike out these lines has given opportunity for discussion of a lot of things that have nothing to do with these provisions. Here is not a question of whether something better could be done, but whether these provisions will be helpful. What is the matter with this language, with the authority given? It says:

> The commission shall be charged with the duty and responsibility of observing and keeping informed as to the transportation needs—

And so on.

Why not? Somebody ought to know about it. Who would you charge with the duty of ascertaining and knowing what were the transportation needs and facilities of the country? Of course that language ought to be in—

> And as to the operating revenues necessary to the adequacy and efficiency of such transportation facilities and service.

If they do not, who will? Do you mean to say that you are going to control the railroads—to set a commission over them and anybody run them without observing how they run them? To continue, it reads:

> In reaching its conclusions as to the justness and reasonableness of any rate, fare, charge, classificaton, regulation, or practice.

Do not you want them to reach a conclusion as to the justness and reasonableness of the rates, fares, and charges? Is there anybody here that does not want a decision as to the justness of the rates? If not, why not? What would they do? If they are not given that duty, who will have it? Of course they ought to reach a conclusion as to the justness and reasonableness of the rates, fares, charges, and so forth.

In doing that they say:

> The commission shall take into consideration the interests of the public.

They must take something into consideration. Why do not you tell them what it is, so that they will know about it? If you do not say it, how will they know? Why should you not put that in?

> Consider the interests of the public.

Do not you want them to do that? Who else will?

> And the shippers, the reasonable cost of maintenance and operation.

Is not it right to learn as to the reasonable cost of maintenance and operation? Should not they take into consideration the reasonable cost of operation? Certainly that ought to be in there:

> Including the wages of labor.

Do not you want them to take into consideration what the men shall be paid? Certainly they ought to if you are going to reach conclusions that are right and just:

> And a fair return upon the value of the property used or held for the service of transportation.

Do not you want them to know about it, and do not you want the men to get a fair return on the investment? What is your objection to that? That is what the commission is going to decide. You have got to give them some authority. As the gentleman from Illinois suggested, it does not mean 6 per cent or 3 per cent or perhaps any per cent. It may be that they would lose. You might have a horse working the field that was not worth $25, and if you got a fair return on the horse you would not get anything. It may mean that some of these roads would not be getting anything. I submit that there is not a word in there that ought not to be there. [Applause.]

Mr. BARKLEY. Mr. Chairman, I yield to the gentleman from Texas [Mr. RAYBURN].

Mr. RAYBURN. Mr. Chairman, of course if there was not a word in this bill or any law with reference to rate making, the arugment of the gentleman from Kansas might apply.

But in order that there may be a complete reply to his argument, and every word of it, I will read an extract from the Supreme Court decision in the case of the Texas & Pacific Railway against the Interstate Commerce Commission (166 U. S., p. 197). This language was passed upon and this was said by the Supreme Court a good while ago, and of course the language which the gentleman from Kansas says is so necessary was not on the statute books at that time:

> The very terms of the statute that charges must be reasonable, that discrimination must not be unjust, and that preference or advantage to any particular person, firm, corporation, or locality must not be undue or unreasonable, necessarily imply that uniformity is not to be enforced, but that all circumstances and conditions which reasonable men would regard as affecting the welfare of the carrier companies and of the producers, shippers, and consumers should be considered by a tribunal appointed to carry into effect and enforce the provisions of this act.

That, it seems to me, is a complete answer to the gentleman's argument.

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

Mr. RAYBURN. No.

Mr. LITTLE. I thank the gentleman for backing me up.

Mr. RAYBURN. The gentleman says that the interests of the public should be considered, as if the interests of the public had not always been considered by the Interstate Commerce Commission. He says that the interests of the carriers should be considered, as if the Interstate Commerce Commission has not always considered them, and not only do they consider them, but every other thing that reasonable men would think would bear upon the case.

The gentleman from Illinois and other gentlemen—the gentleman from Virginia, who have spoken here in favor of this statutory rule of rate making, have said, when gentlemen have made objections, that there were things left out that should be put in and probably things brought in that should be left out; that they are willing to accept any amendment that will take into consideration all of the elements that should go into a rate. That proves conclusively that the Congress of the United States will commit an act of great unwisdom if it undertakes by statute to say all of the elements that should go into a rate. The gentlemen, after long consideration as members of the committee, considered this proposition as to what should go into the statute as a command to the Interstate Commerce Commission to be considered, and the first admission they make when they come upon the floor of this House is that they did not take into consideration enough elements, and therefore they are willing to accept whatever we suggest.

Another thing. The courts from one end of this land to the other have passed upon the proposition of the fairness and the reasonableness of rates, but now when you come in and enact a statute that says they shall take into consideration the interest of the public, the shipper, the reasonable cost of maintenance and operation, wages, labor, and appreciation and taxes, you are going henceforth to throw every rate made by the Interstate Commerce Commission into the courts, because the railroads will say that the commission has not taken these propositions into consideration.

Mr. PARKER. Mr. Chairman, I yield four minutes to the gentleman from Connecticut [Mr. MERRITT].

Mr. MERRITT. Mr. Chairman, there seems to be no difference of opinion as to the fairness in itself of the sentence in this bill providing for the elements which shall be considered

by the commission in reaching its conclusion as to just and reasonable rates. One of the principal arguments made against it is that it will produce some sort of a return on watered stock. The clause in the bill which shows that that is a fallacy needs only to be read. It states that four considerations shall be taken into account at least. If any member thinks that enumerating those four elements excludes others, which should be taken into account, we are perfectly willing to put in the phrase " among other things." Who shall say that the commission should not consider the public, the shippers, a reasonable cost, and a fair return? We certainly have not come to the point where we wish to discourage investment by striking out this language, and thus saying that we do not think a fair return on the property should be considered? I believe myself that one of the great elements that we should consider is to induce the investment of capital in railways, so that when this transportation machine is returned to its owners, it can go on expanding as it should, to serve the needs of the country.

Seventy-five per cent of all of the schemes from all sources presented to this committee had in them rules of rate making. As my time is very short, I can not elaborate, but I want to read to you some short extracts from the testimony when Mr. Clark, who everyone agrees, is one of the very able men on the commission, was on the stand, in respect to the desirability of attracting capital. The question was asked of Mr. Clark—

If the railroads are to be set on their feet independently, it is essential, is it not, that legislation by Congress, so far as that can accomplish it, should be such as in a general way to cheer up the investing public?

Mr. CLARK. I think that is a most desirable object to aim at.

As to the objection of the commission to having a rule in the law, let me quote from a statement of Mr. Prouty, who was another very able member of the commission and who resigned to take a position on the Valuation Committee.

This statement is found on page 3160 of the hearings "The railroads of the country should be self-supporting. To this end Congress should instruct the Interstate Commerce Commission to establish such reasonable rates as will yield a fair return upon the value for rate-making purposes which it establishes." * * *

"The rates should produce an adequate return upon the average value affected by them."

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

Mr. BARKLEY. Mr. Chairman, I yield four minutes to the gentleman from Iowa [Mr. GREEN].

Mr. GREEN of Iowa. Mr. Chairman, the charge has been made that this bill recognizes $8,000,000,000 of watered stocks and bonds in railroad securities and will authorize dividends to be paid thereon. This charge has been widely published in the newspapers of the day, and I have seen a statement to that effect in the papers in my own district. It had no proper foundation even before the amendment offered by the gentleman from Kentucky [Mr. BARKLEY] was adopted striking out certain portions of the bill. It has absolutely no foundation now. If it was made in good faith it was made in ignorance of the facts. Not a single Member of the House ever wanted anything of this kind, and nothing could have been further from the intention of the committee which framed the bill. A full acquaintance with the law on the subject of railroad rates would have shown that if it had been desired it would have been impossible to carry out a design to have rates raised so as to pay dividends upon fictitious securities.

Mr. Chairman, as a result of the statement to which I have just referred, some newspapers, the editors of which have been unaware of all that has been going on at Washington with reference to railroads in past years, have demanded an investigation into the charges made by Mr. Plumb with reference to watered stock. For several years after I first came into Congress I have been giving attention to this very matter and originated the investigation into the financial affairs of the Rock Island by which a thorough and exhaustive examination was made of its condition, with results that astonished everybody and drove from its management the parties then controlling it. I have also made a study of the investigations which have been conducted by the Interstate Commerce Commission of the affairs of other railroads. My purpose in so doing was to drive out from the management of the railroads officials who were managing them for speculative or other improper purposes, for while the principal injury done by these railroad wreckers was to the stockholders, the public was also affected to a considerable extent, for the reason that when railroads like the Rock Island, Frisco, and Pere Marquette were looted they were unable to render the service to the public to which the people patronizing these lines were entitled until a heavy assessment had been made on the stockholders, and in some instances the financial condition of certain roads has not yet been fully restored. My active and persistent opposition to these practices will certainly acquit me of any charge of acquiesence in them. I have spent so much effort in exposing the issues of watered stock and preventing the payment of unearned dividends thereon that it has, in some instances, caused some persons to intimate that I was unfriendly to the roads, and has brought down upon me the active opposition of the men who profited by these frauds. I feel, however, that I can speak with some degree of authority and with absolute impartiality on this subject.

Let me say for the benefit of those who have not had the same time and opportunity to investigate this subject that I have, that the Government has already expended millions of dollars in making a physical valuation of the railroads of the country to determine the actual value of their property.

This valuation work is not yet completed, but it has progressed far enough to demonstrate that the value of the railroad properties of the country is around $20,000,000,000, and that whenever in any hearings the value of any road has been estimated that value has not been excessive. In addition to this there have been special investigations into the financial condition of every road where there has been suspicion of improper management in late years. Of course, there are some roads like the Erie, which was looted by Gould and Fisk nearly 50 years ago and which have never paid a dividend since, that have not been investigated, because time has thoroughly brought to light their condition. Nor have these investigations into issues of stocks and bonds any particular use for the purpose of determining what rates ought to be charged. The amount of stocks and bonds issued by a railway has never been considered in the slightest extent in determining what was a reasonable rate for transportation over such railways, and it never will be. If this bill had so provided—and it does not—I am quite clear that such a provision would be unconstitutional and would be annulled by the courts. No principle of law is better settled than that the public are entitled to reasonable rates regardless of the amount which stock or bond holders may have invested in a railroad. Even the actual value of the property is not in itself a measure of what rates may be demanded, for the public is entitled to a reasonable rate, even if it does not always yield a fair rate upon the value of the property.

Mr. Chairman, the real fact is that the claim that this bill would authorize dividends upon watered stock has been set up by those who ought, at least, to know better, even if they do not. Its object has been to prejudice the public against this bill and induce Congress to adopt some scheme for public ownership. Another statement has been made for the same purpose. It is that if public ownership is adopted that the rates will be raised. This statement is true, and necessarily so. The roads under public control are being operated at an immense loss at present, and the bill for this loss is being paid by the Government. Nor is this the worst of the situation. This loss is increasing month by month, as various additions to the cost of Government control are made, and the loss must be made up from taxes.

The result is that the people are taxed in order that luxuries as well as necessities may be shipped at less than it costs the Government to have them carried. Nor does the public derive any benefit from necessities being carried at less than cost, because the increase of taxation necessitated thereby increases the cost of living as much as it would if these necessities paid their way. I favor an equitable distribution of freight charges and of every article, whether a necessity or luxury, paying its reasonable proportion. There is no reason why any man should be taxed in order that some other man may have his goods shipped for less than cost. Nor is this the worst feature of the situation. The fact that as matters now stand, and as they would continue to stand if Government control continued, the Government pays the shortage on freight causes many to overlook the taxes that are thereby laid and that as a result of taxation the cost of living is increased. Consequently, it appears to them that the expenses of the railroads are immaterial and extravagance naturally ensues. Upon a return to private ownership, however, we have a right to expect that an effort will be made to reduce expenses, increase efficiency, and absolutely eliminate extravagance. If this is not done, the railroad officials must know that they can not expect the rates will be made sufficient to pay a profit upon the operation of the railroads, because they will only be allowed reasonable rates in any event. They will naturally bend every effort to economy and efficiency, while under Government control, as the Government paid the loss, all inducements to economy were lacking.

Mr. Chairman, I never thought Federal control of the railroads was necessary even in time of war. The failure of the railroads to properly perform their functions when the war broke out was caused entirely, in my opinion, by Government interference with them. The use of Government priority orders was what jammed our ports with cars until they could neither be loaded or unloaded or even removed without holding up all freight except that belonging to the Government. But however this may be, the control of the railroads by the Government has, I think, convinced the vast majority of the people that under Government management we will have neither efficiency nor economy. Under private control we had both, and when the railroads go back to their former owners there will be a still more urgent pressure upon their officials to induce them to maintain the economy and efficiency which before existed.

It should be borne in mind in this connection that the days of watered stock and inflated securities will be over when this bill becomes a law. By this act the Government assumes control of all stock and bond issues. It will not permit any securities or evidences of indebtedness to be issued until it has first been determined that it is necessary to issue the same in order to efficiently operate the road which becomes liable thereon and also that the railroad is to receive full value therefor. In every way under the bill the control of the Government is absolute, so that the resources of no railroad can be improperly dissipated and the road thereby prevented from rendering the service to which the public is entitled.

The bill as a whole is an excellent one, containing many admirable features. I think the guaranty made to the roads for the first six months of private control is larger than is necessary for the strong roads, some of which might well have been left to their own resources, but it is merely the same amount which was heretofore guaranteed under Government management, which seems to have met with little, if any, objection anywhere. There are some other details of the bill with which I do not concur, but I realize that no great measure of this kind was ever put through Congress without Members subordinating their own views in some extent to those of the majority. If we waited for universal agreement, we would wait forever without anything being done. I shall, therefore, give my support and my vote to the bill, believing it will bring about a great improvement in present conditions and that upon the whole it is equitable, fair, and just.

Mr. BARKLEY. Mr. Chairman, I yield eight minutes to the gentleman from Tennessee [Mr. SIMS].

Mr. SIMS. Mr. Chairman, I do not want to ask for more time. Therefore I ask unanimous consent to revise and extend my remarks, as I wish to add a list of railroad officials and the compensation they received for the year 1917.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent to revise and extend his remarks. Is there objection? [After a pause.] The Chair hears none.

Mr. SIMS. Mr. Chairman and gentlemen of the committee, the only thing that is charming and potent about this rule of rate making in the bill is the name that it bears—the "Webster" amendment. In the United States the name of Webster has always had a wonderful potency since the days of Daniel Webster, Noah Webster, and the other great Websters. I want to say not all of them come from the State of Massachusetts, as one comes from the farthest State west on the Pacific coast. The Representative in this body from that State is certainly maintaining the reputation of the Websters. I have to admit that the name gives this amendment weight and strength which it otherwise would not have. But notwithstanding its name, notwithstanding the ability of the distinguished gentleman who offered it, I hope it will be stricken from the bill.

Now, the gentleman from Texas argued very potently and cogently with reference to certain objections. Let us look at some of them. The commission must consider the cost of maintenance and operation, including the wages of labor, depreciation, and taxes, and a fair return upon the value of the property used or held for the service of transportation. Now, if the Webster amendment goes in I shall offer as an amendment to his amendment as a proviso the following as a limitation on the expenses of operation:

*Provided*, That not exceeding $20,000 of the salary or compensation paid any official of any railroad company shall be charged to operating expenses or be considered by the Interstate Commerce Commission in reaching its conclusion as to the justness and reasonableness of any rate, fare, charge, classification, regulation, or practice.

If the Webster amendment is stricken out of the bill, as I hope it will be, I expect to offer the same as an amendment on page 63, line 9, after the word "prescribed." But if the amendment goes in it makes it all the more necessary that this limitation on operating expenses should be adopted.

Mr. DENISON. If the gentleman will yield, I think the gentleman's amendment will be subject to the order unless this amendment stays in, and for that reason I think the gentleman from Tennessee had better support this provision in the bill.

Mr. SIMS. Maybe I had better support this provision of the bill, provided I do not understand what I am endeavoring to do in the way of attempting to save the consuming public from having to pay as operating expenses salaries that strongly smack of the worst form of profiteering. But why was it necessary in this bill to specifically mention certain elements which have always been considered in rate making? Why include in brackets or parentheses the wages of labor, depreciation, taxes, and in other portions of the bill maintenance? Now, why put in about the wages of labor? Was it to catch the labor vote by referring to them or was it to indicate to the commission that they must not permit the wages of labor to be unreasonably high? This is an invitation to every State, county, and municipality to lay on all the taxes they can, because it goes in as the expense of operation and must be considered in rates. The railroad companies pay what they please to their officials, their officers, and their attorneys, because that goes in as the expenses of operation, which we say in this bill must be considered in rate making.

Mr. DUNBAR. Will the gentleman yield?

Mr. SIMS. I am sorry that I can not yield. My personal friend, the able gentleman from Virginia, ex-Gov. MONTAGUE, says that there is a tendency to have too many employees under Government operation. It may be true—I am not controverting it—but what in the name of consistency has been the tendency of the railroad companies when they had the right to employ as many as they pleased and pay as many officials as they pleased and as much as they pleased, and all of it to be charged up to expense of operation? Take the greatest railroad system in this country, which is, according to my judgment, the Pennsylvania Railroad System. It had for the year 1917 a president at a salary of $75,460, which is more than the President of the United States receives. It has 11 vice presidents with compensations beginning with $40,620 and running down to $25,000. I have only included the officers of this system receiving salaries of $20,000 and over. In all, it has in this class 23 officers and attorneys whose compensation is from $20,000 up to $75,460, amounting in all to $681,960. The President of the United States receives $75,000. Ten Cabinet officers receive altogether $120,000. The nine Justices of the Supreme Court receive $126,500. The Vice President of the United States receives $12,000. The Speaker of the House of Representatives receives $12,000. These 23, the highest-paid officials of all departments of the Government, executive, judicial, and legislative, all combined, receive salaries amounting to $345,500, just a little more than half the 23 executive officials of the Pennsylvania Railroad System amount to all combined.

Did the Interstate Commerce Commission have any power to consider the reasonableness of expenses of operation, including the payment of salaries to railroad officials greater than that of the President of the United States in fixing rates? I said the other day in my opening remarks that some of the ablest railroad officials in the United States have never received salaries of more than $25,000.

This amendment is to limit expenses chargeable to costs of operation, and does not prevent these railroad officials receiving any amount in excess of $20,000 each, provided it is paid out of the net earnings which belong to the stockholders who elect the directors, who allow these exorbitant salaries. They undoubtedly do it for other reasons than the public interest, as the public interest requires no such extravagant expenses of operation of this kind. The owners of the roads are responsible for the employment and compensation of these officials.

I do not object to giving Mr. Rea the salary he receives if it comes out of the net earnings in excess of $20,000. A distinguished official of the Southern Railroad, coming from Virginia, a fine young man, gets $50,500. These salaries of railroad officials that I have referred to were for the year 1917, and my information comes from the report of the Government Railroad Wage Board. Now, the Director General may have employed more laborers under operation and effect of the Adamson eight-hour law, and for the further reason that the best men they had were taken from them for Army service, both here and abroad, but everyone knows that they have not employed more general officers than did the railroads themselves before they were taken over. The railroads, prior to Federal control, had for the year 1917 208 general officers, including attorneys and receivers, receiving $20,000 and over a year as salaries or compensation. The following were the officials and attorneys

of the Pennsylvania system who received salaries of $20,000 and in excess of that sum for the year 1917:

| | |
|---|---|
| Samuel S. Rea, president | $75,460 |
| James J. Turner, vice president | 40,620 |
| W. W. Atterburry, vice president | 40,000 |
| W. Heyward Myers, vice president | 35,200 |
| Edward B. Taylor, vice president | 31,235 |
| G. L. Peck, vice president | 30,030 |
| George Dallas Dixon, vice president | 30,000 |
| D. T. McCabe, vice president | 30,000 |
| B. McKeen, vice president | 25,020 |
| W. Heyward Myers, vice president | 25,000 |
| J. M. Schoomaker, vice president | 25,000 |
| Henry Tatnall, vice president | 25,000 |
| James F. Fahnestock, treasurer | 20,000 |
| William Newell Bannard, special assistant to general manager | 25,000 |
| Thomas Rodd, chief engineer | 21,080 |
| Francis I. Gowen, general counsel | 30,000 |
| C. B. Heiseman, general counsel | 20,000 |
| Henderson & Burr, solicitors | 29,700 |
| Loech & Richards, solicitors | 25,805 |
| O'Brien, Boardman Harper & Fox, counsel | 26,500 |
| G. S. Patterson, general solicitor | 30,000 |
| A. H. Strong, general attorney | 20,000 |
| McKenney & Flannery, solicitors | 21,250 |

Mr. Chairman, from the same official report it appears that the following general officers, receivers, and attorneys for class 1 railroads, during the calendar year 1917, received a compensation of not less than $20,000 per annum, to wit:

*List of railroad officers and attorneys who received a salary of $20,000 or more during 1917.*

| | Compensation. |
|---|---|
| Aishton, Richard H., president, Chicago & North Western | $50,240.00 |
| Atterbury, W. W., vice president in charge of operations, Pennsylvania | 40,000.00 |
| Auch, John F., vice president and traffic manager, Philadelphia & Reading | 20,000.00 |
| Baker, Botts, Parker & Garwood, attorneys, Southern Pacific | 30,000.00 |
| Bannard, Wm. Newell, special agent to general manager, Pennsylvania | 25,060.00 |
| Batchelder, F. C., president, Baltimore & Ohio Chicago Terminal | 22,015.00 |
| Bell, M. L., general counsel, Chicago, Rock Island & Pacific Railway Co | 59,486.45 |
| Bernet, J. J., president and general manager, Nashville, Chattanooga & St. Louis | 26,906.66 |
| Berry, J. B., consulting engineer, Los Angeles & Salt Lake | 23,600.00 |
| Besler, W. G., president and general manager, Central Railroad Co. of N. J | 50,210.00 |
| Biddle, W. B., president, St. Louis-San Francisco Railroad | 39,879.00 |
| Bierd, W. G., president, Chicago & Alton | 36,646.55 |
| Biscoe, H. M., vice president, Boston & Albany | 20,010.00 |
| Blair, Joseph P., general counsel, Southern Pacific | 34,500.00 |
| Bledsoe, Samuel T., assistant general solicitor, Atchison, Topeka & Santa Fe | 20,000.00 |
| Blendinger, F. L., vice president, Lehigh Valley | 20,120.00 |
| Bond, Hugh L., jr., general counsel and director, Baltimore & Ohio | 25,290.00 |
| Bowes, Frank B., vice president, Illinois Central | 20,115.00 |
| Brown, E. N., chairman board of directors, Pere Marquette | 21,666.67 |
| Brownell, Geo. F., vice president and general solicitor, Erie | 49,610.00 |
| Bruce, Helm, local counsel, Louisville & Nashville | 27,770.00 |
| Buckland, Edward G., vice president and general counsel, New York, New Haven & Hartford | 22,699.99 |
| Budd, Ralph, assistant to president, Great Northern | 20,000.00 |
| Burn, Charles W., general counsel, Northern Pacific | 30,000.00 |
| Burnham, C. G., vice president, Chicago, Burlington & Quincy | 31,249.98 |
| Bush, B. F., president, Missouri Pacific | 44,170.00 |
| Bush, D. L., vice president, Chicago, Milwaukee & St. Paul | 20,010.00 |
| Butler, Pierce, counsel of Federal Valuation, Missouri Pacific | 45,000.00 |
| Byram, H. E., president, Chicago, Milwaukee & St. Paul | 60,000.00 |
| Byram, H. E., vice president, Chicago, Burlington & Quincy | 22,500.00 |
| Calvin, Edgar E., president, Union Pacific | 35,080.00 |
| Campbell, Benjamin, senior vice president and director, New York, New Haven & Hartford | 28,343.33 |
| Capps, Chas. R., first vice president and director, Seaboard Air Line | 20,000.00 |
| Carey & Kerr, general counsel, Spokane, Portland & Seattle | 22,500.00 |
| Carpenter, Myron J., president, Chicago, Terre Haute & Southeastern | 25,040.00 |
| Carter, Ledyard & Milburn, general counsel, Denver & Rio Grande | 55,000.00 |
| Carstensen, John, vice president, New York Central | 35,000.00 |
| Cary, Robert J., general counsel, New York Central | 22,000.00 |
| Chadbourne & Shores, counsel, Denver & Rio Grande | 63,000.00 |
| Chambers, Edward, vice president, Atchison, Topeka & Santa Fe | 25,000.00 |
| Clark, James T., president, Chicago, St. Paul, Minneapolis & Omaha | 25,160.00 |
| Coapman, E. H., vice president, Southern | 30,150.00 |
| Cooke, Delos W., vice president, Erie | 25,826.67 |
| Cooper, Thomas, assistant to president, Missouri Pacific | 25,000.00 |
| Cravath & Henderson, general counsel, St. Louis & San Francisco | 20,000.00 |
| Crowley, P. E., operating vice president, New York Central | 25,000.00 |
| Daly, C. F., vice president, New York Central | 35,000.00 |
| Darlow, E. R., president, Buffalo & Susquehanna | 35,300.00 |
| Davis, J. M., vice president, charge of operations and maintenance, Baltimore & Ohio | 24,000.00 |
| Dean, Richmond, vice president, Pullman Co | 30,000.00 |
| Depew, Chauncey M., chairman board of directors, New York Central | 25,260.00 |
| Dice, Agnew T., president, Philadelphia & Reading | 35,000.00 |
| Dickinson, J. M., receiver, Chicago, Rock Island & Pacific | 120,732.90 |
| Dixon, Geo. Dallas, vice president in charge of traffic, Pennsylvania | 30,000.00 |
| Donelly, Chas., asisstant general counsel, Northern Pacific | 20,000.00 |
| Doran, Joseph I., general counsel, Norfolk & Western | $20,310.00 |
| Earling, A. J., president, Chicago, Milwaukee & St. Paul | 75,319.00 |
| Earling, H. B., vice president, Chicago, Milwaukee & St. Paul | 20,000.00 |
| Edson, J. A., president, Kansas City Southern | 25,000.00 |
| Elliott, Howard, director, president, and chairman, New York, New Haven & Hartford | 37,381.69 |
| Evans, W. F., general solicitor, St. Louis & San Francisco | 25,000.00 |
| Fahnestock, James F., treasurer, Pennsylvania | 20,000.00 |
| Farrell, J. D., president, Union Pacific | 30,030.00 |
| Felton, S. M., president, Chicago Great Western | 40,259.96 |
| Galloway, Chas. Wm., general manager, Baltimore & Ohio | 20,210.00 |
| Gilman, L. C., president, Spokane, Portland & Seattle | 30,000.00 |
| Gorman, J. E., president, Chicago, Rock Island & Pacific | 47,715.00 |
| Gowan, Marcus L., general counsel, Pennsylvania Railroad | 30,000.00 |
| Gowen, Francis I., general counsel, Pennsylvania | 30,000.00 |
| Gray, C. R., chairman of board, Western Maryland Railway | 32,960.00 |
| Gruber, James M., vice president and general manager, Great Northern | 25,000.00 |
| Hannaford, J. M., president, Northern Pacific | 50,000.00 |
| Hanson, Burton, general counsel, Chicago, Milwaukee & St. Paul | 25,000.00 |
| Harahan, W. J., president, Seaboard Air Line | 40,857.00 |
| Harden, A. T., vice president, New York Central | 35,020.00 |
| Harris, Albert H., vice president, New York Central | 35,560.00 |
| Harrison, Fairfax, president, Southern | 50,500.00 |
| Hawkins, W. A., general attorney, El Paso & Southwestern | 25,000.00 |
| Heiseman, C. B., general counsel, Pennsylvania Western | 20,000.00 |
| Henderson & Burr, solicitors, Pennsylvania System | 29,700.00 |
| Herbert, J. M., president, St. Louis Southwestern of Texas | 20,343.36 |
| Herrin, William F., vice president and chief counsel, Southern Pacific | 38,170.00 |
| Hill, Louis W., chairman, Great Northern | 50,000.00 |
| Hillard, Charles W., fourth vice president, St. Louis-San Francisco | 20,000.00 |
| Hines, Walker D., director, chairman, Atchison, Topeka & Santa Fe | 77,210.00 |
| Holden, Hale, president and director, Chicago, Burlington & Quincy | 65,000.00 |
| House, F. E., president and general manager, Duluth & Iron Range | 34,645.00 |
| Howard, E. A., vice president, Chicago, Burlington & Quincy | 20,000.00 |
| Hughitt, Marvin, sr., chairman board of directors, Chicago & North Western | 60,460.00 |
| Hughitt, Marvin, jr., vice president, Chicago & North Western | 25,050.00 |
| Hungerford, L. S., general manager, Pullman Co | 20,000.00 |
| Huntington, C. W., president, Virginian Railway Co | 20,660.00 |
| Huntington, G. R., general manager, Minneapolis, St. Paul & Sault Ste. Marie | 20,000.00 |
| Hustis, James H., president, Boston & Maine | 35,200.00 |
| Hyser, Edward M., vice president and general counsel, Chicago & North Western Railway | 36,260.00 |
| Ingersoll, Howard L., assistant to president, New York Central | 20,000.00 |
| Inglis, Wm. W., vice president and manager, Delaware, Lackawanna & Western | 30,030.00 |
| Jackson, Wm. J., receiver, Chicago & Eastern Illinois | 27,000.00 |
| James, Arthur Curtis, vice president, El Paso & Southwestern | 26,650.00 |
| Jeffery, E. T., chairman of board, Denver & Rio Grande | 20,166.66 |
| Jeffries, L. E., general counsel, Southern Railway | 23,083.32 |
| Jenney, Wm. S., vice president and general counsel, Delaware, Lackawanna & Western Railroad | 31,383.98 |
| Johnson, L. E., president, Missouri Pacific | 60,090.00 |
| Jungen, C. W., manager, Southern Pacific | 21,500.00 |
| Kearney, Ed F., president, Wabash | 50,120.00 |
| Keely, E. S., vice president, Chicago, Milwaukee & St. Paul | 20,000.00 |
| Kenney, Wm. P., vice president, Great Northern | 22,500.00 |
| Kerr, John B., president and general manager-director, New York, Ontario & Western Railway | 20,230.00 |
| Kramer, Le Roy, vice president, Pullman Co | 24,000.00 |
| Kruttschnitt, J., chairman of executive committee of board of directors, Southern Pacific Transportation System | 88,860.00 |
| Kurn, J. M., president, Detroit, Toledo & Ironton | 20,000.00 |
| Lamb, E. T., president, Atlanta, Birmingham & Atlantic | 25,110.00 |
| Lancaster, J. L., president and receiver, Texas & Pacific | 20,470.00 |
| Lathrop, Gardiner, general solicitor, Atchison, Topeka & Santa Fe | 25,000.00 |
| Lawton-Cunningham, general and division counsel, Central of Georgia | 21,000.00 |
| Ledyard, H. B., chairman board of directors, Michigan Central | 30,240.00 |
| Levey, Chas. M., president, the Western Pacific | 25,420.00 |
| Levy, Edw. D., first vice president and general manager, St. Louis & San Francisco | 27,600.00 |
| Lincoln, Robt. T., chairman board of directors, Pullman Co | 25,300.00 |
| Lindley, E. C., vice president, director, and general manager, Great Northern | 20,000.00 |
| Loech & Richards, solicitors, Pennsylvania | 25,805.00 |
| Loomis, E. E., president, Lehigh Valley | 44,287.18 |
| Loomis, N. J., general solicitor, Union Pacific | 20,000.00 |
| Loree, L. F., president, Delaware & Hudson | 50,800.00 |
| Loree, L. F., chairman board and executive committee, Kansas City Southern | 30,825.00 |
| Lovett, A. S., chairman executive committee, Union Pacific | 104,104.16 |
| Lyford, Will H., general counsel to receiver, Chicago & Eastern Illinois | 24,040.00 |
| McAllister, Henry, jr., general counsel, Denver & Rio Grande | 55,000.00 |
| McCabe, D. T., vice president, Pennsylvania | 30,000.00 |
| McChesney, W. S., president, Terminal Railroad Association, St. Louis | 22,450.00 |
| McCormack, E. O., vice president of traffic, Southern Pacific | 30,200.00 |
| McDonald, A. D., vice president and controller, Southern Pacific | 26,250.00 |
| McDonald, Morris, president, Maine Central | 35,735.12 |
| McGonagle, William A., president and general manager, Duluth, Missabe & Northern | 21,000.00 |

| | Compensation. |
|---|---|
| McKeen, V., vice president, Pennsylvania Lines | $25,020.00 |
| McKenna, E. W., member conference committee, Chicago, Milwaukee & St. Paul | 20,000.00 |
| Maher, N. D., vice president of operations, Norfolk & Western | 36,350.00 |
| Markham, C. H., president, Illinois Central | 60,555.00 |
| Martin, W. L., vice president and traffic manager, Minneapolis, St. Paul & Sault Ste. Marie | 20,160.00 |
| Middleton, J. A., vice president, Lehigh Valley | 30,445.00 |
| Minnis, James L., vice president and general solicitor, Wabash | 20,833.33 |
| Mudge, H. U., president, Denver & Rio Grande | 43,232.00 |
| Myers, W. Heyward, vice president, Pennsylvania | 25,000.00 |
| Noonan, William T., president, Buffalo, Rochester & Pittsburgh | 50,000.00 |
| O'Brien, Boardman, Harper & Fox, counsel, Pennsylvania | 26,500.00 |
| Pardee, Dwight W., secretary, New York Central | 21,500.00 |
| Patterson, G. S., general solicitor, Pennsylvania | 30,000.00 |
| Platt, H. V., vice president and general manager, Union Pacific | 20,000.00 |
| Pearson, Edw. J., president, New York, New Haven & Hartford | 40,000.00 |
| Peck, G. L., fourth vice president, Pennsylvania | 30,030.00 |
| Pennington, E., president, Minneapolis, St. Paul & Sault Ste. Marie | 52,723.34 |
| Peters, Ralph, president, Long Island | 30,470.00 |
| Pierce, Winslow S., general counsel, Wabash | 24,000.00 |
| Place, Ira A., vice president, New York Central Lines | 35,150.00 |
| Potter, Mark W., president, Carolina, Clinchfield & Ohio | 20,000.00 |
| Randolph, Epes, president, Arizona Eastern | 26,465.00 |
| Rea, Samuel, president, Pennsylvania | 75,460.00 |
| Reed, J. H., president and director, Bessemer & Lake Erie | 23,562.00 |
| Ridgway, A. C., vice president, Chicago, Rock Island & Pacific | 25,390.00 |
| Rine, E. M., vice president and general manager, Delaware, Lackawanna & Western | 33,373.33 |
| Ripley, Ed. P., president, Atchison, Topeka & Santa Fe | 75,400.00 |
| Robertson, Alexander, vice president, Missouri Pacific | 25,869.55 |
| Rodd, Thomas, chief engineer, Pennsylvania Lines West | 21,080.00 |
| Ross, Walter L., president and receiver, Toledo, St. Louis & Western | 25,000.00 |
| Ruhlender, Henry, chairman board of directors, St. Louis & San Francisco | 40,000.00 |
| Runnells, John S., president, Pullman Co | 60,500.00 |
| Russell, Henry, vice president, Michigan Central | 20,095.00 |
| Schaff, Charles E., receiver and president, Missouri, Kansas & Texas | 43,000.00 |
| Schoomaker, J. M., vice president, Pennsylvania | 25,000.00 |
| Schumaker, Thomas M., president, El Paso & Southwestern | 60,150.00 |
| Scott, W. B., president, Morgan's Louisiana & Texas Railroad & Steamship | 27,245.00 |
| Segar, C. B., vice president and comptroller, Union Pacific | 37,016.87 |
| Sewall, E. D., vice president, Chicago, Milwaukee & St. Paul | 20,160.00 |
| Seymour, M. V., counsel, St. Paul Union Depot | 27,000.00 |
| Scott, William R., vice president and general manager, Southern Pacific | 23,766.67 |
| Shriver, G. M., vice president, Baltimore & Ohio | 30,250.00 |
| Sloan, George T., first vice president, Northern Pacific | 35,120.00 |
| Smith, A. H., president, New York Central | 78,360.00 |
| Smith, Milton H., president, Louisville & Nashville | 20,639.09 |
| Spence, L. F., director of traffic, Southern Pacific | 36,525.00 |
| Spencer, O. M., general counsel, Chicago, Burlington & Quincy | 27,123.28 |
| Sproule, William, president, Southern Pacific | 62,036.67 |
| Stevens, George W., president, Chesapeake & Ohio | 31,873.26 |
| Stone, A. J., vice president, Erie | 29,070.00 |
| Storey, W. B., vice president, Atchison, Topeka & Santa Fe | 32,950.00 |
| Strong, A. H., general attorney, Pennsylvania | 20,000.00 |
| Slade, George T., first vice president, Northern Pacific | 35,120.00 |
| Tatnall, Henry, vice president, Pennsylvania | 35,200.00 |
| Taylor, Edw. B., vice president, Pennsylvania Lines West | 31,235.00 |
| Thomas, E. B., chairman of board, Lehigh Valley | 50,880.00 |
| Thompson, Arthur W., vice president, Baltimore & Ohio | 30,510.00 |
| Todd, Percy R., president, Bangor & Aroostook | 30,395.00 |
| Trabue, Doolan & Cox, district attorneys for Kentucky, Illinois Central | 27,720.00 |
| Truesdale, William H., president, Delaware, Lackawanna & Western | 75,399.88 |
| Trumbull, Frank, chairman of board, Chesapeake & Ohio | 26,738.97 |
| Turner, James J., senior vice president, Pennsylvania Lines West | 40,620.00 |
| Underwood, F. D., president and chairman executive committee, Erie | 77,950.00 |
| Utley, E. H., vice president and general manager, Bessemer & Lake Erie | 20,867.12 |
| Warfield, S. Davies, chairman of board, Seaboard Air Line | 50,000.00 |
| Waterhouse, Frank, foreign freight agent, Union Pacific | 24,000.00 |
| Williams, W. N., vice president, Delaware & Hudson | 20,630.66 |
| Williams, Henry R., vice president, Chicago, Milwaukee & St. Paul | 31,117.00 |
| Winburn, W. A., president, Central of Georgia | 21,855.00 |
| Winchell, B. L., director of traffic, Union Pacific | 36,000.00 |
| Woodworth, James G., second vice president, Northern Pacific | 22,500.00 |
| Worcester, H. A., vice president and general manager, Cleveland, Cincinnati, Chicago & St. Louis | 22,395.00 |
| Young, J. H., president and director, Norfolk Southern | 26,020.00 |
| McKenney & Flannery, solicitors, Pennsylvania | 21,250.00 |

Mr. Chairman, these general officers and attorneys no doubt include men from all walks of life. No doubt many of them have worked their way up by sheer merit and indefatigable industry, and I have nothing but words of praise for them as citizens of our Republic, and I do not care how much compensation they may receive for their services from those who are most interested in their services in the way of financial rewards—the stockholders. But I do emphatically protest against any compensation in excess of $20,000 per annum to any official, attorney, or receiver of any railroad being charged up as operating expenses.

There is not a public official of the United States or any State or city in the United States, except the President, that receives an annual compensation of $20,000. All public officials, except the judiciary, have limited terms of office and incur much necessary expenses, due to being such public officials. In contrast, these railroad officials hold office practically for life, if not for one railroad it is for another, and all expenses incurred by them in the discharge of their duties is paid by the railroads and charged up to operation expenses. The officials whether traveling as officials or as private citizens get free transportation by way of exchange of courtesies from all railroads in the United States, as do their families. These free services can not be extended to other public officials. These free services to these railroad officials are no doubt highly prized by them and makes the compensation they receive additionally remunerative.

At this time these railroads are asking the favor of being permitted to fund certain of their indebtedness to the Government and for loans in addition and for a guaranty by way of continuation of the standard return rental after the roads are no longer under Federal control. All of which favors, if granted, must to some extent constitute a burden to the taxpayers. Therefore I feel that we should in this bill reduce the expenses of operation as much as we can without doing an injustice to anyone, and by so doing not in any way cripple the service of the railroads.

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

Mr. PARKER. Mr. Chairman, how much time have I left?

The CHAIRMAN. The gentleman from New York has eight minutes.

Mr. PARKER. How much time has the gentleman from Kentucky?

The CHAIRMAN. The gentleman from Kentucky has four minutes.

Mr. PARKER. How many more speakers has the gentleman?

Mr. BARKLEY. There may be two of two minutes each or one of four minutes.

Mr. PARKER. I think I have the right to make the closing argument.

Mr. BARKLEY. No. I think that right is on this side. The gentleman had better go ahead.

Mr. PARKER. Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. WATSON] three minutes.

The CHAIRMAN. The gentleman from Pennsylvania is recognized for three minutes.

Mr. WATSON of Pennsylvania. Mr. Chairman, I am opposed to the amendment offered by the gentleman from Kentucky, and I believe the clause should remain in the bill as written, in order that the railroads of the country may have a credit basis. If you fail thus to establish a credit, every railway in the United States will go into the hands of a receiver inside of 10 years.

It was stated yesterday that the Pennsylvania Railroad alone will need $150,000,000 to meet its obligations that will be due within two years, and unless it has a credit basis no banker would consider the loan. All railroad companies, if Mr. BARKLEY'S amendment prevails, will be compelled to ask Congress to extend to the Government authority to loan money to them—this will be a stepping stone toward Government ownership, to which I am opposed.

Gentlemen from Texas and other States of the Union say we have no cars to move our products. How can you obtain cars unless you establish a credit basis for the railways?

The railways were turned over to the Government for the benefit of 110,000,000 of people, the citizens of our Republic, and not for the interest of the railways, but to win the war. It seems to me it would be unfair and unjust to release Federal control of the rails without statutory rate-making power invested in the Interstate Commerce Commission similar to the one herein stated in order that railway companies may continue their extensions and betterments. Some time ago Members of the House for many days argued in favor of establishing reserve banks to avoid financial panic.

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

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

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

There was no objection.

Mr. PARKER. Mr. Chairman, I yield one minute to the gentleman from Wisconsin [Mr. ESCH].

Mr. ESCH. Mr. Chairman, I offer an amendment in that time and desire to have it pending.

The CHAIRMAN. The gentleman from Wisconsin offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. ESCH: Page 65, line 17, after the word "shall," strike out "take into consideration," and insert in lieu thereof "give due consideration among other things to."

Mr. PARKER. Mr. Chairman, I yield the balance of my time to the gentleman from Indiana [Mr. SANDERS].

The CHAIRMAN. The gentleman from Indiana is recognized for four minutes.

Mr. SANDERS of Indiana. Mr. Chairman, this is the important provision in the bill providing for a rule of rate making. After all of the discussion in opposition to this provision of the bill, what has really been urged? First, that since we provide that there shall be taken into consideration the interest of the public, the shippers, the reasonable cost of maintenance and operation, including the wages of labor, depreciation and taxes, and a fair return upon the value of the property used or held for the service of transportation, it might, therefore, exclude the consideration of other things. That argument has been answered by the amendment offered by the chairman of the committee, which is agreed to by everyone who has spoken on the subject. This amendment says such facts "among other things" shall be considered.

That is no real argument against this rule. Some Members say it is unnecessary, but that is not an argument against it.

Gentlemen of the committee, this rule of rate making is necessary, and it grows out of the situation that confronts this country of ours. Everyone admits that next year the railroads of this country must raise by private capital $600,000,000. The year following the railroads of this country must raise another $600,000,000, and year after year a larger amount, in order that the great transportation system of this country may go on under private ownership.

We find at this time a propaganda going about the country to the effect that property has no rights, asserting that the "water" is to be squeezed out of railroad stocks, and then that is followed up by the assertion that there will be practically nothing left, and a propaganda spread throughout the country to the effect that private capital has no rights.

In my opinion this is a great piece of constructive legislation, and I want the American Congress, in passing this law, to write on the wall, so that he who runs may be read, that property in this country of ours still has the same rights which it has always had, and that is the reason I want this provision in the bill. [Applause.] There are others saying that we are giving the railroads great rates on watered stock, and this is the answer to that proposition, because we make no provision here to give any dividend upon stocks. We make no provision that stocks must pay dividends, but we merely provide that there the question of a fair return upon the value of the property shall be considered. Who can object to that? And that is a conclusive answer—the very language of the rule of rate making itself is a conclusive answer—to the man on the street corner who is charging that Wall Street wrote this bill and that we are proposing to pay dividends on worthless stocks. The further provisions of this bill carefully safeguard the public against the issuance of watered stock in any form. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. BARKLEY. Mr. Chairman, in reply to the gentleman from Indiana [Mr. SANDERS] I simply desire to make this suggestion, that he is not any more enthusiastic than I am in the desire that property rights shall be maintained in the United States. Buf the elimination of this language will not take away from any railroad or any owner of railroads any property right that he has ever enjoyed since he acquired the property or since it was constucted. I desire above everything else that Congress shall pass a railroad bill that we can defend. I have labored as best I could with the members of the committee to bring out a bill that we could defend before the American people; and it does occur to me that we have been sufficiently liberal with the railroads. We have given them a six months' guaranty, under which in the past two years the Government has lost on an average about $325,000,000 a year. We have guaranteed that their rates shall be continued at least for the next six months. We have given them the right to borrow money from the United States Government, which must be raised by taxation, provided the application for the loan is made within the next two years. Certainly that is going far enough on the part of the Government to take care of the railroads, without guaranteeing to them a return upon the value of their property whatever that value may be according to the testimony of the roads. But under the language of this bill as it is now the commission are not affirmatively given the right to inquire into the efficiency of management or into the economy with which the road is used, nor into the question of whether the roads have ever made a return upon the value of their property; and they are not even given the right to dispute the valuation presented to the commission by the roads themselves. Certainly we have gone far enough when we have guaranteed the integrity of the present rates and have given them the right to borrow money from the Government. In doing these things we have gone as far as we ought to go, without guaranteeing to them that they shall have a fair return, whatever that fair return may be.

In another body there is a bill now pending which guarantees to them a minimum of 6 per cent return upon the value of their property. If this language goes into this bill and it finally reaches the stage of conference, with these provisions in one bill and those provisions in the other, we can only adjust the differences between what may be interpreted as a fair return and the 6 per cent rate fixed in the other body. So we certainly ought not to bind the House to the proposition and bind the commission to the proposition that without regard to the management, without regard to expenses, without regard to good economy or efficiency, without regard to the location of the road or to the volume of freight, every road in the United States shall be guaranteed a fair return; and that will be the interpretation placed upon this language by every road that makes application to the Interstate Commerce Commission for an increase of rates. For that reason I hope that the amendment to strike out this provision will be adopted.

The CHAIRMAN. The time of the gentleman from Kentucky has expired. The question is on the amendment offered by the gentleman from Wisconsin [Mr. ESCH].

The amendment was agreed to.

The CHAIRMAN. The question is upon the amendment offered by the gentleman from Kentucky [Mr. BARKLEY].

The question being taken, on a division (demanded by Mr. BARKLEY) there were—ayes 115, noes 42.

Accordingly the amendment was agreed to.

Mr. SIMS. I offer an amendment.

The CHAIRMAN. The gentleman from Tennessee offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. SIMS: Page 65, line 9, after the word "prescribed" insert:

"*Provided*, That not exceeding $20,000 of the salary or compensation paid any official of any railroad company shall be charged to operating expenses or be considered by the Interstate Commerce Commission in reaching its conclusion as to the justness and reasonableness of any rate, fare, charge, classification, regulation, or practice."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee [Mr. SIMS].

The question was taken; and on a division (demanded by Mr. SIMS) there were—ayes 38, noes 80.

Accordingly the amendment was rejected.

Mr. SMALL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from North Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. SMALL: Page 67, line 8, after the word "line," insert a colon and the following:

"*Provided*, That nothing herein applicable to joint rail and water rates shall permit the water carrier to receive a proportion or division in excess of its water rate proper, or to authorize the commission to compel or permit it to do so, or to authorize the commission to prescribe a minimum rate to be charged by a water carrier."

Mr. SMALL. Mr. Chairman, the Committee of the Whole have already amended the bill so as to provide that the commission may not establish a minimum rate on traffic carried partly by rail and partly by water on the water line. Paragraph 3 of section 417 says that—

The commission may also, after full hearing upon complaint or upon its own initiative, establish through routes, joint classification, and joint rates, fares, or charges, applicable to the transportation of passengers or property, or the maxima, or minima, or maxima and minima, to be charged, and the divisions of such rates, fares, or charges as hereinbefore provided, and the terms and conditions under which such through routes shall be operated; and this provision shall apply when one of the carriers is a water line.

This amendment makes the paragraph of this section correspond with the action heretofore taken by the Committee of the Whole, and without this amendment there would be an ambiguity in the bill which might lead to confusion.

Gentlemen may think that there is no necessity for this amendment, that the commission would not fix any rate on the water line, in arranging a through route and a joint rate, greater than the prevailing rates upon the water line.

But, unfortunately, that expectation would probably not be realized. The United States Railroad Administration, since Federal control of railroads has been in existence, in fixing joint rates of traffic carried partly by water and partly by rail,

fixed in several instances the water rates so high as to preclude any transportation over the through routes partly by rail and partly by water. Therefore the shippers found no attraction in the through routes fixed partly by rail and partly by water over the water lines, and the water lines have not received the traffic which they would otherwise receive.

Mr. ALEXANDER. Will the gentleman yield?

Mr. SMALL. Certainly.

Mr. ALEXANDER. If the Interstate Commerce Commission is given the power to fix minimum water rates, as compared with the remunerative rates for rail transportation, they would be compelled to fix the water rate high enough so that the rails might carry it at the same rate, and hence the water carrier would be of no value to the American people.

Mr. SMALL. The gentleman from Missouri has stated the concrete proposition very clearly. This amendment is in the interest of the public and would increase transportation facilities and promote and encourage water lines on through routes partly by rail and partly by water. I believe if gentlemen of the committee will consider the amendment carefully, they will agree that it is necessary, and that it conforms to the action of the Committee of the Whole taken on Saturday—that it removes ambiguity and promotes water transportation and will be in the interest of the public.

Mr. CLEARY. Mr. Chairman, this is the same question we passed upon on Saturday, as the gentleman from North Carolina [Mr. SMALL] says. When we consider that from our section the State of New York has spent about $160,000,000 for canals, out of which the city of New York has paid over two-thirds, the city of New York is naturally very jealous of her water commerce. It is much to the interest of the city of New York, as I think it is to every city, to promote water transportation, so that the water-transportation people can carry as cheap as they wish. There never should be a minimum established for water transportation. There are so many factors entering into it. I remember when there were two or three thousand men in the water transportation, each fellow owning his own boat or two boats; and whenever he was in a hurry to get a return cargo he would take it as cheap as he could, and the goods went by the route of part water and part rail. A lot of goods are shipped from New York to Kansas City partly by water and partly by rail, and the canals and water transportation must always be permitted to carry stuff as cheap as they wish, and no law should interfere with that, because it is from competition between hundreds of people in and around New York now in every direction that they are carrying goods as cheap as they want to carry them. These men who want to take their boats and get away, if they are willing to carry for 50 cents, ought not to be compelled to charge 60. It would be wrong and unjust; and therefore I am very much in favor of the amendment offered by the gentleman from North Carolina [Mr. SMALL].

Mr. ESCH. Mr. Chairman, I move to strike out the last word. I think there has been a prejudice created in the minds of Members of the House, and possibly the country generally, in regard to the minimum rate as applied to water carriers, arising out of the action of the Railroad Administration with reference to the fixing of water rates. It is a fact that the water rates were raised materially where the water line was a competitor with the rail line. That was particularly true with the Great Lakes traffic. As I understand the proposition, the Federal Railroad Administration permitted the water rates to be raised to a level of the all-rail rate, thus destroying the differential which had existed for years. This was done, in some instances, on application of the water carriers protesting that they had to have a higher rate in order to pay increased cost of operation and materials.

Mr. CLEARY. Will the gentleman yield?

Mr. ESCH. Yes.

Mr. CLEARY. What watermen ever asked for a minimum rate to be established? Nobody but the Government itself.

Mr. ESCH. I understand the Great Lakes shipping interests asked for an increase of their rates, and the result has been that there has been no difference between the all-rail and the all-water rates. There was, therefore, no competition, and hence there was a loss of water-borne traffic because the rails carried the bulk of the business.

Again, the gentleman's amendment will, in my opinion, bear only on the rail carrier. You want to retain under that amendment full power of the commission to fix a maximum and minimum of the rail rates, part of the through rate, but when it comes to the water end of it leave it absolutely free and unrestricted. It does not seem to me that that is a fair proposition.

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

The question was taken; and on a division (demanded by Mr. SMALL) there were—ayes 62, noes 69.

So the amendment was rejected.

The Clerk read as follows:

SEC. 418. The fifth paragraph of section 15 of the commerce act is hereby amended by inserting "(5)" at the beginning of such paragraph.

SEC. 419. Section 15 of the commerce act is hereby amended by inserting after the fifth paragraph a new paragraph, to read as follows:

"(6) Whenever property is diverted or delivered by one carrier to another carrier contrary to routing instructions in the bill of lading, unless such diversion or delivery is in compliance with a lawful order, rule, or regulation of the commission, such carriers shall, in a suit or action in any court of competent jurisdiction, be jointly and severally liable to the carrier thus deprived of its right to participate in the haul of the property for the total amount of the rate or charge it would have received had it participated in the haul of the property. In any judgment which may be rendered the plaintiff shall be allowed to recover against the defendant a reasonable attorney's fee, to be taxed in the case."

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

The Clerk read as follows:

Page 70, line 24, after the period, insert:

"The carrier to which the property is thus diverted shall not be liable in such suit or action if it can show, the burden of proof being upon it, that before acquiring the property it had no notice, by bill of lading, waybill, or otherwise, of the route instructions."

Mr. ESCH. Mr. Chairman, we believe this amendment is in the interest of fairness to the receiving carrier and would protect it if a bill of lading or waybill or any other document did not on its face disclose the fact that there had been a diversion of the traffic or a diversion of the routing of the merchandise received by it.

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

The amendment was agreed to.

Mr. BRIGGS. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment by Mr. BRIGGS: Page 70, line 24, after the word "property," add the following: "and in case of loss or of injury or damage to any such property, the owner thereof shall be entitled to recover the fair and reasonable value thereof, or, as the case may be, such amount as will reasonably compensate such owner for such injury or damage sustained by such property."

Mr. SANDERS of Indiana. Mr. Chairman, I make the point of order against the amendment.

The CHAIRMAN. The gentleman will state it.

Mr. SANDERS of Indiana. It is not germane to the section, because the section amends paragraph 6, which deals with the question of diverting freight and deals with the question not of any damage to the property, for it is not with reference to property, it being a question of not obeying the directions in the bill of lading, while this amendment deals with damage to property.

Mr. BRIGGS. Mr. Chairman, the language in the bill provides a penalty for failure to route the shipment as designated, that the carrier guilty of that should be liable in a certain sum, and limiting that liability to the loss of the freight that the carrier would have earned if the one designated had been permitted to make the carriage. This goes a little further, but it still is bearing on the liability of the carrier which deviates from the rule prescribed in the bill of lading, and simply says that the liability should be extended beyond the point designated by the committee—shall be extended by giving the shipper a right to recover any loss that he sustains by reason of that routing, as well as giving a remedy for the loss of freight.

The CHAIRMAN. The paragraph to which this amendment is offered confers on carriers the right in a suit or action in any court of competent jurisdiction to recover for the loss of freight by reason of improper diversion of the delivery of the freight, contrary to routing instructions contained in the bill of lading. The amendment of the gentleman from Texas provides that in case of loss or damage to freight being so transported, having been so improperly diverted, the shipper may recover the damage in a proper proceeding in a court for the injuries sustained by the loss or damage to such property. In the opinion of the Chair the remedy proposed to be given to the shipper for this loss or injury is not akin to the provisions of the paragraph conferring a remedy, a right, on a carrier, and in the Chair's view the amendment proposed is not germane to the section offered. The Chair, therefore, sustains the point of order.

The Clerk read as follows:

SEC. 420. Section 15 of the commerce act is hereby further amended by inserting "(7)" at the beginning of the sixth paragraph, "(8)" at the beginning of the seventh paragraph, "(9)" at the beginning of the eighth paragraph, and "(10)" at the beginning of the ninth paragraph.

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

The Clerk read as follows:

Page 71, after line 7, insert a new section, as follows:

"SEC. 412½. Section 15 of the commerce act is hereby further amended by adding at the end thereof a new (11) paragraph:

"'It shall be unlawful for any United States carrier or carriers by rail or water to participate in the continuous or interrupted transportation of passengers or property from any place in the United States through a foreign country to any other place in the United States, or from or to any place in the United States to or from a foreign country, where the through rate, or through charge by combination of rates for such transportation, whether by rebate, by absorption of storage charges, wharfage charges, or any other charge or charges, or in any manner whatsoever, shall be less than the through rate or through charge by combination of rates between such points filed with the Interstate Commerce Commission or the United States Shipping Board, or the Interstate Commerce Commission and the United States Shipping Board, applying at such time for like transportation by the United States carriers by rail or water, or by rail and water, and any person violating the provisions of this paragraph shall be guilty of a misdemeanor, and shall on conviction be punished by a fine not to exceed $1,000.'"

Mr. SANDERS of Indiana. Mr. Chairman, on that I reserve the point of order.

Mr. JOHNSON of Washington. Mr. Chairman, if the gentleman intends to make the point of order, I wish he would make it now.

Mr. SANDERS of Indiana. Mr. Chairman, I make the point of order.

The CHAIRMAN. The gentleman will state it.

Mr. SANDERS of Indiana. Mr. Chairman, I make the point of order that this proposed amendment is not germane to the bill. It is offered as a new section, and therefore I suppose the question does not present itself as to whether or not it is germane at this particular place.

We propose in this bill to amend different sections of the commerce act. Of course, that opens up the field of amendment to any other section, and, I suppose, opens up the general field of the legislation of the commerce act. But this is not a regulation in any sense of the word. It is a prohibition against the carriage of freight by carriers of this country under certain conditions. It has been held in many cases with reference to ordinances of municipal corporations that the right to regulate does not give the right to prohibit, and, in fact, I think that that has been held with reference to the constitutional provision under which we enact all of this legislation. I cite that only as an illustration of the fact that the question of prohibiting the carrier from engaging in commerce is entirely different and foreign from the question of regulating commerce, and you can search through the original act and all of the amendments now in existence and you will not find any prohibitory legislation against the carrying of freight by a carrier. It occurs to me that in such a bill to offer an amendment which is a prohibition against the act of carriers is not a germane proposition.

Mr. JOHNSON of Washington. Mr. Chairman, in the first place, the amendment is, I think, in its proper place, making a No. "(11)" to section 420. The subject matter is entitled to be considered under the provisions adopted in the bill on page 39, at the beginning of Title IV, if the dashes inserted there on line 8 and line 17 mean anything at all.

Amendments to the commerce act—

* * * * * * *

That the provisions of this act shall apply to common carriers engaged in—

Then is described (a), (b), (c).

The amendment provides that railroads shall not take on in the United States cargoes of freight and jump them along a way as United States freight and then jump them into Canada, and receive for doing that rebates in any form whatever, and then jump the shipments back into the United States, thereby running the business outside of the United States, causing great loss to the southern set of transcontinental roads in the United States, which loss must be made up in some other way.

I can not see that it touches the point of order in any way, shape, or particular. It puts a few teeth to what you have already put in the bill.

Mr. TILSON. I make the additional point of order against the amendment that it must not only be germane to the bill, but it must be germane to the bill at this point, and that for parliamenary purposes it must be considered as an amendment to the section which has just been read, and unless it is so it is not in order at this time and at this place in the bill. I make that point of order.

Mr. JOHNSON of Washington. Why not?

Mr. TILSON. That as a new section it is not in order at this place unless it is germane to the preceding section.

Mr. JOHNSON of Washington. Why, Mr. Chairman, here we are amending various sections of the bill up to 10, and the section to which this is offered has already been changed once, and it is clearly in order to be admitted at this point.

Mr. SANDERS of Indiana. Mr. Chairman, I want to offer this additional suggestion. This is not in any sense a regulation. It does provide it shall be unlawful for any United States carrier or carriers by rail or water to participate in a continuous or uninterrupted transportation of passengers or property from any place in the United States to a foreign country or any other place in the United States, and so forth. It is an absolute prohibition against partaking in a through carriage.

Mr. ALEXANDER. Does the gentleman base his position on the fact that the interstate-commerce law does not contain any prohibition, and for that reason it is not germane?

Mr. SANDERS of Indiana. My point is that the interstate-commerce act is regulatory and not prohibitory.

Mr. ALEXANDER. There are many prohibitory provisions in the interstate-commerce act. The act provides that no railroad-owned vessels may go through the Panama Canal. The interstate-commerce act provides that no railroad shall grant rebates; that they shall not discriminate as between shippers. The interstate-commerce act is full of prohibitions. I understood the gentleman to say, further, the interstate-commerce act did not go to the limit of prohibiting. The Supreme Court has held to the contrary, that the power to regulate also includes the power to prohibit, and that has been held as regards interstate shipment of intoxicating liquors, and that prohibition has been exercised.

Mr. SANDERS of Indiana. That is not at all within the matter and the instance cited by the gentleman. This is an absolute prohibition of entering into any sort of carriage.

Mr. JOHNSON of Washington. The prohibition is in the law now.

Mr SMALL. May I be heard for just a few moments?

The CHAIRMAN. The Chair will hear the gentleman.

Mr. SMALL. Mr. Chairman, the proposed amendment seeks to amend section 15 of the commerce act. We have just concluded consideration of sections 417, 418, 419, and have just reached section 420. Each one of those had reference to or amended section 15 of the commerce act. Now, the title of this bill is, "to provide for the termination of Federal control of railroads," and so forth, and further "to amend an act entitled "An act to regulate commerce," and so forth, so that the bill under consideration proposes to amend the interstate commerce act. We have just read section 420, which proposed to amend section 15. The amendment proposed by the gentleman from Washington is further to amend section 15, and therefore it is germane, unless for some reason it has no reference to the matters proposed to be enacted in section 15 of the commerce act. I submit that the amendment of the gentleman from Washington is germane. What is the amendment? It seeks to correct an alleged evil by which commerce originating in the United States passes through a foreign country—for instance, Canada—and thence to another point in the United States. If the foreign railroad allows rebates or offers other wrongful inducements, it is guilty of unfair competition with our transcontinental lines. Those acts make the rate of freight over these foreign roads attractive to the shipper with the result of diverting traffic from our transcontinental lines to the line of a foreign country. It seems to me that an amendment which proposes to check in a perfectly legitimate way these violations by a foreign road, a practice which we inhibit in our law, must of necessity be germane to this bill and germane at the place at which it is offered.

The CHAIRMAN. Will the gentleman from North Carolina permit an inquiry there? Is there anything in the commerce act that has to do with transportation by rail or water to foreign countries?

Mr. SMALL. Yes; in the bill itself, Mr. Chairman, we find in section 400:

*Provided*, That this act shall apply to common carriers engaged in transportation of passengers or property from any place in the United States through a foreign country or any other place in the United States, or from or to any place in the United States to or from a foreign country.

That is in the bill which we have passed over, so that this amendment would be germane to this bill.

Mr. JOHNSON of Washington. It is also in the commerce act.

The CHAIRMAN. The gentleman from Washington offers an amendment to insert a new paragraph in section 15 of the commerce act as thus far amended, the effect of which is to make unlawful for a United States carrier by rail or water to participate in a continuous or interrupted transportation of passengers or property from any place in the United States through a foreign country to any other place in the United States, or from or to any place in the United States, or from a foreign country, where the through rate or through charge by combina-

tion of rates for such transportation, whether by rebate, by absorption of storage charges, wharfage charges, or any other charge or charges, or in any manner whatsoever, shall be less than the through rate or through charge by combination of rates between such points, filed with the Interstate Commerce Commission or the United States Shipping Board, or the Interstate Commerce Commission and the Shipping Board, applying at such time for like transportation by the United States carriers by rail or water or by rail and water.

It then provides a penalty. Section 15 of the commerce act is devoted chiefly to the powers of the commission after investigation either upon its own initiative or upon petition to institute rates or to determine just and reasonable regulations and practices; and where the carriers fail to agree on a division of joint rates the commission is authorized to prescribe the proper proportion. Section 15 also authorizes the investigation of new schedules, the suspension of new schedules, and the extension of such suspension, and puts the burden on the carriers to show the reasonableness of increased rates. It is also authorized to establish through routes and joint rates in classification. There is a limitation on the power to prescribe through routes, and the shipper is authorized to designate routes. Then there is a penalty for giving information, and also there is discretion left in the commission to determine the maximum to be paid for service rendered. Then the section as it now stands, as the Chair understands it, contains a clause reading:

The following enumeration of powers shall not exclude any other power which the commission would otherwise have in making an order under the provisions of this act.

The amendment proposed by the gentleman from Washington [Mr. JOHNSON] seeks to write into the law a prohibition for certain carriers to do a certain thing, or to route certain property or passengers in a certain way, and provides that the compensation shall not be less than certain schedules filed with the Interstate Commerce Commission or the United States Shipping Board. In the opinion of the Chair the amendment of the gentleman from Washington in seeking to write into the permanent law a prohibition of this character, particularly as to the filing or permitting the filing of rates with the Shipping Board, and also the Interstate Commerce Commission, is not germane to the provisions of section 15, which deals with an entirely different subject, and the Chair therefore sustains the point of order.

Mr. SEARS. Mr. Chairman, at the beginning of the reading of this bill I called the attention of the House to the necessity of giving this bill full consideration, involving, as it does, one-twelfth of the wealth of the Nation. I therefore ask unanimous consent to have printed in the RECORD an article that I have here, and I do so because I believe the membership of the House will be interested in the article; that the people of the country are entitled to the information contained in the article; and further, because the gentleman who wrote the article will deal with the bill at the other end of the Capitol. Without expressing any opinion as to the merits or demerits of the article, I ask unanimous consent to insert in the RECORD an article appearing in a magazine, the Nation's Business, issue of June, 1919, entitled, "Our Waiting Railways; What Attitude Will Congress Take Toward the Carriers which are the Vital Factor in our Commercial Existence?" by Senator ALBERT B. CUMMINS, chairman of the Interstate Commerce Committee of the Senate. This article clearly shows the necessity of giving this legislation careful consideration, which I contend has not been done and was impossible in the six or seven days the bill has been before us.

The CHAIRMAN. The gentleman from Florida asks unanimous consent to extend his remarks in the RECORD by printing the article mentioned. Is there objection?

Mr. JOHNSON of Washington. Mr. Chairman, I do not believe the House should go into the business of inserting the remarks of a gentleman in the other body, and therefore I object.

Mr. SEARS. I hope the gentleman will not object. This will be printed in the RECORD and the people will and should have an opportunity to read it. There is much meat in this article. The gentleman's objection is simply an illustration of——

A MEMBER. Regular order!

Mr. SEARS. Mr. Chairman, I make the point of order that the Democrat who was kind enough to call for the regular order should be courteous enough to stand up and comply with the rules of the House. I think that his ignorance in this case should not be overlooked.

Mr. JOHNSON of Washington. Mr. Chairman, will the gentleman yield?

Mr. SEARS. Yes.

Mr. JOHNSON of Washington. I do not desire personally to be objecting to these things, but as a member of the Joint Committee on Printing I feel obliged to do so for the reason in this case that the matter is likely to appear in the RECORD from another body.

Mr. SEARS. Then it will be under consideration again, and the people will not have a chance perhaps to read it and study it before the bill is again acted upon.

Now, Mr. Chairman, it has been stated by a number of Members of the House that a vote for or against the bill will be considered as a vote for or against public ownership of railroads. This construction can not and should not be given to any vote cast by the Members on either side. I think there are three interests involved in this bill which should be protected: First, the owners and operators of railways. To the owners should be given full justice; then to their employees; to them should be given full justice. I believe the first two, as ably cartooned a few days ago, have been fully cared for, but there is a third interest, Mr. Chairman, and that is the great citizenship of the United States, which I fear, I am convinced, has not been protected. I had hoped to publish this article, written by the distinguished Republican chairman of the Committee on Interstate Commerce of the Senate, in order that the people of the country might know something about it, and again I state that I regret that one of his Republican colleagues should see fit to object.

The CHAIRMAN. The time of the gentleman from Florida has expired. The Clerk will read.

The Clerk read as follows:

SEC. 422. The second paragraph of section 16 of the commerce act is hereby amended by inserting (2) at the beginning of such paragraph and by striking out the last sentence thereof and inserting in lieu thereof the following as a new paragraph:

"(3) All actions at law by carriers subject to this act for recovery of their charges, or any part thereof, shall be begun within three years from the time the cause of action accrues, and not after. All complaints for the recovery of damages shall be filed with the commission within two years from the time the cause of action accrues, and not after, unless the carrier, after the expiration of such two years or within 90 days before such expiration, begins an action for recovery of charges in respect of the same service, in which case such period of two years shall be extended to and including 90 days from the time such action by the carrier is begun. In either case the cause of action in respect of a shipment of property shall, for the purposes of this section, be deemed to accrue upon delivery or tender of delivery thereof by the carrier, and not after. A petition for the enforcement of an order for the payment of money shall be filed in the district court or State court within one year from the date of the order, and not after."

Mr. THOMPSON. Mr. Chairman, I ask unanimous consent to extend by remarks in the RECORD on this bill.

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

There was no objection.

Mr. JONES of Texas. Mr. Chairman, I make the same request.

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

There was no objection.

Mr. ESCH rose.

Mr. BEE. Mr. Chairman, I wanted to ask the chairman of the committee——

The CHAIRMAN. Does the gentleman from Wisconsin seek recognition?

Mr. ESCH. Yes; but I will wait.

Mr. BEE. If he does, of course I will yield. I wanted to ask the chairman of the committee as to the provision on page 71, line 16, requiring actions at law by carriers to be begun within three years and complaints for the recovery of damages within two years against the carriers. Why do you give the carriers three years in which to bring cause of action?

Mr. ESCH. The trouble is that there is really no limitation now, and that has been one of the main causes of complaint on the part of shippers where they have paid their charges and then five or six years thereafter the carriers have brought in claims for overcharge. We did not believe that that was in the interest of good business, and so we put in the limitation of three years.

Mr. BEE. The reason I asked the chairman of the committee the question was because I wanted to know why you give the carriers three years instead of two. In other words, the section reads—

All actions at law by carriers subject to this act for recovery of their charges, or any part thereof, shall be begun within three years from the time the cause of action accrues, and not after. All complaints for the recovery of damages shall be filed with the commission within two years from the time the cause of action accrues, and not after.

Why do you make that distinction between the carriers and those who have complaints against the carriers?

Mr. ESCH. The first part is the existing law.

Mr. BEE. The three years?

Mr. ESCH. No; the two years is the existing law.

Mr. BEE. Why does not the committee put them upon an equality?

Mr. ESCH. You have to allow considerable time in actions of this sort because of the complexity of the tariff schedules. Sometimes it requires a good deal of time before it is discovered.

Mr. BEE. I understand, and the only thing I am asking—and more for information than by way of complaint—is why the time given to the carrier is three years and the time given to the shipper is two years? Why is there not an equality in point of time between the parties?

Mr. SANDERS of Indiana. Where the carrier brings the suit it is a case where the carrier did not charge the consignor a sufficient amount of money, and it is a violation of law, and the consignor has been held heretofore to be obliged to return the difference even after a period of 8 or 10 years; but it was such a hardship on the shipper that it was thought there ought to be some limitation to that kind of an action, and the committee fixed it at 3 years. The gentleman will understand that they are not the same kind of an action.

Mr. BEE. I understand that they are not the same kind of actions, but I am still asking for an answer to the question as to why there should be the difference in the time allowed? I can not understand why the carrier can not find out within three years that he has not charged a sufficient amount. He can find this out in two years, just as well as the shipper can find out his troubles in two years.

Mr. SANDERS of Indiana. But it has always been recognized that the suits are entirely different kinds of action; because the suit by the shipper is ordinarily a suit for failure to deliver, or something of that sort, while on the carrier's part it is a case where he has not charged the shipper a sufficient amount. It is really a tort on the part of the carrier, and there being that distinction, there is some question whether there ought to be any limitation whatever.

Mr. BEE. I understand, but it occurs to me that where the carrier has not charged enough you ought not to give him so much time to find it out.

Mr. SANDERS of Indiana. It gives him an opportunity to practice rebating.

Mr. BEE. I know, but you ought not to give him so much time to find it out.

Mr. ESCH. Mr. Chairman, I wish to correct a typographical error on page 71, line 12, to insert quotation marks outside of the brackets around the figure "2."

The CHAIRMAN. Without objection, the Clerk will make the correction.

Mr. EVANS of Nevada. I ask unanimous consent to revise and extend my remarks in the RECORD.

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

There was no objection.

The Clerk read as follows:

SEC. 424. The seventh paragraph of section 16 of the commerce act is hereby amended to read as follows:

"(8) Any carrier, any officer, representative, or agent of a carrier, or any receiver, trustee, lessee, or agent of either of them, who knowingly fails or neglects to obey any order made under the provisions of sections 3, 13, or 15 of this act shall forfeit to the United States the sum of $5,000 for each offense. Every distinct violation shall be a separate offense, and in case of a continuing violation each day shall be deemed a separate offense."

Mr. BROOKS of Pennsylvania. Mr. Chairman, I wish to offer an amendment on page 71, line 18.

Mr. ESCH. We have passed that.

Mr. BROOKS of Pennsylvania. I ask unanimous consent to return to it.

Mr. ESCH. For what purpose? We would like to know what the gentleman's amendment is.

Mr. BROOKS of Pennsylvania. I think the term of three years in which the carrier has the right to bring suit against the shipper is too long a time.

Mr. ESCH. We have just discussed that.

Mr. BROOKS of Pennsylvania. One year is plenty long enough.

The CHAIRMAN. Is there objection to the gentleman's request to return to the preceding section?

Mr. ESCH. Let the gentleman's amendment be read for information.

Mr. BROOKS of Pennsylvania. I offer the following amendment.

The CHAIRMAN. The gentleman's amendment will be read for information.

The Clerk read as follows:

Page 71, line 18, after the word "within" strike out the word "three" and substitute "one."

Mr. BEE. Would it be in order for me to move to substitute "two" instead of "one"?

The CHAIRMAN. Not until we get consent to return to the section for the purpose of offering an amendment. Is there objection?

Mr. ESCH. I object.

The CHAIRMAN. The gentleman from Wisconsin objects.

The Clerk read as follows:

SEC. 426. The tenth paragraph of section 16 of the commerce act is hereby amended to read as follows:

"(11) The commission may employ such attorneys as it finds necessary for proper legal aid and service of the commission or its members in the conduct of their work, or for proper representation of the public interests in investigations made by it or cases or proceedings pending before it, whether at the commission's own instance or upon complaint, or to appear for or represent the commission in any case in court; and the expenses of such employment shall be paid out of the appropriation for the commission."

Mr. SMALL. Mr. Chairman, I move to strike out the last word for the purpose of asking the chairman of the committee a question. In what respect does the provision of the bill differ from existing law?

Mr. ESCH. The only difference will be found in line 14, on page 73, in the use of the word "court."

Mr. SMALL. Instead of "Commerce Court"?

Mr. ESCH. The other was "Commerce Court," and we abolished that court, and so we now say "court."

Mr. SMALL. That is substantially the only difference?

Mr. ESCH. That is all.

Mr. LAYTON. Mr. Chairman, I suggest to the chairman of the committee whether there is not a typographical error in line 11, and if the word "or," before the word "proceedings," should not be "of"?

Mr. ESCH. No; that was considered in the committee. It is right as it is.

Mr. LAYTON. Then I think there should be a comma before the word "or."

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 433. The fifth paragraph of section 20 of the commerce act is hereby amended to read as follows:

"(5) The commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to the provisions of this act, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of moneys. The commission shall as soon as practicable prepare and establish schedules for depreciation of all classes of equipment and fixed improvements of carriers subject to this act, which schedules may be modified from time to time, and shall, as and when established, be used and followed. The commission shall at all times have access to all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, and kept or required to be kept by carriers subject to this act, and the provisions of this section respecting the preservation and destruction of books, papers, and documents shall apply thereto, and it shall be unlawful for such carriers to keep any other accounts, records, or memoranda than those prescribed or approved by the commission, and it may employ special agents or examiners, who shall have authority under the order of the commission to inspect and examine any and all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, and kept or required to be kept by such carriers. This provision shall apply to receivers of carriers and operating trustees. The provisions of this section shall also apply to all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, kept during the period of Federal control, and placed by the President in the custody of carriers subject to this act."

Mr. HAYDEN. I move to strike out the last word. In lines 3, 4, and 5 on page 76 occur the words:

And it shall be unlawful for such carriers to keep any other accounts, records, or memoranda than those prescribed or approved by the commission.

Mr. ESCH. Yes.

Mr. HAYDEN. I want to know whether that provision makes it unlawful for the carrier to keep accounts, records, or memoranda prescribed by the State railway or corporation commissions?

Mr. ESCH. That is existing law and has been the law for quite a number of years, ever since 1910. If your State commission has been keeping records of accounts according to its own law and has not had any conflict with the Interstate Commerce Commission, I assume that there has been no violation of this law.

Mr. HAYDEN. I know of this state of affairs: The Legislature of the State of Arizona passed a 3-cent-fare law, which the carriers, of course, resisted. Pending the decision of the court the State corporation commission directed the carriers to keep an account of tickets sold at the rate of more than 3 cents a mile, so that a rebate could be made in the event that the court decided that the act was constitutional. The carriers refused to keep any such account. Would there be any objection to amending this provision by adding, after the word "admission," in line 5, the words "or unless prescribed by a State corporation commission or other State railway-regulatory body?"

Mr. ESCH. No; I believe that might lead to a conflict of jurisdiction at once. There has been no trouble, as far as I know, since 1910, when these words were put into the law.

Mr. MOORE of Virginia. Mr. Chairman, I will say, if the gentleman will yield, that in practice the Interstate Commerce Commission devises for the small lines a simple form of accounts. It does not require any such complicated report as it expects from the larger trunk lines, and no difficulty has come from the application of this provision, which, as the chairman says, has been the law for several years.

Mr. HAYDEN. I realize that it would be both vain and useless to offer such an amendment unless it meets with the approval of the chairman of the Committee on Interstate Commerce, so I therefore ask the gentleman from Wisconsin [Mr. ESCH] whether he would object to an amendment that would not make it unlawful for the carriers to keep accounts, records, or memoranda when prescribed by a State corporation commission or other State regulatory body?

Mr. ESCH. I would not be inclined to accept the amendment, as far as I am personally concerned. There has been no difficulty, and I doubt whether there ever would be.

Mr. HAYDEN. As I have said, there was just such a difficulty in my State.

Mr. HARDY of Texas. Will the gentleman yield?

Mr. HAYDEN. Yes.

Mr. HARDY of Texas. Might it not be very important, as it would have been had the Arizona act been held constitutional, in order to preserve evidence of the overcharge?

Mr. HAYDEN. The Arizona State Corporation Commission insisted that it was very important.

Mr. VENABLE. Mr. Chairman, I move to strike out the last two words. Of course, the objection of the gentleman from Arizona is that this language might take away from the State tribunal the power to make a rule that the carrier should keep such books and accounts as would enable the State tribunal to exercise its jurisdiction over the intrastate rights. I do not think any such construction would be given to the language, because this Congress has not the power to take from the States their jurisdiction over intrastate rights, which impliedly carries with it the power to make all internal regulations and rules for the exercise of its jurisdiction. Certainly no court would so construe this language as to make it an invasion of State jurisdiction. In my judgment, if this language should come before the courts they would construe it as applying only to interstate business, with no sort of limitation on the power of the State to lay down any necessary rule or regulation for its own use and guidance.

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

The Clerk read as follows:

SEC. 436. The third proviso of the eleventh paragraph of section 20 of the commerce act (not counting the proviso added by section 435 of this act) is hereby amended to read as follows:

"*Provided further*, That it shall be unlawful for any such common carrier to provide by rule, contract, regulation, or otherwise a shorter period for giving notice of claims than 90 days, for the filing of claims than four months, and for the institution of suits than two years, such period for institution of suits to be computed from the day when notice in writing is given by the carrier to the claimant that the carrier has disallowed the claim or any part or parts thereof specified in the notice."

Mr. JONES of Texas. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 78, line 2, after the word "notice," add the following:

"*Provided*, In the event suit is instituted on any such claim within the 90-day period such institution of suit shall be construed as being in compliance with any such provision for giving notice of filing such claim."

Mr. JONES of Texas. Mr. Chairman, the purpose of the amendment is this: A great many contracts of shipment require that notice of the claim for damages shall be filed within a certain period. This law requires that notice of claim be filed within 90 days and the filing of the claim within four months. As I understand it, the purpose of the carrier in requiring that notice of the claim be filed or requiring that claims be filed within a limited period is so that they may have a chance to investigate before the witnesses have gotten away and before the evidence has become scattered so that it can not be obtained. If the suit is filed within three months there can be no reason for putting the party to the trouble of filing notice of a claim or of filing the claim itself. The filing of the suit would be notice, and it would be notice of the character and kind of the claim. I do not see how there can be any objection to the proviso being put in.

Mr. Chairman, the question of whether or not the railroads shall be returned to the owners is not involved in this bill. They were simply taken over for the period of the war. The President has announced that he will return them on January 1, 1920. They will therefore be returned at a very early date, and even if the President did not act and no legislation were passed they would automatically go back at an early date. They were taken over for the war and should be returned at once. I was one of the 15 Members who voted last February to return them.

The sole question to be determined is whether the present bill should be passed or whether they should go back under the law as it existed prior to Federal control.

The so-called Esch bill, which we are now considering, is a monstrosity. Section 207 provides that the United States shall guarantee the roads a profit, during the first six months of their operation after being returned, of not less than the average they received during the three years just prior to Federal control. It provides that those roads which make more than the guaranty shall be allowed to keep the excess and those which make less—well, the Government will make up the loss by a gift, a pure gratuity. What other business receives a guaranty of a profit? The farmer does not. When the drought or the pestilence comes he must shoulder his loss. Under this bill you would tax him to guarantee the railroad owner against loss. The business man is not guaranteed. If hard times come and he has goods left on his hands, he, too, must suffer his loss like a man. But now you would tax him, too, for the benefit of the owners of the stocks and bonds. What a strange philosophy of government.

In addition to the guaranty, another subsection of the bill appropriates $250,000,000 to be loaned to the railways out of the United States Treasury. In addition to guaranteeing them a profit, you would lend them a lot of money on second liens.

This is not all. The public has hoped that freight rates at least would go no higher. But this bill provides that all the railways which desire to have the advantages of the guaranty shall immediately file a schedule of increases in freight rates over what those rates are now. What a provision. Whoever heard of a government of sane men guaranteeing a business a profit, then loaning that business money, and then asking that business to increase its charges for its services? Where does the public come in on this affair? Surely the taxpayer is entitled to some consideration in this hour of turmoil. How can any man vote for such a measure?

Subsections 15 and 16 provide for turning over the distribution of all cars to the Interstate Commerce Commission, with authority to order them anywhere, regardless of the road to which they belong. My section of the country has had some experience with car distribution. This bill would give the commission power to take every car out of Texas or any other State. The man does not live who can sit at a desk in Washington and distribute cars over this broad country without getting them into a jam.

By the terms of this measure the Shreveport decision is not only ratified, but its scope is enlarged, and the business interests of all inland sections and cities are jeopardized, the State railway commissions are stripped of practically all their powers, water transportation will be almost destroyed, rates will be increased, and the progress of the far-away and developing sections will be greatly impeded. But why multiply the reasons? The bill in its present form is impossible.

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

The question was taken; and on a division (demanded by Mr. JONES of Texas) there were—ayes 24, noes 51.

So the amendment was rejected.

The Clerk read as follows:

SEC. 437. The commerce act is further amended by inserting therein a new section between section 20 and section 21 to be designated section 20a, and to read as follows:

"SEC. 20a. (1) That from and after 120 days after this section takes effect it shall be unlawful for any common carrier by railroad (except a street or electric interurban passenger railway not engaged in the general business of transporting freight in addition to its passenger and express business) which is subject to this act (hereinafter in this section called 'carrier') to issue any share of capital stock or any bond or other evidence of interest in or indebtedness of the carrier (hereinafter in this section collectively termed 'securities') or to assume any obligation or liability as lessor, lessee, guarantor, indorser, surety, or otherwise, in respect of the securities of any other person, natural or artificial, even though permitted by the authority creating the carrier corporation, unless and until, and then only to the extent that, upon application by the carrier, and after investigation by the commission of the purposes and uses of the proposed issue and the proceeds thereof, or of the proposed asumption of obligation or liability in respect of the securities of any other person, natural or artificial, the commission by order authorizes such issue or assumption. The commission shall make such order only if it finds that such issue or assumption: (a) is for some lawful purpose compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the carrier of service to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

"(2) The commission shall have power by its order to grant or deny the application as made, or to grant it in part and deny it in part, or to grant it with such modifications and upon such terms and conditions

as the commission may deem necessary or appropriate in the premises, and may from time to time, for good cause shown, make such supplemental orders in the premises as it may deem necessary or appropriate, and may by any such supplemental order modify the provisions of any previous order as to the particular purposes, uses, and extent to which, or the conditions under which, any securities so theretofore authorized or the proceeds thereof may be applied, subject always to the requirements of the foregoing paragraph (1).

"(3) Every application for authority shall be made in such form and contain such matters as the commission may prescribe. Every such application, as also every certificate of notification hereinafter provided for, shall be made under oath, signed and filed on behalf of the carrier by its president, a vice president, auditor, comptroller, or other executive officer having knowledge of the matters therein set forth and duly designated for that purpose by the carrier.

"(4) Whenever any securities set forth and described in any application for authority or certificate of notification as pledged or held unencumbered in the treasury of the carrier shall, subsequent to the filing of such application or certificate, be sold, pledged, repledged, or otherwise disposed of by the carrier, such carrier shall, within 10 days after such sale, pledge, repledge, or other disposition, file with the commission a certificate of notification to that effect, setting forth therein all such facts as may be required by the commission.

"(5) Upon receipt of any such application for authority the commission shall cause notice thereof to be given to and a copy filed with the railroad commission, or public service or utilities commission, or other appropriate authority of each State in which the applicant carrier operates, or to the governor of such State. The railroad commissions, public service or utilities commissions, or other appropriate State authorities thus notified shall have the right to make before the commission such representations as they may deem just and proper for preserving and conserving the rights and interests of their people and the States, respectively, involved in such proceeding. The commission may hold hearings, if it sees fit, to enable it to determine its decision upon the application for authority.

"(6) The jurisdiction conferred upon the commission by this section shall be exclusive and plenary, and a carrier may issue securities and assume obligations or liabilities in accordance with the provisions of this section without securing approval other than as specified herein.

"(7) Nothing herein shall be construed to imply any guaranty or obligation as to such securities on the part of the United States.

"(8) The foregoing provisions of this section shall not apply to notes to be issued by the carrier maturing not more than two years after the date thereof and aggregating (together with all other then outstanding notes of a maturity of two years or less) not more than 10 per cent of the par value of the securities of the carrier then outstanding. In the case of securities having no par value, the par value for the purposes of this paragraph shall be the fair market value as of the date of issue. Within 10 days after the making of such notes the carrier issuing the same shall file with the commission a certificate of notification, in such form as may from time to time be determined and prescribed by the commission, setting forth as nearly as may be the same matters as those required in respect of applications for authority to issue other securities.

"(9) The commission shall require periodical or special reports from each carrier hereafter issuing any securities, including such notes, which shall show, in such detail as the commission may require, the disposition made of such securities and the application of the proceeds thereof.

"(10) All issues of securities and assumptions of obligation or liability contrary to the provisions of this section or of any order issued thereunder by the commission shall be void. If any security so made void or any security in respect to which the assumption of obligation or liability is so made void, is acquired by any person for value and in good faith and without notice that the issue or assumption is void, such person may in a suit or action in any court of competent jurisdiction hold jointly and severally liable for the full amount of the damage sustained by him in respect thereof, the carrier which issued the security so made void or assumed the obligation or liability so made void, and its directors, officers, attorneys, and other agents, who participated in any way in the authorizing, issuing, hypothecating, or selling of the security so made void or in the authorizing of the assumption of the obligation or liability so made void. In case any security so made void was directly acquired from the carrier issuing it the holder may at his option rescind the transaction and upon the surrender of the security recover the consideration given therefor. Any director, officer, attorney, or agent of the carrier who knowingly assents to or concurs in any issue of securities or asumptions of obligation or liability forbidden by this section, or any sale or other disposition of securities contrary to the provisions of the commissioner's order or orders in the premises, or any application not authorized by the commission of the funds derived by the carrier through such sale or other disposition of such securities, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than $1,000 nor more than $10,000, or by imprisonment for not less than one year nor more than three years, or by both such fine and imprisonment, in the discretion of the court.

"(11) After December 31, 1921, it shall be unlawful for any person to hold the position of officer or director of more than one carrier, unless such holding shall have been authorized by order of the commission, upon due showing, in form and manner prescribed by the commission, that neither public nor private interests will be adversely affected thereby. After this section takes effect it shall be unlawful for any officer or director of any carrier to receive for his own benefit, directly or indirectly, any money or thing of value in respect of the negotiation, hypothecation, or sale of any securities issued or to be issued by such carrier, or to share in any of the proceeds thereof, or to participate in the making or paying of any dividends of an operating carrier from any funds properly included in capital account. Any violation of these provisions shall be a misdemeanor, and on conviction in any United States court having jurisdiction shall be punished by a fine of not less than $1,000 nor more than $10,000, or by imprisonment for not less than one year nor more than three years, or by both such fine and imprisonment, in the discretion of the court."

Mr. PURNELL. Mr. Chairman, I move to strike out the last word. I expect to support this bill, but I do not want to delay the passage of it, and I ask to revise and extend my remarks in the RECORD.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. REED of West Virginia. Mr. Chairman, I make the same request.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. HUDSPETH. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Page 81, strike out all of subdivision (6) on said page and insert the following:

"*Provided*, however, that no such securities, capital stock, bonds, and evidences of indebtedness shall be issued under the act except in the manner and form prescribed by the laws of the State which created such common carrier, and that this section of this act shall not be construed as a limitation of State authority, but only as cumulative thereof."

Mr. HUDSPETH. Mr. Chairman, I am opposed to this bill in its present form—not that I am opposed to returning the railroads to their private owners. I would be glad to do that tomorrow. I am opposed to Government control and Government ownership; likewise I am opposed to legalizing millions and millions of watered stock as is proposed to be done by this bill.

The chairman of the Committee [Mr. ESCH] has stated that this was a national bill; that it was not meant for Texas. In this I wholly agree with him. It is national; national from the enacting clause to the last page; national in every line and in every sentence.

Alexander Hamilton in his palmiest days could not have written a document for a greater centralization of power at Washington. It takes away from the States every vestige of right granted them under the Constitution of the United States and under the constitutions and laws of the several States.

Yes, sirs, I want the roads to go back to the private owners, and in my candid judgment Government control has been a dismail failure; but, sirs, I believe, as Henry Grady so eloquently stated, that the Government should do nothing that the States can do, and the regulation of railroads by our State since the railroad commission was written into our organic law some 30 years ago has proved a success, and the people of the great State of Texas do not want their powers taken away to regulate and control the great railway lines that pass through our State.

I am talking now to men who believe that the Constitution of the great Republic is more than a literary document or an ancient relic of bygone days. I admit, sirs, that it has been terribly mutilated in the last few years, but there is a small fragment of it left, and under it a small vestige of States rights still in existence.

This bill, gentlemen, is the most iniquitous of any measure that has ever confronted me in legislation, and in making that statement I mean no disrespect to the splendid committee that brought this bill out. I have tried to amend it in order to restore to the States and to the various commissions of the different States the right to regulate and make rates intrastate. In this I have been only partially successful. My splendid colleagues from Texas have labored likewise.

To sum up briefly, this bill destroys the antitrust laws of Texas, built up by the splendid brain and long experience of our able attorneys general and the decisions of our splendid courts. This bill destroys forever the stock and bond law of Texas, forced upon the statute books by the great commoner, Gov. Hogg, and which the railroad companies and their splendid and astute attorneys in the past 30 years have never been able to make a dent upon. This bill practically abolishes the railroad commission of Texas and its power to make rates, although the gentleman from Indiana [Mr. SANDERS], who is on the committee, stoutly denies that it does. But I challenge him to point to the saving clause for State regulation.

Gentlemen, the railroad commission law is sacred to the people of my State. Texas is a pioneer in State regulation. This law was advocated by the great commoner who gave the best years of his life in behalf of the people of his State; and his whole life was so interwoven with the toiling masses and his whole thought was for their betterment that he requested that a pecan and a walnut tree be planted at the head and foot of his grave, so that the children of the "breadwinners," as he termed them, for whom he had striven for their betterment, might come and pick the fruit thereof in after years. This bill was written into the constitution of Texas by almost a unanimous vote of the people; and, sirs, they do not want it lacerated and emasculated by this bill.

This bill provides that an agent of the Federal Government can go to any part of my State or any other State and direct the routing of cars or change the routing of cars over any route he may feel called upon to choose, and in that respect, as I have explained in another address before this body, it is placed in his hands to destroy shipments of live stock and farm produce, and the owner would have no recourse against anyone, because the shipment was directed by an agent of the Federal Government. Will the people of my State sanction a high-handed, autocratic grant of power like this? I say, "No; they will not."

Until I forced the chairman to adopt an amendment to paragraph 17 you could not build a line of railroad two miles and

a half under this bill without coming to Washington and the Interstate Commerce Commission and getting a grant of authority. Until the chairman was forced to place on this amendment, which only covers railroads entirely within the State, a short-line road could have been taken over by the superior road and the roadbed taken up by the commission in Washington upon its own ipse dixit, and the people of the State would have been powerless to prevent it.

We have a law in Texas, also a clause in the constitution of the State, preventing consolidation except by the consent of the legislature, or against pooling of roads or against leasing of one road by another. This has all been destroyed by this bill and sole authority on these questions lodged in the great commission at Washington.

The Shreveport case has been written into this bill and has been made the law of the land. For what reason I am unable to understand. The Shreveport case was where the city of Shreveport sued the railroads and the State of Texas was not made a party. Their contention, in my candid judgment, was ridiculous. Their contention was that rates intrastate or within the State of Texas on lumber, coal, sand, gravel, cement, wood, and other products was unjust and a discrimination against the interstate rates from Shreveport into Texas, notwithstanding the fact that Shreveport never shipped a bag of wool in all the days of its life. Shreveport never shipped any sand, never shipped any gravel, never shipped any coal, never shipped any wood; yet the decision of the court which, if correct, is founded upon a wrong principle, held that the intrastate rates on these commodities I have named was a discrimination against the interstate rate from Shreveport to Texas.

You know some autocrat in his mad career said, "The people be damned," and you know what happened to him; and the section engrafting the Shreveport decision into this law, section 314 of this bill, winds up with the remarkable statement, which I quote, "The law of any State or the decision or order of any State authority to the contrary notwithstanding." Section 4 of the Constitution of the United States gives full faith and credit to the decree or decision to be given by one State to another. An acknowledgment taken by the humblest notary public in Connecticut will be given full faith and credit in any court in my State. A judgment in the State of Virginia being filed in Texas in any court in that State, execution will promptly issue. Under this bill the decision of every court in the land is recognized as to every human being, but not as to the railroads. They are exempt and stand in a class, as far as this bill is concerned, above the law.

The gentlemen who appeared before the committee representing the interests and who possibly may have impressed their views into this bill—one David Warfield, representing six billions of railroad securities; one Mr. Rich, of Boston, who represented the Boston & Maine Railway and the Boston Chamber of Commerce; one Mr. Wheeler, vice president of the Union Trust Co., of Chicago—all declared for a centralization of power at Washington and the destruction of the rights of States to control railways within said States.

Now, I want to say to the chairman of the committee and to the Republicans, who are standing in solid phalanx behind same, for this bill, that if it is your intention to follow up the declaration in your national platform at Chicago when you nominated one Bill Taft, that the right of the States to regulate rates within the States and to regulate railroads within the States should be abolished and all powers be centered in the Interstate Commerce Commission, then it is useless to offer any amendments to prevent invasion of State rights. As much as I would like to see the railroads return to their owners, I can not support a bill the boldness with which it destroys the splendid laws of my State, that any man who would offer to repeal, if he were running for office in my State, would be immediately sent into political obscurity.

Mr. Chairman, if I may be permitted to get in front of the Republican steam roller for a few minutes, I would like to call the attention of the gentlemen of this committee to the fact that this amendment of mine simply is cumulative of this section and prohibits this bill from destroying the stock and bond laws of my State, placed upon the statute books 30 years ago. Under this section you permit the issuance of securities by a railroad company by making application to this commission in Washington. At the time that the stock and bond law of my State was passed you had the Interstate Commerce Commission law on the statute books, and let me say to you that when the great Gov. Hogg forced through the Legislature of Texas the stock and bond law he squeezed out of the stocks and bonds of railroads in Texas millions upon millions of water, and at that time, I repeat, you had your Interstate Commerce Commission law; it was on the statute books. At that time the stocks and bonds of the railroads of Texas were not worth 5 cents on the dollar in many instances. There were millions of stocks and bonds floating that could not be sold, and no railroad building was going on in that State. Stagnation was on every hand. When that splendid law was put on the statute books, immediately stocks and bonds were made stable, and the country at large knew, and the financial interests in the East knew, that the stocks and bonds of Texas were good because we squeezed the most of the water out of them, said watered stocks you are making legal now by this bill. Railroad building at once began; there was an impetus that had never been known before in the history of the State.

Mr. SANDERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. HUDSPETH. Oh, certainly; I always yield to gentlemen who believe—not—in State rights.

Mr. SANDERS of Indiana. The gentleman is aware that this section contains the provisions of a bill introduced and passed in this House twice, whose author was his colleague, the gentleman from Texas [Mr. RAYBURN].

Mr. HUDSPETH. I am aware of the fact, but let me say this: This is not the Rayburn bill. The Rayburn bill did not take away from the State railway commission of our State the prerogatives of passing on stocks and bonds. It did not destroy the great stock and bond law of Texas. I want to say to my friend that I want to return the railroads to their owners as speedily as possible, and I wish we could do it to-morrow. I am against Government control and Government ownership, but I want to say to you that I do not want to return the railroads to their owners with millions and millions of watered stock legalized by this bill.

Mr. SANDERS of Indiana. Then, I suggest to the gentleman that he vote for this section.

Mr. HUDSPETH. That is what you are doing. If you adopt my amendment and let the tribunals that have always passed on the stocks and bonds of railroads pass on them as they have done in the past and squeeze the water out of them, then stocks and bonds will be stable, and they will be salable in the markets of the East.

I want to ask the chairman of this committee—I see it running through this bill—to please explain to me what he means by "an undue burden on interstate commerce." I yield for an answer.

Mr. ESCH. The gentleman was probably not in the Chamber when I read a part of a decision of the Supreme Court in the Houston case, which is the Shreveport case.

Mr. HUDSPETH. I am familiar with it.

Mr. ESCH. In which it was stated that Congress had power wherever there was an injury to interstate commerce to provide a remedy, and that I construed "injury" to be synonymous with "undue burden."

Mr. HUDSPETH. I think the gentleman must have meant "undue discrimination against interstate commerce."

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

Mr. HUDSPETH. Oh, you can not get away from the proposition, no matter how much you disclaim. In my judgment this bill is not only an invasion of States rights but puts the iron heel of the Federal Government upon the neck of my State and grinds into the dust every vestige of local State sovereignty and forever destroys the right of my State to make its own laws and regulate its own railroads. For that reason, Mr. Chairman, I shall vote against the bill. [Applause.]

Mr. ESCH. Mr. Chairman, the gentleman complains about watered stock and he wishes us to amend this bill so that the States may have the power to control stock and bond issues. In this bill we are seeking to give that power to a Federal authority. If there is water in the stocks, who is responsible for it except the States? We are trying to create a Federal authority that will have control of the matter. The most remarkable thing in all of the 11 weeks of hearings, in the 3,500 pages of testimony, was the fact that witnesses, irrespective of interest, urged upon us this very provision giving the Interstate Commerce Commission the right to control stock and bond issues, and all of the plans that were presented contained such a provision. We therefore thought that we were representing public sentiment throughout the whole country when we incorporated this provision, which twice before had had confirmation by the House of Representatives. It is true that the Rayburn bill, passed in 1916, and its counterpart, passed in 1914, did give the Interstate Commerce Commission the right to regulate stock and bond issues of every State, including the great State of Texas, and we are here presenting a complete and, we hope, a workable plan to give one central authority the right of control over stock and bond issues. The trouble heretofore

has been that there was no uniformity of control of issues of stocks and bonds, and each State went its own way, to the disadvantage, in my opinion, of transportation as a whole.

But this power in the States to regulate stock and bond issues sometimes, I regret to say, has been exercised for the purpose of securing for the States an undue advantage. There is on record testimony that some of the States, before they would give consent to an issue of stock, said to the railroad company, "We will give our consent, but you have got to spend so many thousands of dollars in this State out of the amount you raise by the sale of such stocks." I do not believe, gentlemen, that we should continue a system which has permitted the issuance of watered stock in years past, that enabled some of the States to exercise an undue power and secure an undue advantage through the issuance of stocks. [Applause.]

Mr. RAYBURN. Mr. Chairman, I move to strike out the last word. Mr. Chairman, anything my colleague from Texas [Mr. HUDSPETH] has said about the splendid law that we have for the control of the issuance of securities of railroads in that State is true. It is also true that many of the States around us, which had their railroad lines running into our State, did not have these good laws. Many of the States of the Union do not have these laws, and yet when the railroads of Texas are honestly managed and honestly capitalized, they are liable to be the prey of the States that lie around us that are not managing their corporations like we do ours. I stand for the rights of my State and I stand for the rights of my State when it has this good law, but when other States around us do not have such a law I stand for my State in that if the States around it will not protect it that the Federal Government should protect it in this matter. [Applause.] Therefore I think it would be very unfortunate to amend this provision or any provision of this law that has been three times thrashed out in this body and passed each time with practical unanimity. It is true it is taking away from the States the right to the control of the issuance of securities in the future, but it is further true, as the chairman of this committee has said, that every organization that appeared before the committee to urge a plan incorporated this feature in its plan. It is also true that the convention of State railroad commissioners of this country, that are jealous of the power and the rights of those commissions, passed a resolution unanimously indorsing the provisions of this bill giving to the Federal authorities the control of the issuance of securities by carriers in the future. [Applause.]

Mr. STEAGALL. Mr. Chairman, I have not taken up any time of the committee during the discussion of this bill. I have been intensely interested in all that has been said and I have maintained an open mind. No man in this House is more anxious than am I to have the Government relieved of the cost and the complications involved in the operation of the railroads by the Government. A year ago, when the bill carrying an appropriation for the continued operation of the roads by the Government was before this body, I made up my mind that I could never favor the policy of Government ownership, and I made my position clear on the question. I decided then and there what my course should be, and I burned the bridges behind me. In my remarks at that time I made clear my opposition to Government ownership and my desire to terminate Government control of the roads. I quote from my remarks on the bill then under consideration:

> We were all willing to have the Government operate the railroads during the period of the war and as long after the cessation of hostilities as necessary to wind up affairs in connection with the conduct of the war. When we were in a death struggle with Germany and our boys crossing the ocean in millions, and dying by the thousands upon the fields of France, the patriotic Members of Congress were ready to go the limit to organize the resources of our country in order to support and sustain our forces at the front. The people of the country full approved of our action, but it was distinctly understood that Government operation was to be only temporary and would terminate when the military necessity ceased. I contend that we are bound in good faith to make good our assurances, and that the Government should return the roads in accordance with the understanding upon which they were taken over.
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> We can not in good faith and consistency take advantage of the power that was entrusted to the Government thus temporarily to fasten public ownership as a permanent policy, nor even to continue experiments. We should do just what we said we would do, and that was to use the roads to win the war and then return them to their owners. When this is done the advocates and opponents of public ownership will have a fair opportunity to fight out the contest of that proposition.
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> When it was proposed to take over the roads it was insisted that among other advantages to be gained the Government would be able to effect a saving by consolidating management and other economies. But what are the facts? Notwithstanding a burden of approximately $600,000,000 has been added in six months, from July to December, in freight and passenger charges through the raise in rates the Government has sustained a loss of approximately $200,000,000. So it will be seen that instead of effecting a saving there has been, directly or indirectly, a loss of over three-quarters of a billion dollars; and that, too, at a time when the vast increase of business afforded unparalleled opportunity to make a profit. Of course, it will be said that economies will yet be accomplished, but I have no faith in the suggestion. We all know how difficult, if not impossible, it is to abolish or reduce any salary or expense when once fastened upon the Public Treasury.
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> When we took over the roads we appropriated $500,000,000 to be used as a revolving fund, and now we are called upon to appropriate three-quarters of a billion more, and the advocates are unwilling to agree upon a time when it shall end, except the period of 21 months after the signing of the peace treaty as fixed in the original act. I am willing to vote for an appropriation to cover all expenditures that have been made and all obligations that have been incurred. This is the proposition embodied in the amendment offered by the gentleman from Texas [Mr. RAYBURN], to limit the present appropriation to $381,000,000. This fund would be sufficient to discharge all obligations and maintain a working capital of $247,000,000 in the hands of the administration which was the amount heretofore used and which it is desired to maintain. Without the adoption of this amendment I am unwilling to support the bill. I am opposed, in the present condition of the Treasury, to appropriating $369,000,000 for loans to be made to the railroad companies, and especially without fixing a time when the Government is to be relieved of its burdens in this connection. I want to see the activities of the Government simplified and reduced rather than multiplied and enlarged. I view with great alarm a proposition to increase in such sweeping fashion the centralization of power in the Federal Government and to fasten permanently upon its pay rolls the vast army in the service of the railroads. I am opposed to the effort to temporize with this question or evade responsibility, and for these reasons I can not vote for the bill.

My position thus expressed was taken when no one knew that the drift of sentiment in this country would be what it has been since that time. There were mighty influences favoring Government ownership as a permanent policy, and the prediction was freely indulged on every hand that Government control would never be terminated. I am glad to say now that sentiment throughout the country seems unquestionably to favor restoring the roads to their owners. The American people believe in the great system of competition and individualism under which we have grown so great industrially and politically. They believe that business affairs should be left in the hands of the individual and that the Government should be the umpire in business controversies springing out of the contest for industrial supremacy. There is no mistaking the sentiment of the American people in this regard.

But, gentlemen, we ought not to allow the owners of the railroads of the country to capitalize the sentiment against Government ownership by writing into the legislation returning the roads to them provisions giving them unfair advantages and benefits to which they are not justly entitled. We should not attempt to deceive ourselves in this matter. For my part I favor now stronger than ever the policy of returning the roads to their owners, but when they are returned I want it to be by a law that returns them in fact as well as nominally—a law that not only releases the roads but releases the Government also. The bill before us does not do that. On the contrary, it keeps the Government tied up by obligations to guarantee profits such as the roads have never known before, and practically directs the roads to organize a fight for increased rates. When we took over the roads we provided for a guaranteed return to the owners, but in case any road made earnings in excess of the guaranty the Government got the benefit, which, of course, would help make up any deficits in the accounts of other roads. The bill before us providing for the return of the roads to their owners carries a provision which binds the Government to make good the guaranteed returns to all the roads regardless of their earnings, but in case any road makes more than the guaranteed return, the excess goes into the pockets of the owners.

The bill provides that anything due by the Government to the owners of the roads must be paid, but anything due the Government by the roads is to be carried at the option of the owners of the roads for a period of 10 years. The sum thus to be run by the Government is approximately $250,000,000. Another provision of the bill makes appropriation of the sum of $250,000,000 to be used as loans to the railroads during the next two years. It does seem to me that these loans aggregating a half billion dollars ought to satisfy any man, however solicitous of the interest of the roads, without the additional provision carrying guaranteed returns and the direction to raise rates, which everybody knows will be done to the extent of 20 or 25 per cent. The people of the country cried out against Government ownership because of the vast burdens attending Government operation. They are going to be sorely disappointed when they learn that this bill looks to an increase of these burdens along with its enormous subsidy to the roads.

We are told by able members of the committee who reported the bill that it will operate to destroy water competition and nullify the struggle of the people for years and years to utilize the splendid waterways with which we are so bountifully blessed. They tell us, also, that the bill invades further than has ever been done before the rights of the States to deal with

intrastate railroad problems. The measure is rushed in at the close of this session to be put through in haste, when it is well known that it is impossible for any man not a member of the committee that reported it to give to it the study that any measure so important and so technical ought to have. I am not going to accept this bill simply because I am opposed to Government ownership or operation of railroads. The President has already declared his intention to restore the roads to their owners under the law as it was when we took them over, in the event no new legislation is passed. The President served notice on us last May that this would be done. Yet during all these months no bill has been reported providing for the return of the roads until this measure was rushed in at the close of this session, and Members told that we must accept it or be put in the attitude of favoring continued Government operation.

When the roads are released the Government ought to be released and the matter ended. As anxious as I am to be rid of the burden that has proved so trying, I would rather continue operation by the Government for three months or six months or longer, if necessary, in order that we may close and balance the account, than to see an act passed by which we subsidize the roads and guarantee them such unfair benefits and advantages. [Applause.]

I want to say, also, that, so far as I am concerned, I think the time has come when Congress should assert the supremacy of law in the settlement of all disputes between all citizens or any number of citizens throughout this country. [Applause.] We shall all be forced to recognize this sooner or later, and it is much better that we face the fact now than sit by and wait for some development that will accentuate our duty. My friends, whether we do it now or put it off, the time is not far distant when we must meet the issue. I am as much opposed as any man to leaving the men who labor at the mercy of their employers. Under conditions that have existed in the past, the right to strike is a weapon indispensable in the defense of labor, and it should not be destroyed without providing a substitute that will protect the toiling masses of the Nation. We should substitute a reign of law for an appeal to force. I believe that this great Government that offers to the man who toils protection not equaled anywhere else on earth is capable of doing justice in any dispute between any class of employers and employees without leaving them to methods that must disregard millions of disinterested citizens and the possible starvation of helpless women and children whose very lives depend upon the undisturbed processes of production and transportation of the necessaries of life. To deny this is to acknowledge our impotency—to confess our scheme of government an ignoble failure. The arbitration scheme embodied in this bill is a meaningless makeshift that gives no protection to the employers and employees themselves, nor to the masses at large who are interested in everything affecting the Nation's welfare. The time has come when all men should be required to trust their disputes, whatever they may be, to legally constituted authority; to submit their controversies to settlement through the instrumentalities set up by the law. In my judgment it is most unfortunate and unwise that men who toil should be taught not to trust their cause to the sense of justice of the American people as expressed through the law of the land. [Applause.]

Mr. HUDSPETH. Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. STEVENSON. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. STEVENSON. I move to strike out the last two words of the amendment.

The CHAIRMAN. The gentleman from South Carolina.

Mr. STEVENSON. Mr. Chairman, I think this provision is one that all parties have sought for many years. It is the beginning of the end of the speculative stocks in particular and also of speculative bonds of railroad corporations.

But there is in my mind a little doubt as to whether this provision is going to reach the core of the trouble. This provision applies to "carriers which are subject to this act." Now, get that. "Carriers which are subject to this act" are carriers engaged in interstate commerce to-day, not carriers that may be created and afterwards engaged in interstate commerce. Therefore a railroad that is to-day engaged in interstate commerce, or 120 days from now, will be required to have the proper approval in order to issue its securities. But here is a crowd that want to build a railroad. Until that railroad is built and the cars are running there is no interstate commerce on it, and it is not an instrument of interstate commerce, and it is not provided for in this section at all; and the result is that they can organize a corporation and get a charter and build a road and never become subject to this act until all the securities are issued and everything is running in great shape.

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

Mr. STEVENSON. Yes.

Mr. TILSON. Does the gentleman know of any set of men now outside the walls of an insane asylum that would ask permission to build a railroad? [Laughter.]

Mr. STEVENSON. I am not arguing that question. You are providing for the regulation of the issuance of stocks and bonds, and whether they are ready right now or not, they will be. That is one instance that is not covered by this bill, and the other is where the stocks and bonds are issued by great holding companies that are not subject to the interstate-commerce act, but who operate the instruments of interstate commerce by reason of the fact that they issue stocks and bonds, and hold the stocks and bonds of the instruments of interstate commerce, and then water the stocks that are based on the instruments of interstate commerce. As to these two classes of securities I tell you that the country will be flooded with them, and the next time there is an era of railroad building this will not reach the evil. I call to the attention of the committee the question whether this evil can be corrected or not before they have written this into this bill. I am not speaking of dreams and things of that kind. I have been through that kind of thing. I know how it is done. I have sat around a table and have seen it done. You have not given the cure to the evil when you say that these railroads now in existence shall not issue these securities, because many a railroad will be built and securities issued before the railroad becomes an instrumentality of interstate commerce, and the securities will be issued without limit, and the holding companies that are not subject to this law will acquire the stock, and they will take the stock and issue debentures against them and put water in them whenever they get ready, and in that way they will control the watered stock of railroad companies in this country, and you will have to meet it.

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

Mr. STEVENSON. Yes.

Mr. ESCH. Will it meet the gentleman's point to insert in line 11, page 78, the words "or any corporation organized under this act for the purpose of engaging in transportation"?

Mr. STEVENSON. Yes; but I speak of that also in connection with the holding companies.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Texas [Mr. HUDSPETH].

The question was taken, and the amendment was rejected.

The CHAIRMAN. The gentleman from Wisconsin offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. ESCH: Page 78, line 11, after the word "act," insert a comma and the following: "or any corporation organized for the purpose of engaging in transportation subject to this act."

Mr. ESCH. A comma should be inserted after the last "act."

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

The amendment was agreed to.

Mr. THOMAS. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Kentucky offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. THOMAS: Page 83, line 19, after the word "thereby," insert the following:

"No railroad corporation engaged in interstate commerce shall own or operate any coal mine or own any stock or other interest in any coal mine, and no person or corporation who owns, operates, or owns any stock or other interest in any coal mine engaged in interstate commerce shall own any stock or other interest in any railroad corporation engaged in interstate commerce. No person who owns any stock in any railroad corporation engaged in interstate commerce shall own any stock or other interest in any coal mine engaged in interstate commerce."

Mr. BLANTON. Mr. Chairman, I make a point of order against that.

Mr. ESCH. Mr. Chairman, I make a point of order on that.

The CHAIRMAN. The gentleman from Texas [Mr. BLANTON] and the gentleman from Wisconsin [Mr. ESCH] make points of order against the amendment. The gentleman from Wisconsin will state his point of order.

Mr. ESCH. It is not germane to the section.

Mr. BLANTON. I make the point of order, Mr. Chairman, that the bill nowhere provides for the persons who are permitted to own stock in railroad corporations. It goes outside of the subject of the bill.

The CHAIRMAN. Does the gentleman from Kentucky desire to be heard on the point of order?

Mr. THOMAS. Mr. Chairman, the amendment which I offer to this bill is a follows:

No railroad corporation engaged in interstate commerce shall own or operate any coal mine or own any stock or other interest in any coal mine, and no person or corporation who owns, operates, or owns any stock or other interest in any coal mine engaged in interstate commerce shall own any stock or other interest in any railroad corporation engaged in interstate commerce. No person who owns any stock in any railroad corporation engaged in interstate commerce shall own any stock or other interest in any coal mine engaged in interstate commerce.

Subsection 11 of the bill reads as follows:

After December 31, 1921, it shall be unlawful for any person to hold the position of officer or director of more than one carrier, unless such holding shall have been authorized by order of the commission, upon due showing, in form and manner prescribed by the commission, that neither public nor private interests will be adversely affected thereby.

This subsection relates directly to the position of officers and directors of common carriers engaged in interstate commerce, prohibiting, without the consent of the Interstate Commerce Commission, such officers or directors holding such positions with more than one carrier. The evident purpose of this subsection is to prevent interlocking directorates in the matter of common carriers engaged in interstate commerce. The transportation of coal is a large percentage of interstate commerce, and the amendment I have offered is for the purpose of divorcing the interests of common carriers and coal mines in the business of transportation. The railroads are the carriers and the coal mines the producers of the product transported by the railroads, and if railroads are permitted to own and operate coal mines, and the coal mine owners are permitted to own stock in railroads, their interest will be interlocking as much or more so than if the same persons are permitted to be officers in more than one common carrier, and the public, the independent coal operator, and the coal miner will all suffer in consequence of such unjust combinations. The purpose of subsection 11 is to divorce the interests of different common carriers, so as to prevent such combinations the effect of which will be to raise the price of coal, and the amendment I have offered seeks the same identical thing and is therefore germane and in order.

The Chair is asked to sustain the point of order to the amendment on the ground that it is not "germane." That word "germane" is of most elastic proportions and is used to cover a multitude of sins in parliamentary procedure. The dictionary definition of "germane" is "closely allied," "appropriate or fitting," "relevant," and the amendment I have offered is certainly closely allied, fitting, and relevant not only to the subsection proposed to be amended but to the entire bill.

The country is in the grip of a coal miners' strike of stupendous magnitude, which, if continued, will to a great extent paralyze industry and in addition will cause much suffering to many people over the entire country.

The populace is led to believe, through the statements of interested railroads and profiteering wholesale and retail coal dealers, hawked by some newspapers with cheerful mendacity, that coal miners are receiving exorbitant pay and are growing fat and rich and arrogant on the spoils of their ill-gotten wages.

Mr. TILSON. The gentleman is making a very interesting and entertaining speech——

Mr. THOMAS. Then you ought to listen to it. [Laughter.]

Mr. TILSON. But the gentleman is not discussing the point of order.

The CHAIRMAN. Will the gentleman from Kentucky permit an inquiry from the Chair?

Mr. THOMAS. Yes.

The CHAIRMAN. Does the gentleman contend that to a section providing that it shall be unlawful for any person to hold the position of officer or director of more than one carrier it is germane to offer an amendment providing that a railroad corporation shall not own stock in any other corporation?

Mr. THOMAS. I think so; perfectly. One of the definitions of germane is "appropriate," and I think it is very appropriate. [Laughter.]

As coal miners are now worked in the western Kentucky coal field—and I refer to that field only, though I presume wages are practically the same in all coal fields throughout the country—the average wages of the miner will not reach $700 a year working eight hours a day, the working days he is furnished employment. This state of affairs obtains to considerable extent because of the manipulation of the coal market by railroads through interlocking directorates with certain coal companies and the ownership of coal mines by railroad companies through a different corporation by another name.

Railroad companies which own or have an interest in coal mines furnish an abundance of cars to such mines, while their competitors in the coal market, the independent coal operators, are not furnished half the number of cars required to ship the coal they could have mined, and consequently the coal miner is without work half the time because of such unjust and discriminatory manipulation of the means of transportation by the railroad corporations.

The claim that the railroads do not have a sufficient number of cars to furnish the mines a full supply is, to say the least, in my opinion, a thinly veiled fable. They formerly claimed they did not have engines sufficient to transport the commodities of the country, and after the Government supplied an abundance of engines they now claim they have too many engines, and a number are left on the hands of the Government and the railroads will buy them in the end at much less than cost, which, I believe, was the railroad scheme from the beginning.

When it became certain that the miners would strike the 1st of November the railroads immediately rushed a plentiful supply of cars to all the mines for 10 days or 2 weeks prior to the strike. Cars were sent to mines in Muhlenberg County, Ky., in which grass and weeds had grown to a height of 6 inches in the dirt in the bottom of the cars, and the same was the case, I am informed, in parts of the eastern Kentucky coal field.

My information is from a very reliable source that at Olive Hill, in eastern Kentucky, on the Chesapeake & Ohio Railroad, over 135 steel coal cars lay on the sidetrack at that place from November, 1917, until the last of March, 1918, without ever being moved. Such manipulation of the means of transportation deserves a penitentiary sentence for those responsible for such conditions.

The United States Geological Survey has furnished figures purporting to give the average number of days work of coal miners for the years 1910 to 1918, inclusive. For the year 1917 the average is 243 days and for the year 1918 it is 249 days. These figures may be correct so far as they apply to the mines controlled by the railroads, but they are far afield as to the mines, which are the vast majority, controlled by independent operators. The figures of the Geological Survey, if correct—and they are not—show that coal miners are furnished employment all the year around every working day except a little more than 60 days.

My information, which I believe is correct, because it is from men who know all about coal mines and coal mining, the wages of the miner, and the number of days' employment in the course of a year, is, that in the western Kentucky field, in normal times, the miner is furnished employment about half the working days during a year, and that since the armistice was signed he has not been able to obtain, on an average, more than two days' work a week.

In the western Kentucky coal field there is an agreed, written, signed scale of wages between the miners and operators, so that it is not difficult to know just what wages the miners receive. That scale is as follows:

| | | |
|---|---|---|
| Cutters | per ton | $0.0478 |
| Helpers | do | 0.0474 |
| Loaders | do | 0.4519 |
| Day men | per day | 3.56–4.35 |

This makes a total cost per ton of .5471 cents exclusive of the day men. A great majority of the day men receive only $3.56 per day for eight hours.

The cutters and helpers furnish their own light and the loaders their own blacksmith work on tools, and furnish their own tools, powder, fuse, and carbide paper. A majority of the miners live in company houses and pay high rent, and many of them are compelled to trade in company stores owing to the fact that other stores are not convenient.

About 100 tons per day is an average day's work of eight hours for cutters and helpers and about 10 tons for loaders. It follows, then, that the miners in the western Kentucky coal field make something near $5 per day for the time they are able to obtain work, which is about half time, and my information is that the wages are about 10 per cent less in the eastern Kentucky field.

The Fuel Administrator states, I am informed, that cost of mining to the operator for a ton of coal loaded on the car is $1.50. That statement is incorrect, and some one has evidently, either through ignorance of the facts or through peculative interest, imposed on the credulity of that important functionary as to the cost, because about $1 per ton will cover all the cost of the mining alone.

The wages of the cutter, loader, and helper amount, under the above scale, to .5471 cents per ton, and estimating the wages of the day hands per ton the same as the helpers, and they do not receive as much, the total cost per ton on cars is .5945 cents, leaving out of a dollar per ton .4055 cents per ton for part of the upkeep of the mine.

The public seems to rely on the imaginary figures of theoretical fuel administrators, furnished by interested parties, as to the

wages of miners and the cost of coal production, but are unable to detect the enormous profits of the railroads in the transportation of that fuel or the profiteering gains of the retailers handling it.

The Government has fixed the maximum price of bituminous coal on the cars at $2.45 per ton. The retailer in this goodly city of Washington charges $7.90 per ton for that same coal delivered in large quantities, and it is fair to assume they charge a larger price for small quantities. The difference between $2.45 for the coal on the cars and the delivery to the consumer here is $5.45; that is to say, the miner and operator between them receive $2.45 for a ton of coal and the railroads and retailers receive $5.45 for handling the same ton of coal, more than twice as much as the operator and miner receive, and yet there are many ignorant persons who think they are doing God's service by abusing the miner for the high wages he is supposed to receive. Such people ought to be compelled to work in the darkness and dampness and danger of the coal mines a while and perhaps they would change their ideas.

According to the estimate of the Department of Labor the cost of living in recent years has advanced 76 per cent, while the wages of labor has advanced only 43 per cent. Therefore, according to that estimate, the cost of living has advanced 33 per cent more than the wages of labor, and even by that estimate the coal miner should have an advance of at least 33 per cent in his wages to equalize his wages with the advanced high cost of living.

I see it stated in the public press that American coal is being carried to many foreign countries—to England and to many ports heretofore supplied by England—and that American ships have been allotted to the Baltic ports, to China and Japan, the West Indies and South America, to Spain, Italy, Portugal, Greece, Scandinavian and other foreign ports for this purpose. The first duty of the Government is to see that our own country is supplied with coal. We shipped food and other products to Europe with reckless prodigality, which is one great cause of high prices and the high cost of living, and if we do likewise in regard to coal we may expect a scarcity and consequent suffering, and conditions brought about partly by such action as this are unjustly laid at the door of the coal miners and operators.

The coal miner is usually a brawny man who with lamp in cap and pick in hand goes down into the darkness of the earth to excavate coal sufficient to keep the world warm and the wheels of industry turning, and the labor is as uncomfortable as riding on a Washington street car. The pick coal miner does not have to hang onto a strap, as many street car passengers do, but he must lie on his side in damp places and cut tons of coal with a pick. After he has done this for some hours his complexion becomes a rich, greasy Senegambian color, and about the only clean thing about him is his smile, which looks like a great gash in a juicy, ripe watermelon. The coal miner bathes as often or oftener than the pampered, idle son of wealth, who dresses in purple and fine linen and never labors at all but expects the miner to furnish coal at cost to keep him warm, and he puts a great deal more energy into the performance. Coal mining is a very dangerous occupation—in fact, nearly as dangerous as for a Democrat in the Kentucky mountains to tell the truth about Republican politics—and the miner is not considered a good risk by insurance companies. If the miner is not killed by falling timbers or the roof of the mine caving in on him, or kicked to death by a bank mule, or choked or burned to death by mine gas, or blown into kingdom come by a tardy blast, or killed by falling down a shaft by reason of a defective rope, or ground to death by machinery, he may live under some one else's vine and fig tree to a green old age, crippled with rheumatism acquired in the dampness and waters of his subterranean working place, and fully enjoy the vast competence of comparative poverty his exorbitant wages have enabled him to accumulate.

Coal mines should have as many exits as a moving-picture theater, but they have not. They have only two places of exit for use in case of fire or an explosion, both upward, and frequently the miner is unable to reach either and escape to safety. Hundreds of miners' families are trying to exist fighting the high cost of living on the income of the $800 which the miner earned by getting under a piece of falling slate or getting blown to pieces by mine gas. I have seen a great deal of coal mined and have run for office, and coal mining is not as hard as running for office, but no one should lay too much blame on the miner for striking now and then for a living wage if he is unable to obtain it by arbitration or otherwise.

Strikes should never be indulged in if they can be avoided, as they are disastrous to the striker, to commerce, to business, and the public generally, but the public should not, as it is too often prone to do, forget that the lot of the miner, under the most favorable conditions, is a hard one, and should remember that "the laborer is worthy of his hire."

The mine owners and operators come in for their share of public abuse, but they have a multitude of troubles of which the public seems to be ignorant. The owner has to look after the upkeep of the mine and see that it is made safe for the workmen; has to look after the machinery and the operation of the mine; has to settle differences with workmen; has to obtain contracts and worry continually over securing sufficient cars to transport the coal to market; and, in fact, a multitude of matters pertaining to the business constantly demand his attention. In addition, the capital put into a mine in the beginning is constantly decreasing, as every ton of coal mined diminishes the capital, and when all the coal of a mine is taken out the original capital is all gone and only the profit the operator is enabled to make out of the business and a hole in the ground is left.

The pending measure is called a bill to return the railroads to private ownership. The name is a misnomer, and the supposition that it means a return of the railroads to private ownership is at once violent and untrue. The bill simply provides for a transfer of name but not a transfer of ownership, power, or operation. At present the railroads are operated under what is denominated a Railroad Administration, and this bill simply transfers the powers of the Railroad Administration to the Interstate Commerce Commission with an enlargement of the powers of that commission in ownership and operation. The bill has some good points, but the objectionable ones far outnumber the good ones. The bill is drawn after the old plan of pernicious legislation in that it embraces some good things with a great number of bad things so as to make the dose taste somewhat palatable and induce Members to support the bad things in order to get the good things. It is a bill sugar-coated with good features designed to conceal the bad features and the railroads are the sole beneficiaries, and the bill should fail to pass.

This bill among other things provides capital to be furnished by the Government to operate the roads and insures the financial future of the roads during a period of six months after the so-called private operation is renewed. I do not know of any other business the Government furnishes capital to operate, and after having appropriated a billion and a quarter of dollars for the benefit of the railroads—called a revolving fund, an appropriate name—and after having guaranteed the interest on railroad securities at a rate equal to that of the three most prosperous years in railroad history—interest at a much higher rate than is paid the buyers of Liberty bonds to fight the war—this bill goes further and guarantees interest on possible watered stock that may be issued by railroads under the authority of the Interstate Commerce Commission during the period of Government insures the financial future of the railroads.

As a sop to Cerberus, the bill creates machinery for the voluntary conciliation of labor. That provision is an impertinent presumption on the supposed ignorance of the laboring man. Labor already has a perfect right to voluntarily arbitrate its wage or other matters.

As a cold bobtailed bluff on the labor question, that provision is equaled only by the old Republican confidence game claiming that a high tariff is necessary on the importation of foreign goods to protect the American workman from the competition of foreign pauper labor, while at the same time foreign pauper labor has been imported by the thousands by these same Republican high tariffs to compete with the American workman. There is no difference in importing foreign pauper-made goods to compete with the product of American labor and importing foreign pauper labor direct to our shores to make the goods to compete in American markets with goods made by American labor except that of the two evils the importation of foreign pauper labor is the worst.

This bill legalizes millions of dollars of watered stock and is a dangerous and iniquitous measure in many respects.

Our Government and laws were established on the principle of commanding what is right and prohibiting what is wrong, and Congress was intended to be the supreme lawmaking power, but in these latter days of the Republic that power has in a great measure been delegated by Congress to numerous swivel-chair commissions, and this bill delegates the lawmaking power as to railroads to the Interstate Commerce Commission under the mistaken idea that the commission, like the king, can do no wrong, and that its judgment is infallible.

In the past the commission has been overreached by smart and not overscrupulous railroad attorneys in the matter of rate making, and it is to be presumed it may fall into the same and other errors about the many matters embraced in this bill. As an example, my information is that the commission for many years established a freight rate of 40 cents a ton less on coal shipped from the southern Illinois and Indiana coal fields to

Chicago, Cincinnati, and other like points than it did from the competitive field of western Kentucky, and that rate was never reduced until the Railroad Administration reduced the rate to a difference of 25 cents a ton which still prevails.

The bill grants autocratic power to a Federal agent to go to any State and change or direct the routing of cars as he may think fit, and places in his hands the power to utterly destroy shipments of live stock, tobacco, farm produce, and other commodities, and owners would be without any recourse whatever by which they could secure compensation in the way of damages. Under this bill, if upheld by the Supreme Court, the railroads stand in a preferred class by themselves, owing no allegiance to the Constitution or any law except the decrees promulgated by the Interstate Commerce Commission. England is supposed to be governed by one autocrat, the King, but we, under this bill, are to be governed as to railroads by 11 autocrats, the Interstate Commerce Commission.

As sure as wind-blown straws show the direction the wind is blowing—and David Warfield, representing $6,000,000,000 of railroad securities, and Rich, of Boston, representing the Boston & Maine Railway and the Boston Chamber of Commerce, and Wheeler, of the Union Trust Co. of Chicago, and others of the same class, appeared before the committee and urged a centralization of railroad power in Washington, and it seems from the centralization provisions of this bill their pleading was quite effective and secured the delivery of the goods—the Republican steam roller is determined to crush out the rights of the States so far as the railroad problem is concerned, and I predict that the presidential campaign next fall will be a propitious time for the Republican campaign committee to fry the fat out of the railroad corporations.

Railroads do not create a dollar's worth of wealth. They do not produce any wheat, corn, oats, tobacco, potatoes, coal, or any other commodity, yet under this bill the taxpayers are taxed for the sole benefit of the railroads without any corresponding benefit to the public or taxpayers. This bill authorizes 25 year 6 per cent loans to the railroads to the extent of $250,000,000 without any security except perhaps watered stock, and under this bill for the benefit of the railroads alone the commission is permitted to nullify the antitrust laws so as to permit the consolidation of railroads and permit them to pool their earnings and equipment. It is a great game, and the railroads, through Wall Street, where gather the holders of most railroad securities, played the game to the limit and won, and so far as the railroads and Wall Street are concerned the public can be d—d if the bill finally passes the Senate and becomes a law.

The CHAIRMAN. The Chair is ready to rule. The amendment of the gentleman from Kentucky undertakes to prohibit any railroad corporation from owning stock in a coal mine, and also prohibits any member of the corporation holding any stock in a coal mine from holding any stock in any railroad corporation engaged in interstate commerce.

This section prohibits one person from holding the position of officer or director in more than one carrier unless the holding of such office shall be authorized by the Interstate Commerce Commission. In the opinion of the Chair the amendment of the gentleman from Kentucky goes much beyond the section, and the Chair sustains the point of order.

Mr. ASWELL. Mr. Chairman, on November 6 I charged in this Chamber that the Republican leaders in control of this Congress lack courage and capacity to handle the country's business. The pending railroad legislation is a concrete example. The bill in another body contains a drastic antistrike clause making the Republicans solid with railroad owners. The House bill has no antistrike clause and is timid, wavering, and uncertain in its provisions. Everybody and everything is taken care of except the public. Both the labor unions and the capitalists have all they want written into these bills. The Republican leaders are playing both ends against the middle. Whenever this is done in legislation the people pay the freight.

This proposed legislation, at a cost to the public of many millions, guarantees the standard returns to the railroads for a period of six months and guarantees a further increase of freight rates. No such guaranty has been proposed to any other class of citizens as a result of the war, not even to our returned soldiers, for whom the Republican leaders have made extravagant promises and done nothing.

This bill pledges direct loans of hundreds of millions by the Government to the railroads, does little for short-line roads, nothing helpful to water transportation, and abolishes State control even of intrastate rates.

I want Government control of railroads to end, but I am not willing for the railroads to control the Government, as would result from the passage of this bill. I shall vote against it.

The President has full authority, and he has announced that by Executive order he will return the railroads to private ownership on the 1st of next January.

By unanimous consent Mr. SEARS, Mr. HAYDEN, Mr. TAGUE, Mr. EMERSON, Mr. MOONEY, Mr. BLANTON, Mr. GREEN of Iowa, Mr. EVANS of Montana, Mr. LITTLE, Mr. BURROUGHS, and Mr. PLATT were given leave to revise and extend their remarks in the RECORD.

The Clerk read as follows:

SEC. 438. Section 24 of the commerce act is hereby amended to read as follows:

"SEC. 24. That the Interstate Commerce Commission is hereby enlarged so as to consist of 11 members, with terms of 7 years, and each shall receive $12,000 compensation annually. The qualifications of the members and the manner of payment of their salaries shall be as already provided by law. Such enlargement of the commission shall be accomplished through appointment by the President, by and with the advice and consent of the Senate, of two additional Interstate Commerce Commissioners, one for a term expiring December 31, 1923, and one for a term expiring December 31, 1924. The terms of the present commissioners, or of any successor appointed to fill a vacancy caused by the death or resignation of any of the present commissioners, shall expire as heretofore provided by law. Their successors and the successors of the additional commissioners herein provided for shall be appointed for the full term of seven years, except that any person appointed to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed. Not more than six commissioners shall be appointed from the same political party. Hereafter the salary of the secretary of the commission shall be fixed by the commission."

Mr. BLANTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. BLANTON: Page 84, strike out all of section 438, beginning with line 8 on page 84 and ending with line 6 on page 85.

Mr. BLANTON. Mr. Chairman, I maintain that it is not necessary to enlarge the Interstate Commerce Commission or to increase the salaries of its members. I submit that there must come a time some day when we are going to begin to use good, common, horse sense—I started to say west Texas horse sense, because that is what we have down there—and retrench our public expenditures. Now, what is the use of raising these salaries to $12,000 per annum? We have a condition existing right now when a very distinguished, able, and efficient gentleman, in whom the public has the greatest confidence, is about to give up an office paying $12,000 a year, an office of the greatest honor and distinction, to take a position paying only $7,500 a year. I want to say that if a United States Senator can serve his country and serve it well on a salary of $7,500 a year, it is not necessary to pay an Interstate Commerce Commissioner $12,000 a year. Relative to increasing the membership to 11, why, the Supreme Court of the United States, which handles every bit of the business within its jurisdiction, from the Atlantic to the Pacific coasts of this great Nation, has only 9 members; and I say that the present personnel of the Interstate Commerce Commission is amply large to attend to the business of the country. I say that the President of the United States can continue, as he has done in the past, to find able and efficient men willing to take that position and willing to do the work on the present salary without enlarging it to $12,000 a year.

I am not going to take any further time of the House in arguing this question, because I believe you are going to pass this bill anyhow, for extravagance is in the atmosphere; but I am going to say now that the best thing on God's earth that could happen for the good of the country and for the good of the people is for this House to adjourn and for the membership to go home and live at least 10 days in the atmosphere of their constituents and out of the atmosphere of Washington. [Applause.]

Mr. GOLDFOGLE. Mr. Chairman, I can not share the views of the gentleman from Texas, that the services of an Interstate Commerce Commissioner are not worth $12,000 a year. I believe their services are fully worth that, and I hope the time will come when Members of Congress will have sufficient courage to increase their salaries to a proper amount. [Applause.] But I do rise for the purpose of supporting the amendment to strike out the section. There is no reason to enlarge the commission to 11 members. The commission now consists of 9. It is a sufficiently workable body, and to increase it means to make the body unwieldy. More than that, the lawmakers of the present day, and many other Government officials, on the one hand talk economy and retrenchment of Government expenses, and on the other hand too frequently practice waste and extravagance. The fact is that there is no necessity for increasing the membership of the Interstate Commerce Commission.

You may say that it only increases, so far as the salaries are concerned, an amount of $24,000 a year, $12,000 for each commissioner, but that is not all. When you come to read the bill you find that there is a general blanket authority to engage attorneys, clerks, accountants, clerical help of every kind without limit excepting in so far as it necessitates an appropriation by Congress that might limit the expense.

Now, we are living in a time when the citizen is complaining of the burdens of taxation, when the people of the country feel that they are already overburdened with Government expenses, and when you undertake unnecessarily to increase the expenses of the Government you at least ought to furnish the people with some reasonable excuse for the increase.

Remember, now, I am not complaining of giving the present commissioners $12,000 each. I am not complaining of giving adequate compensation to anyone that serves the Government well. Those who know me in this House know that I never have undertaken what I so really condemn—an attempt at cheeseparing. I have never undertaken to do anything which would oppose the granting of a fair, liberal, and just compensation to officials and employees in the Government service, but I do at this time, when I undertake to oppose the unnecessary increase of this commission, protest against adding to the burdens of taxation, when in fact we ought in these days of unrest to call a halt in the attempt to make raids on the Federal Treasury. The people are tired and weary of the Congress imposing on them unnecessary expenditures. I hope the amendment will be adopted. [Applause.]

Mr. SIMS. Mr. Chairman, I move to amend the paragraph. On line 12, page 84, strike out the figures "$12,000" and insert the figures "$20,000."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment by Mr. SIMS: Page 84, line 12, after the word "receive," strike out the figures "$12,000" and insert the figures "$20,000."

Mr. SIMS. Mr. Chairman, I make this motion in absolute good faith. I hope it will be adopted. Nobody questions the fact that knows anything about it that they are worth this amount and that the commissioners ought to have it. This House has just voted to guarantee the standard rental return to all railroads making application for increase of rates within a given time, which amount to nobody knows how many million dollars, an absolute subsidy, an absolute gift. I offered an amendment that all compensation to railroad officials above $20,000 should not be charged up to operating expenses. That was voted down overwhelmingly. Now, Mr. Chairman, if a little vice president of a single railroad system is worth $20,000, and a big vice president of some system is worth over $40,000, and the president of the same road $75,000—there are 208 of these officers of railroads in the United States—why should not the men that represent the people, all the people, as against all the power and influence of this vast army of railroad officials be paid $20,000?

Mr. LAYTON. Will the gentleman yield?

Mr. SIMS. Yes.

Mr. LAYTON. If the extravagant railroad management had gone to the extent of giving the president $500,000 a year, would the gentleman base the salary of the commissioners on what was paid those officials?

Mr. SIMS. No; I would not. But the railroad official is a public official. He is an official of a public utility regulated by law. These railroad officials do not create any wealth; they do not create a dollar's worth of property; they do not create a dollar's worth of wheat, or hogs, or cotton which is shipped over the roads, all of which has to be taxed on the people in the way of operating expenses with which to pay these unnecessary and unreasonable salaries.

Now, let the commissioners, who have to do identically the same character of work that these quasi public officials are doing, get at least a decent compensation, for the reason that they have got to stand up against these railroad officials and their attorneys, who have such large salaries, as well as those officials. I hope that the amendment will be agreed to.

Mr. LAYTON. Mr. Chairman, I move to amend the amendment of the gentleman from Tennessee by striking out the figures "$20,000" and inserting "$10,000."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment of Mr. LAYTON to the amendment of Mr. SIMS: Strike out the figures "$20,000" and insert the figures "$10,000."

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

The question was taken; and on a division (demanded by Mr. BLANTON) there were 50 ayes and 120 noes.

So the amendment to the amendment was rejected.

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

The question was taken; and on a division (demanded by Mr. BLANTON) there were 4 ayes and 139 noes.

So the amendment was rejected.

The CHAIRMAN. The question is on the amendment of the gentleman from Texas.

Mr. CANDLER. Mr. Chairman, I move to strike out, in lines 5 and 6 on page 85, the language:

Hereafter the salary of the secretary of the commission shall be fixed by the commission.

The CHAIRMAN. The gentleman from Mississippi offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 85, lines 5 and 6, strike out the following language: "Hereafter the salary of the secretary of the commission shall be fixed by the commission."

Mr. CANDLER. Mr. Chairman, I am opposed to increasing the number of the commissioners to 11, as provided in this paragraph, and I am also opposed to raising the salary of the commissioners from $10,000 to $12,000 a year. I favor keeping the commission at the number which it is now, 9, and keeping the salary at $10,000. I do not hear of any members of the commission resigning, nor do I hear of anybody refusing to accept an appointment on the commission because of the fact that the office does not pay over $10,000 a year. So long as we can secure men of talent equal to those who occupy these positions now at the salary of $10,000 a year, and can find 9 men possessing the talent, ability, and qualifications necessary, and who are willing to perform the work required of them at that salary, I see no reason why the commission should be enlarged or the salary of the members of the commission increased. [Applause.]

I am in favor of striking out the provision in this paragraph that "hereafter the salary of the secretary shall be fixed by the commission," because it should be fixed by Congress. It should be definitely fixed by law and the amount not left to the discretion of anybody. The word "hereafter" would make this permanent law, and if that language goes into the bill as it is now, from this time on, unless the provision should be later repealed, the commissioners would fix the salary of their secretary at any amount they might determine. Congress provides for this officer and ought to fix his compensation. We should fix the compensation at a reasonable amount. I presume the salary of the present secretary is entirely satisfactory to him.

Mr. GOLDFOGLE. What is the present secretary's salary?

Mr. CANDLER. It is $5,000 a year, and seems to be satisfactory.

We are responsible directly to the people for expenditures, and we ought to take the responsibility and fix this salary and not shift it to the commissioners, who no doubt would feel very kindly toward the secretary and out of their kindness of heart might find themselves willing to fix the amount higher than Congress would be willing to fix it here in the law. Therefore I believe it should be fixed by the Congress and fixed definitely. If Congress thinks $5,000 is not sufficient, it has the power to increase the amount. So far as I am concerned I am in favor of its remaining as it is, and I will not vote to increase it. In any event, let Congress fix it by law. [Applause.]

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

Mr. GOLDFOGLE. Mr. Chairman, I desire to offer a substitute, which I send to the desk.

The Clerk read as follows:

Mr. GOLDFOGLE offers a substitute for the amendment offered by Mr. CANDLER, as follows: Page 85, line 6, strike out the period at the end of the sentence on line 6 and insert: "not to exceed $5,000."

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

Mr. DENISON. Mr. Chairman, I ask unanimous consent to proceed for five minutes, not on the amendment.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to proceed for five minutes, not on the amendment. Is there objection?

Mr. COOPER. Mr. Chairman, reserving the right to object, will the gentleman please state upon what subject he desires to talk?

Mr. DENISON. I want to refer in the five minutes to the amendment adopted by the House on rate making and to the provision about labor adjustments.

Mr. COOPER. Mr. Chairman, that labor question has been thrashed out pretty thoroughly here by this House. We spent a great deal of time on the question, and I do not think we ought to open up the subject at this time.

The CHAIRMAN. Is there objection?

Mr. COOPER. I object.

The CHAIRMAN. The gentleman from Ohio objects. The question is on the substitute offered by the gentleman from New York [Mr. GOLDFOGLE].

The question was taken; and on a division (demanded by Mr. GOLDFOGLE) there were—ayes 22, noes 80.

So the substitute was rejected.

Mr. EVANS of Nebraska rose.

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. EVANS of Nebraska. To offer an amendment.

The CHAIRMAN. There are already two amendments pending. The question is on the amendment of the gentleman from Mississippi.

Mr. CANDLER. Mr. Chairman, I ask unanimous consent that the amendment be again reported.

The CHAIRMAN. Without objection, the amendment will be again reported.

There was no objection, and the Clerk again reported the Candler amendment.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Mississippi.

The amendment was agreed to.

Mr. ESCH. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Committee amendment: Page 85, line 5, after the period, insert: "Hereafter the salary of the secretary of the commission shall be $7,500 a year."

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

Mr. BLANTON. Mr. Chairman, I offer an amendment to the amendment to strike out "$7,500" and insert "$6,000."

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

The Clerk read as follows:

Strike out the figures "$7,500" in the amendment offered by Mr. ESCH, and insert in lieu thereof the figures "$6,000."

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

The amendment to the amendment was rejected.

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

The question was taken; and on a division (demanded by Mr. BLANTON) there were—ayes 143, noes 3.

So the amendment was agreed to.

Mr. KITCHIN. Mr. Chairman, I move to strike out the last word. [Applause.]

Mr. Chairman, I have been very much interested in the general debate and in the debate under the five-minute rule, and have not occupied a minute of the time of the Committee of the Whole House. I ask unanimous consent that I may proceed for 15 minutes.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent that he may speak for 15 minutes. Is there objection?

Mr. COOPER. Reserving the right to object——

Mr. NOLAN. Mr. Chairman, reserving the right to object, may I ask the gentleman on what subject he desires to speak?

Mr. KITCHIN. I want to show the House that the gentleman from California [Mr. NOLAN], a member of the labor union who spoke for it, and the gentleman from Ohio [Mr. COOPER], an engineer and member of the brotherhood, who also spoke for it, and many other patriotic Members of the House did not understand the provisions of the Anderson amendment when they voted for it. I wish to analyze that amendment and to put the House straight on it. It will take at least 15 minutes to do it.

Mr. NOLAN. Mr. Chairman, I had very little time on that, and I have taken up very little time of the House, and I could not get additional time. The gentleman had his opportunity, and I object.

The CHAIRMAN. The gentleman is recognized for five minutes.

Mr. KITCHIN. Mr. Chairman, since I have been a Member of the House numerous measures for the relief and protection of labor have had my earnest sympathy and support.

Among other measures, I supported the employees' liability act, the safety-appliance act, the workman's compensation act, the eight-hour law. I supported and helped to prepare the labor provisions of the Clayton Antitrust Act. I supported and helped to prepare the Adamson law. But I now find myself unable to give support to the so-called Anderson amendment, passage of which the labor leaders demand.

On last Friday the Committee of the Whole House voted to put the Anderson amendment in the bill by a vote of 161 to 108. I voted against it then. I shall vote against it, when reported to the House. When the vote was taken in the Committee of the Whole, the Members had not had time to carefully analyze its provisions. If the membership of the House had taken the time to calmly and carefully analyze its provisions, as I have done, it is inconceivable to me that any considerable number of this House could possibly have made up their minds to vote for it. [Applause.]

I hope gentlemen will not interrupt me by approving, even by applause, what I say, as such applause consumes time, and I have only five minutes. I must talk hurriedly to get in a part of what I wish to say.

Let me at once say that in the so-called Anderson amendment there is not an iota of consideration for the public, for its interest or its safety. In it the public interest was intentionally ignored by the labor leaders who handed it in and demanded its passage. This amendment provides for no arbitration—for no final adjustment. In spite of what its advocates have said here, it provides for no tribunal for the settlement of controversies between the carriers and the employees, between the railroads and the brotherhoods. Under the peculiar provisions of the amendment no decision in disputes of serious import, the very kind of disputes in the settlement of which the public is most concerned and anxious, will ever be made. Even should a decision in any dispute be reached, it is not binding upon either party. There is no way provided to enforce a decision, even if it were binding. No dispute is submitted to any impartial, disinterested persons or tribunal. The dispute is submitted only to the interested parties—to the parties to the controversy. So-called railroad boards of adjustment and commissions on labor disputes are sought to be created by the amendment. Members of such boards and commissions are to be selected one-half by the carriers and one-half by the chiefs of the respective brotherhoods. The public is in no way represented on either.

There is no provision in case the interested parties—these boards and commissions—fail to come to a decision.

There is no appeal tribunal to hear and determine in case of such failure.

Either the carrier or the brotherhood chief can nullify the amendment, should it become law, by failure to appoint its members. No provision is made, as is in the committee bill, for creation of the board or commission by appointments by the President or other Government official in case the carrier or brotherhood chief refuses or fails to appoint. No one can be appointed on either the board or commission to represent the public, as was provided for in the committee bill.

The boards and commissions are composed only of parties interested in the dispute. The parties to the dispute only are called upon to adjust their differences and settle the dispute.

It is as if I had a serious controversy with the gentleman from Maryland [Mr. LINTHICUM], and the House should say, "If you and LINTHICUM can not settle your dispute, let LINTHICUM appoint three members of his family and you appoint three members of your family, which shall constitute a board of adjustment to settle the controversy, which board shall try to reach a decision, with the understanding that such decision shall not be binding or enforceable on either, and with the further understanding that LINTHICUM alone, in his discretion, shall have the power to refer or not to refer the dispute to the board.

How by such method could LINTHICUM and I ever settle any serious dispute between us? If such "board" should make a decision, it would be neither binding nor enforceable. Each would have all the rights and remedies he had before. What intelligent man would call that arbitration? What intelligent man would call that a "board of adjustment" or a "tribunal" to adjust the dispute? What intelligent man would call that a proper or a sensible or a just method of settling our controversy? That is the Anderson amendment.

I can not within my short allotted time bring to your attention a full analysis of this amendment, as I had hoped to do had not the gentleman from California [Mr. NOLAN] and the gentleman from Ohio [Mr. COOPER] objected to my having 15 minutes as requested. But before my time expires I do want to call attention to one remarkable feature in it, and then ask if there is any Member of this House, member or not of any labor union or brotherhood, who is willing to let his people know that he voted for such a one-sided, arbitrary, unreasonable, impotent measure as this amendment is on the ground that it establishes a "tribunal for the settlement of disputes between the carrier and the employees" or in the hope that any serious dispute affecting the public will or can ever be settled under its provisions?

In the speeches of the gentleman from Ohio [Mr. COOPER], a member of the brotherhood, and of the gentleman from Cali-

fornia [Mr. NOLAN], a member of the labor union, and of other gentlemen who advocated the amendment, it was time and again emphasized that under its provisions a tribunal was established to be called the railway boards of adjustment and the commission on labor disputes "before which all disputes, all matters of controversy, between the carrier and the employees could and must be referred for settlement." Members were evidently misled by these speeches into the belief that the carrier, the employee, and the Government, representing the public interest, had the right to refer any such dispute to such boards for hearing and adjustment. I am confident that these gentlemen did not intentionally mislead the House. They simply did not understand the amendment.

Gentlemen, there is no provision compelling such disputes or controversies to be referred to such boards or to any tribunal. There is no provision giving the carrier or the Government, in behalf of the public, the right to have any dispute or controversy so referred.

The right, the privilege of referring any such dispute to such boards is given solely to the discretion of the "chairman of the general committee of employees." When the "chairman" decides to exercise his discretion in favor of referring, he must first refer the matter to "the chief executive officer of the organization"—or brotherhood—to pass on the reference to the boards. "The chairman" may or may not choose to have the matter referred. If he chooses not, no reference by anyone can be had. The carrier has no choice, the Government has no choice, the public has no choice. The choice is with such "chairman" and then with such chief of the brotherhood. The carrier may petition and beg this "chairman of the general committee of employees" to refer the dispute for settlement to the board of adjustment—to this so-called "tribunal" which the labor leaders forced into the Anderson amendment—he or the chief of the brotherhood can shake his head with a "no," and there it ends. The President of the United States in his anxiety for the public interest and safety, even in such a situation as menaced the entire country in 1916, may beg and petition this "chairman" or this "chief of the brotherhood" to refer the controversy for settlement to the tribunal—the boards of adjustment—written into the Anderson amendment by the labor leaders—to their own created tribunal—he can shake his head with a "no," and there it ends. His approving nod is absolutely necessary for any reference of any matter on any occasion, however urgent, in any situation, however grave.

What Member or Members who voted for the amendment knew that such a remarkable one-sided provision was in it? Turn to page 7 and let me read it. I remind you that this provision limits and qualifies and makes meaningless other preceding provisions declaring that if any question or dispute can not be adjusted in a conference between the carrier and employees, "it shall be referred to the appropriate board of adjustment." This language in the first part of the amendment no doubt misled many Members. I will read, now, the provision—you will observe that it contains remarkable features other than the one to which I have alluded.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KITCHIN. I ask unanimous consent to proceed for five minutes more. I am anxious to read to the Members at least this provision.

Mr. NOLAN. Mr. Chairman, I must object to anybody talking on the antistrike provision.

Mr. KITCHIN. I am not talking nor do I propose to talk "on the antistrike provision." There is no such provision in the committee's bill or in the Anderson amendment. I simply wish to analyze and expose further the Anderson amendment.

The CHAIRMAN. The gentleman from California objects.

Mr. MONDELL. Mr. Chairman, we are approaching the close of the consideration of the Esch railroad bill, which has been before the House seven legislative days, during which time the House has met at 10 o'clock in the morning and on two occasions sat late into the night. Taking into consideration these early and late sessions and that no other business has been allowed to intervene, the bill has been considered a period of time equivalent to 10 ordinary legislative days.

During that period the bill has been carefully considered, its provisions thoroughly discussed, and some important amendments adopted. In my more than 20 years' experience in the House I have known no piece of legislation more carefully, earnestly, intelligently, and systematically considered than this bill. Its provisions do not all suit me, but they embody the views of the majority as developed in the subcommittee and the Committee on Interstate and Foreign Commerce during months of careful consideration and of the Committee of the Whole arrived at in the thorough manner to which I have referred. As a whole the legislation is sound, sane, and sensible and entitled to the support of every Member on this floor, whatever his view may be with regard to some one or more of the many provisions of the bill.

Mr. BLANTON. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. BLANTON. That the gentleman from Wyoming is not speaking to anything before the House now with reference to the paragraph under consideration.

Mr. BARKLEY. I hope the gentleman will not make that point of order.

The CHAIRMAN. The Chair is unable to say at this point to what the remarks of the gentleman from Wyoming are directed and he overrules the point of order for the present.

Mr. MONDELL. In all of my legislative experience I have never known of a piece of legislation containing many provisions dealing with important subjects all of the provisions and features of which were just what any one individual would have had them, for all sound and sane legislation properly considered is the result of the composite rather than the individual opinion. That being so, it more nearly reflects the opinion of the country than legislation entirely satisfactory to any one individual could possibly do.

The time will never come when such a piece of legislation can be so drawn that every one of its provisions is entirely satisfactory to all those who support it.

Judging from my own experience, Members have been absolutely deluged with telegrams, differing somewhat in their requests and demands, but all of them coming from certain sources, urging a vote against this bill, and most of them for a continuation of Federal control for two years. Boiled down to their real substance, these telegrams are in the interest of the so-called Plumb plan and propose delay in action with the view or hope of the enactment of the Plumb plan.

I regret there is anyone so ill-advised as to the temper and good judgment of the American people as to imagine that the so-called Plumb plan or anything like it can be written upon the statute books of the Nation. [Applause.] It is rather difficult to properly characterize that so-called plan in temperate and parliamentary language. The mildest criticism that can be made of it is that it contemplates the establishment in America of a privileged class—the class that happens to be at any given time in the employ of the railroads of the country. It is proposed on behalf of this class to run the railroads, they getting the profits and the balance of the community paying the deficits and footing the bills. I can only explain the support of this indefensible plan by many railway employees whom I believe to be honest and well-meaning on the theory that they have never read the plan or had it explained to them, and that they do not understand what it proposes or contemplates, for I can not comprehend anyone supporting the plan who thoroughly understands it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MONDELL. I ask that I may have one minute more.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. MONDELL. And it is the Plumb plan and its proponents that are behind many of the telegrams opposing the passage of this bill, and with gentlemen fully understanding that I anticipate practically unanimous support of the measure.

The question before us now, gentlemen, is not do we fully approve each and all of the many provisions of this bill, but do we want to have legislation pass the House that will provide for the return of the railroads to their owners and to private control under conditions that in the main, at least, are fundamentally sound? The passage of such legislation in the expectation that the consideration in the Senate and in the conference will perfect the measure and give us a sound, sane, and workable piece of railway legislation. [Applause.]

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

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

The CHAIRMAN. All time has expired. [Cries of "Vote!"] For what purpose does the gentleman from Louisiana rise?

Mr. LAZARO. To ask unanimous consent that the gentleman from Wyoming be given one minute in which to answer a question.

The CHAIRMAN. The gentleman from Louisiana asks unanimous consent that the gentleman from Wyoming may proceed for one additional minute. Is there objection?

Mr. WILLIAMS. I object.

Mr. SEARS. Mr. Chairman, I make the point of order that the gentleman did not rise in his seat to object.

Mr. WILLIAMS. I object.

The CHAIRMAN. The gentleman from Illinois [Mr. WILLIAMS] objects.

Mr. FLOOD. Mr. Chairman, I ask unanimous consent that the gentleman from North Carolina [Mr. KITCHIN] may be allowed to proceed for 10 minutes.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent that the gentleman from North Carolina may be allowed to proceed for 10 minutes. Is there objection?

Mr. NOLAN. I object.

The CHAIRMAN. The gentleman from California objects.

Mr. FLOOD. Mr. Chairman, I modify my request and ask that the gentleman from North Carolina be allowed five minutes.

Mr. NOLAN. I object.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent that the gentleman from North Carolina be allowed five minutes. Is there objection?

Mr. NOLAN. I object.

The CHAIRMAN. The gentleman from California objects. The question is on agreeing to the motion of the gentleman from Texas [Mr. BLANTON].

Mr. GARLAND. Mr. Chairman, I move to strike out the last three words.

The CHAIRMAN. The gentleman from Pennsylvania moves to strike out the last three words.

Mr. GARLAND. Mr. Chairman, I am opposed to the statement made by the gentleman from North Carolina [Mr. KITCHIN] that——

Mr. BLANTON. Mr. Chairman, I make the point of order that the gentleman is not speaking to anything that is before the House.

Mr. GARLAND. I desire to speak in reference to the statement made by the gentleman from North Carolina.

Mr. BLANTON. I make the point of order that the gentleman is speaking out of order.

The CHAIRMAN. The Chair will state to the gentleman from Pennsylvania that if a point of order is made, the gentleman will be compelled to confine himself to the motion he made to strike out the last three words.

Mr. GARLAND. The motion is to strike out the last words; and, Mr. Chairman, I think the last three words ought to be stricken out, for the reason that an attempt is made to create the impression that the Anderson amendment does not function as it was intended to do and as it does.

Mr. SAUNDERS of Virginia. Mr. Chairman, I make the point of order that the gentleman is out of order.

Mr. NOLAN. Mr. Chairman——

The CHAIRMAN. The Chair sustains the point of order. The question is on agreeing to the motion of the gentleman from Texas.

The question was taken, and the motion was rejected.

Mr. JOHNSON of Washington. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Washington offers an amendment, which the Clerk will report.

The Clerk read as follows:

Mr. JOHNSON of Washington offers an amendment, as follows: After line 6, page 85, insert a new section, as follows:

"SEC. 25. Section 15 of the commerce act is hereby further amended by adding at the end thereof a new 11 paragraph:

"'It shall be unlawful for any United States carrier or carriers by rail or water to participate in the continuous or interrupted transportation of passengers or property from any place in the United States through a foreign country to any other place in the United States, where the through rate, or through charge by combination of rates for such transportation, whether by rebate, by absorption of storage charges, office charges, or any other charge or charges, or in any manner whatsoever was less than the through rate or through charge by combination of rates between such points filed with the Interstate Commerce Commission applying at such time for like transportation by the United States carriers by rail or water or by rail and water.'"

Mr. SANDERS of Indiana. Mr. Chairman, I make the point of order against that amendment, that it is not germane. It is not germane to the bill and it is not germane to section 15 of the original act which it purports to amend. And I call the attention of the Chair to the fact that the ruling of the Chair earlier this afternoon was exactly upon the point that this was not germane to any part of the original section 15. As a matter of fact, Mr. Chairman, it is not germane to any part of the bill—of the original bill or this bill. It is clearly not germane to section 15, and inasmuch as it is a proposed amendment of a section of the original bill it must also be germane to that section.

Mr. JOHNSON of Washington. Mr. Chairman, I ask unanimous consent to strike out the word "fifteen," so that it may be offered as an entirely new section of the bill. That will meet the objection.

The CHAIRMAN. The gentleman from Washington asks unanimous consent to strike out "fifteen" from his amendment. If it is modified it will still be subject to a point of order. Is there objection?

There was no objection.

Mr. SANDERS of Indiana. Mr. Chairman, I renew the point of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. JOHNSON of Washington. Then, Mr. Chairman, I offer the amendment to read as follows.

The CHAIRMAN. The Clerk will report it.

Mr. SANDERS of Indiana. I ask unanimous consent, Mr. Chairman, since the body of the amendment is the same, that nothing except the introduction shall be read.

Mr. JOHNSON of Washington. That is satisfactory.

The Clerk read as follows:

Mr. JOHNSON of Washington offers to amend by adding a new section following line 6, on page 85, to be known as section 25, as follows:

Mr. JOHNSON of Washington. The Clerk need not read the remainder of the amendment, as it has already been read.

Mr. SANDERS of Indiana. I make the point of order against the amendment.

The CHAIRMAN. Does the gentleman from Indiana desire to be heard in support of his point of order?

Mr. SANDERS of Indiana. Mr. Chairman, I simply wish to make this suggestion: That the proposed amendment of the gentleman from Washington, as now offered, does not attempt to amend the commerce act as such. It is merely an amendment to this bill. Therefore, it must be germane to this bill and to the amendments to the commerce act amended by this present bill. Hence that narrows the scope of it when you consider the question of germaneness.

But, Mr. Chairman, I am not going to repeat the argument I made earlier in the afternoon that this is clearly not a regulation of interstate commerce. It does not deal with any question or regulation within the four corners of this bill, and it is not germane to this bill, but it is a clear prohibition against the carriage by certain carriers in this country of any freight at all.

Mr. JOHNSON of Washington. Mr. Chairman, I call attention to the fact that section 400, on page 39, reads as follows:

The first five paragraphs of section 1 of the commerce act, as such paragraphs appear in section 7 of the commerce court act, are hereby amended to read as follows:

"(1) That the provisions of this act shall apply to common carriers engaged in—

"(a) The transportation of passengers or property wholly by railroad, or partly by railroad and partly by water when both are used under a common control, management, or arrangement for a continuous carriage or shipment; or

"(b) The transportation of oil or other commodity, except water and except natural or artificial gas, by pipe line, or partly by pipe line and partly by railroad or by water; or

"(c) The transmission of intelligence by wire or wireless;—

from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from one place in a Territory to another place in the same Territory, or from any place in the United States through a foreign country to any other place in the United States, or from or to any place in the United States to or from a foreign country.

Further, I call attention to the fact that since previously offered, I have stricken out all reference to the Shipping Board. I have reduced the relation of the amendment entirely to a matter that would relate to railroad cargoes starting in the United States, leaping into outside territory and receiving there a rebate or concession in any form, given for the purpose of getting that business away from the railroads of the United States, which are not permitted to give those rebates, and then that cargo leaping back into the United States. That is all there is to it. I contend that it is clearly in order.

Mr. CLEARY. Mr. Chairman, is this on the point of order or is it discussing the merits of the amendment?

The CHAIRMAN. This is a discussion of the point of order. The gentleman from Washington offers an amendment by way of a new section to provide that—

It shall be unlawful for any United States carrier or carriers by rail or water to participate in the continuous or interrupted transportation of passengers or property from any place in the United States through a foreign country to any other place in the United States, where the through rate or through charge by combination of rates for such transportation, whether by rebate, by absorption of storage charges, office charges, or any other charge or charges, or in any manner whatsoever is less than the through rate or through charge by combination of rates between such points filed with the Interstate Commerce Commission applying at such time for like transportation by the United States carriers by rail or water or by rail and water.

He offers this as a new section to the bill. The bill provides for various amendments to the interstate commerce act, and the Chair is of the opinion that the amendment proposed by the gentleman from Washington is germane to the provisions of the bill, seeking to amend the commerce act in different particulars, but in a manner germane to the substance of its provisions, and the Chair overrules the point of order. The question is on the amendment of the gentleman from Washington.

Mr. CLEARY. Mr. Chairman, I want to oppose the amendment. In order to understand what this will do to one section of the country, I wish to call attention to the conditions: First, I will lay out the territory. Steamers coming down from the Great Lakes through the Welland Canal, which is in Canada, come into Lake Ontario and then come over to Oswego, which is in the State of New York, on Lake Ontario. About a month ago I was invited by the superintendent of public works to go to Oswego with a party, the governor and others, to talk about the erection of a great elevator in Oswego, which is one of the terminals of the New York State Barge Canal. I am laying this before you without very much discussion either way, to show what it might do. Here is the grain from the Northwest, which comes down the Lakes, and instead of stopping at Buffalo it comes on through the Welland Canal, which we are permitted to use just as if it was ours, and then through Lake Ontario into Oswego. That is the transportation route which this amendment seeks to prohibit, to hinder, or to make difficult. That should not be done, because if that grain instead of going into a port of the United States goes on down out of Lake Ontario through the St. Lawrence River, by way of Montreal and Quebec, New York loses the commerce and the United States loses the commerce, and it goes directly to Europe by the Canadian routes. We should not do anything that would block the commerce of the Northwest from coming in through New York and making it American commerce, and the same way with commerce going back over the same route. We ought not to do anything that would discourage that. It is a great route, and there are lots of people who think that as the canal develops and is finished there will be a great deal of traffic. In years gone by there was a great deal of traffic, a great deal of barley and other grain coming down by way of Oswego, and we must not do anything that will hinder the United States from getting that commerce that otherwise might go out through the St. Lawrence River. That is my objection to the amendment. [Applause.]

Mr. JOHNSON of Washington. Mr. Chairman, I am much interested in the statements of the gentleman from New York [Mr. CLEARY]. His position is all right, but my amendment does not affect the commerce of which he speaks, unless rebates are granted. Any grain coming down through the Welland Canal, if it pays the rates required under our interstate-commerce laws, can come, all well and good. As a matter of fact, there is but a comparative handful of wheat coming that way. We know that the railroads of Canada handle the wheat.

Mr. CLEARY. May I ask the gentleman a question?

Mr. JOHNSON of Washington. Yes.

Mr. CLEARY. Are there not millions of bushels coming down that way?

Mr. JOHNSON of Washington. Yes; but it will continue to go by way of Oswego if it pays the rates established by the United States Interstate Commerce Commission, and if it does not pay United States rates it ought not to come down by way of Oswego.

The commodity referred to by the gentleman from New York is a drop in the bucket compared to all of the business which the amendment I offer might affect. The Canadian Pacific Railroad has increased its business, even during the war times, so that its dividends are above 10 per cent per annum, and the stock is quoted far above par—I think 150. The stocks of the American competitors on this side of the line are below par, and some of the competing roads are not doing a profitable business. We pass laws and regulations for commerce in the United States that drive commerce across the line. The amendment seeks to correct this situation. As this is in order, Mr. Chairman, I would like a vote of the committee.

Mr. GRIGSBY. Mr. Chairman and gentlemen of the committee, I do not understand the purpose of this amendment, as far as the rest of the United States is concerned, but I do understand the purpose of it as far as it affects the Territory of Alaska. As you all know, the Territory of Alaska has no transportation facilities connecting it with the United States except by water. We have the benefit of no rail competition except the Canadian railways. There is no competition with the American steamship lines except the Canadian steamship lines, and the Canadian railways. The greatest drawback to the development of Alaska, with the possible exception of the conservation policy that has been adopted toward that Territory for the last 13 years, is the high cost of transportation. The policy of the Government to-day is to develop Alaska.

Now comes the gentleman from Washington with this provision which if passed will increase both freight and passenger charges to and from the Territory of Alaska. Since the purchase of Alaska in 1867 the Territory has exported products to the value of nearly $1,000,000,000. Her total commerce has been about $1,300,000,000. Probably 50 per cent of the value of her products has been paid out in transportation charges. High transportation rates have been a great obstacle in the development of the country ever since the gold rush of 1898.

There are two American steamship lines engaged in Alaskan commerce—the Alaska Steamship Co. and the Pacific Steamship Co. The only competition they have is that afforded by the Grand Trunk Pacific Canadian Railway, the terminal of which is at Prince Rupert, and the Canadian Pacific, with a terminal at Vancouver, and the Canadian steamship lines.

Mr. JOHNSON of Washington. Will the gentleman yield?

Mr. GRIGSBY. Yes.

Mr. JOHNSON of Washington. Prince Rupert is a Government subsidized town with the few in it paid by the Canadian Government.

Mr. GRIGSBY. This amendment is an attempt to subsidize the Alaska and Pacific steamship companies, and it should be defeated. I am not an enemy to any home industry, whether a railroad industry or a steamship industry, but I am against a monopoly. Pass this amendment and we are at the mercy of these companies.

If it is necessary and advisable to enact legislation to protect American steamship lines and American railways, it should be done in some other way than at the expense of the shippers and traveling public of the Territory of Alaska.

Mr. JOHNSON of Washington. Will the gentleman yield?

Mr. GRIGSBY. Yes.

Mr. JOHNSON of Washington. Does not the gentleman realize that water transportation is taken in; that it is under the Interstate Commerce Commission and under the control of this bill. The commission has been fair to the United States and will be fair to the Territory of Alaska.

Mr. GRIGSBY. Up to this time and since its creation, the Shipping Board has had the power to control water transportation rates to and from Alaska. The Interstate Commerce Commission has controlled the fixing of rates where the transportation is partly by rail and partly by water. Under this amendment, if rates are fixed or established by the Interstate Commerce Commission between Alaska and points in the United States, it will be unlawful for the Canadian lines to fix lower rates to the same points in the United States; that is to say, it will be unlawful for any United States carrier by rail or water to participate in any continuous transportation of passengers or property from any place in Alaska through Canada to any other place in the United States at a lower rate than the rate fixed by the Interstate Commerce Commission for American carriers between the same points. If a through rate is established for American lines from Juneau or Ketchikan, Alaska, to Chicago by the way of Seattle, the Grand Trunk Pacific, though the haul is two or three days shorter and naturally cheaper, will be compelled to charge as high a rate. In other words, the people of Alaska would be deprived of the benefits of the short haul to the East—that is, of the lower rate. The penalty is on the people of Alaska. What they need is the lowest possible transportation rates. Transportation charges have advanced tremendously within the past few years. They are now so high as to practically prohibit new development.

The last Legislature of the Territory of Alaska, as a remedy for this condition, appropriated $300,000 for the purpose of chartering ships from the Shipping Board in order to get away from the destructive rates of the Alaska and Pacific steamship companies. This amendment is designed to enable those companies to still further advance the rates by a prohibition against any lower rate over the foreign lines than the domestic lines are allowed to establish. As between the people of Alaska and the steamship companies engaged in Alaska commerce, this House should favor the people of Alaska by defeating this amendment.

The CHAIRMAN. The time of the gentleman from Alaska has expired; all time has expired. The question is on the amendment of the gentleman from Washington.

The question was taken, and the amendment was rejected.

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

The Clerk read as follows:

Add a new section, on page 86, as follows:

"SEC. 26. That any common carrier, railroad, or transportation company receiving property for transportation and delivery from another common carrier, railroad, or transportation company, where the original contract of shipment is to carry or transport such property from a point in one State, Territory, or District of the United States to a point in another State, Territory, or District of the United States, shall be liable to the lawful holder of the receipt or bill of lading issued by the initial receiving common carrier, railroad, or transportation company for any loss, damage, or injury to such property caused by it or any common carrier, railroad, or transportation company to which such property may have been delivered or over whose lines such property may have passed, and no contract, receipt, rule, or regulation shall exempt such carrier, railroad, or transportation company from

the liability hereby imposed: *Provided*, That nothing herein shall deprive any holder of such receipt or bill of lading of any remedy which he has under existing law: *Provided further*, That the common carrier, railroad, or transportation company shall be entitled to recover from the common carrier, railroad, or transportation company on whose line the loss, damage, or injury shall have been sustained the amount with interest of such loss, damage, or injury it may have been required to pay to the holder of such receipt or bill of lading, as may be evidenced by any receipt, judgment, or transcript thereof.

Mr. SANDERS of Indiana. Mr. Chairman, I make a point of order that this amendment is not germane. The amendment deals with the question of the liability of transportation companies to claimants by reason of damage, and it is not germane to any provision of the bill nor germane to this particular title.

The CHAIRMAN. Does the gentleman claim that it is germane to any section of the commerce act?

Mr. McDUFFIE. It is probably true that it is not germane to that particular title of the act, yet in this bill we are dealing with the liability of common carriers, and I call the attention of the Chair to paragraph 12, which has been reenacted by this bill, of section 20 of the commerce act. Properly speaking this amendment probably should have been inserted after that paragraph. That paragraph reads as follows:

That the common carrier, railroad or transportation company issuing such receipt or bill of lading shall be entitled to recover from the common carrier, railroad or transportation company, on whose line the loss, damage, or injury shall have been sustained, the amount of such loss, damage, or injury as it may be required to pay to the owners of such property, as may be evidenced by any receipt, judgment, or transcript thereof.

The CHAIRMAN. From what is the gentleman reading?

Mr. McDUFFIE. I am reading from the twelfth paragraph of section 20 of the commerce act, which this bill is amending. It is on page 53 of the copy of the commerce act, as amended. We have just reenacted the twelfth paragraph. I think certainly this is germane to that paragraph.

The CHAIRMAN. In what provision of this bill have we reenacted the twelfth paragraph?

Mr. McDUFFIE. On page 77 of the bill, line 4, we reenacted the twelfth paragraph.

The CHAIRMAN. The twelfth paragraph was not reenacted, it was amended.

Mr. McDUFFIE. I should have said amended by inserting the figure "12" before the paragraph.

Mr. SANDERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. McDUFFIE. Yes.

Mr. SANDERS of Indiana. The gentleman is aware, however, that we have passed all amendments to section 20 of the bill and are now dealing with section 25. Is not the gentleman's amendment subject to a point of order under the rule that an amendment inserting an additional section should be germane to the portion of the bill to which it is offered.

Mr. McDUFFIE. I said that I thought it properly belonged at the other end, but I think this is a very important matter and the committee should consider it. If a piece of freight is shipped from the city of New York to south Alabama, the delivering carrier can not be sued unless it be established that the delivering carrier caused the loss or damage. We have to fix the liability on the intermediate carrier and the other carrier on back to the initial carrier. If the initial carrier is responsible under its contract to the delivering carrier, then I say that the delivering carrier under this amendment may be made also responsible, and where a loss occurs on the line from New York to Alabama let the carrier on whose line the loss occurred be liable to the delivering carrier. In other words, it saves the man in Alabama from going to the State of New York to sue the initial carrier.

Mr. GARRETT. Mr. Chairman, I direct the attention of the Chair to the fact, for whatever it may be worth, that the section to which the gentleman is referring was put on as an amendment to the railroad bill, which was the commerce act, that passed the Fifty-ninth Congress. Whether that is worth anything to the Chair, I do not know, but it was put on in the Senate. It seems to me that this is germane to the subject matter of the bill.

Mr. McDUFFIE. Mr. Chairman, I ask unanimous consent to return to paragraph 12, on page 77, for the purpose of offering this amendment at that point.

Mr. SWEET. Mr. Chairman, I object.

The CHAIRMAN. The gentleman from Iowa objects. The gentleman from Alabama [Mr. McDUFFIE] offers an amendment to insert a new section at this particular place in the bill which deals with matters covered in paragraph 12, which deals with a common carrier issuing a receipt or bill of lading conferring the right to recover from the common carrier or transportation company, and he offers it as a new section. It is not germane to the previous section, which it follows, but in the opinion of the Chair it is germane to a provision of the bill, and merely creates an additional right or remedy and applies to other than initial carriers. The Chair therefore overrules the point of order. The question is on the amendment offered by the gentleman from Alabama.

The question was taken; and on a division (demanded by Mr. McDUFFIE) there were—ayes 89, noes 148.

So the amendment was rejected.

Mr. BRIGGS. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Page 85, after line 6, insert as a new paragraph, to be known as section 438a, the following:

"Nothing in this act shall be construed to amend, repeal, impair, or affect the lawful police regulations of the several States."

Mr. BRIGGS. Mr. Chairman, there are so many provisions in this bill which confer great power upon the Federal Government and its agencies that I am very fearful they may be construed as trenching upon the police powers of the several States. There are some who do not agree with that conclusion, who do not think that the bill will have that effect or does have that effect, but the police powers are of such importance to the several States of the Union that no question ought to remain in respect to it. Express provision was made even in the war time control act for the reservation of the police powers to the several States, and I think it is highly essential that a provision of similar character should be incorporated in the present bill.

To give you an illustration of the necessity for this: In my State some time in the eighties the State of Texas and the county of Anderson granted to the International & Great Northern Railroad Co. not only land, but Anderson County granted it a bond donation upon the stipulation and express agreement that it would locate at that point forever after its machine shops and its general offices. The railroad company observed that agreement and regulation until the year 1911, when the property was sold out at receiver's sale. The purchaser moved the general offices from Palestine, Tex., to Houston, Tex. In 1889 the State of Texas enacted a statute which provided that where a railroad company and any political subdivision of the State had entered into an agreement for the location of its general offices and machine shops at a given point along its line which had aided such road by an issue of bonds, and that agreement had been carried out and the location made, no change should be made therein, even if the original railroad organization consolidated with another railroad.

When the general offices of the International & Great Northern Railroad were changed from Palestine and moved to Houston the people of Anderson County sought to restrain that action. The case was tried out through the courts of the State of Texas and finally decided by the Supreme Court of the United States, which upheld the validity of the contract and of the State statute as being a valid police regulation which must be observed. It cost the people of Anderson County $25,000 to carry that proceeding through the courts, and they have also had to provide a $200,000 building and spend on it $25,000 more to get those offices back by giving to the director general the use of such building upon a nominal lease for the office force; and I may add the Director General of the Railroads has now brought those offices back to the city of Palestine, Tex.

The case is strongly and forcibly stated in the letter, which I adopt as a part of my remarks, from Messrs. Campbell & Sewell and Mr. A. G. Greenwood, of Palestine, Tex., eminent Texas lawyers, who so ably represented Anderson County and Palestine through all courts.

PALESTINE, TEX., *November 12, 1919.*

Hon. CLAY STONE BRIGGS, M. C.,
*Washington, D. C.*

DEAR MR. BRIGGS: Our city, county, and its citizenship are very much concerned in having whatever legislation may be enacted by Congress relative to railroads and their return by the Government to the owners so shaped as to conserve the rights and interests of Palestine and Anderson County in the continued location and maintenance of the general offices and machine shops of the International & Great Northern Railway Co. at Palestine. Any legislation enacted which does not do this would be destructive of the commercial and farming industries of this section of Texas, which, for more than 40 years have been encouraged, promoted, and built upon the faith of a contract for a valuable consideration paid to this railroad and made in behalf of the citizenship of Palestine and Anderson County by Judge John H. Reagan with Mr. Galusha A. Grow, president of the Houston & Great Northern Railroad, which was subsequently consolidated with the International Railroad.

The International & Great Northern Railroad embraces 1,106 miles of railroad wholly within the State of Texas, and is now operated under Federal control.

It was created under and by virtue of donations of land and money from the State of Texas and counties of Texas and, among the latter, was a bond donation from Anderson County, issued on the consideration that the general offices and machine shops for the operation of this railroad should be forever maintained at Palestine, in Anderson County, Tex.

In 1889 the offices and machine shops of said railroad were located at Palestine, in Anderson County, under the contract and for the

consideration aforesaid, and in that year the Legislature of Texas enacted a law, still in force, declaring that "If said general offices and shops are located on the line of a railroad which has aided said railroads by an issue of bonds in consideration of such location being made, then said location shall not be changed, and this shall apply as well to a railroad that may have been consolidated with another as to those which have maintained their original organization." In 1911, after having been maintained at Palestine, in Anderson County, for nearly 40 years the purchaser at a receivership foreclosure sale undertook to remove, and did remove, the general offices for the operation of this railroad from Palestine to Houston, Tex., whereupon the county of Anderson and city of Palestine filed its suit against said railroad to enforce its contract and compel the return to Palestine of said general offices. The suit was prosecuted through all of the courts of Texas, and finally to the Supreme Court of the United States through writ of error.

On April 15, 1918, the Supreme Court of the United States, in cause No. 243, styled International & Great Northern Railway Co. et al. *v.* Anderson County et al., sustained an injunction of the State courts requiring that the general offices and machine shops for the operation of this railroad be forever kept and maintained at Palestine and forbidding and restraining the maintenance and operation of such general offices and machine shops at any other place than at Palestine, in Anderson County, Tex. The opinion of the United States Supreme Court expressly sustains the State statute, enforced by the injunction as a lawful police regulation of Texas, and mandate was issued June 15, 1918.

The statutes of Texas referred to are now articles 6423 and 6424.

Before the mandate of the Supreme Court in the injunction could be enforced the railroads were taken under Federal control by act of Congress, but which declared in section 15 that nothing contained in that act "shall be construed to amend, repeal, impair, or affect * * * the lawful police regulation of the several States, except when such * * * regulations may affect the transportation of troops, war materials, Government supplies, or the issue of stocks and bonds." The prosecution of this litigation to safeguard the rights of Anderson County and its citizenship under a solemn and valid contract attempted to be violated and destroyed by the railroad has cost our city and county and its citizenship in actual cash paid out about $25,000, to say nothing of the losses in a commercial way and a detriment to the commercial and farming industries of this county occasioned by the arbitrary and invalid removal of the general offices to Houston.

In the summer of 1918 our citizenship took the matter of the enforcement and compliance with the mandate of the United States Supreme Court in said cause up with the Director General of Railroads, and this resulted finally in the Director General of Railroads directing the return to Palestine of the general offices; but in order for this to be done it was necessary for an office building to be furnished for the officers, clerks, and other employees, and in addition thereto residence facilities for housing and taking care of the employees and their families.

To meet this the citizens of Palestine, at great sacrifice, turned over to the Director General of Railroads a $200,000 fireproof hotel building, and upon which they expended about $25,000 for its alteration and conversion into an up-to-date office building, and which they leased to the director general for a nominal rental, and whereupon the general offices were returned to Palestine in obedience to the court decree, and are now located and maintained in Palestine.

Our city and its various industries have been built up, promoted, and advanced from a small town to a city of some 18,000 inhabitants, and now constitutes one of the important commercial and industrial centers of Texas, and millions of dollars have been invested in manufacturing plants, other industries, and business institutions upon the good faith of the contract made with the railroad company for the perpetual maintenance of its general offices and machine shops at Palestine. Therefore if any legislation is enacted by the Congress that would have the effect to destroy this contract or the statutes of Texas declaratory of the public policy of the State requiring these facilities to be continuously maintained in this city would be so disastrous in its effect as to cause irreparable loss and damage to the citizenship of east Texas and materially affect deleteriously industries in which the entire Nation is interested. Furthermore, it would have the effect to undermine, if not destroy, the police powers of the State, as well as all other States in which a similar condition exists, and preclude the important and necessary regulatory powers of the legislatures of the States over its internal corporations.

We do not believe that the Congress will feel impelled or find it necessary in exercising its powers to reserve to the Federal Government limited control of the railroads of the country to destroy the effect of such statutes as the general office-shop statutes of Texas, which require of the railroads compliance with a valid contract made for a valuable consideration and sustained by the highest court of the land; but by some just provision these statutes and obligations of this nature can be preserved in general to Palestine, Tyler, and other cities, counties, and States throughout the Nation that are similarly situated.

We know that you are generally familiar with the matters to which we have above referred, and we understand that ex-Gov. Campbell has communicated with some one of the Members of Congress briefly on the same subject. We want to ask you, in the interest of Texas and its citizenship, and especially in the interest of Palestine and Anderson County and of Tyler in Smith County, that will be practically destroyed as two of the centers of the commercial, live-stock, and farming industries of Texas, unless by some provision in the railroad legislation their rights are preserved, to enlist yourself actively and cordially in this matter and preserve to Texas and the other States of the Union the power and right of legislation concerning its own corporate creatures and the power and integrity of the legislatures in pronouncing a sound public policy and reasonable police regulation of railroad corporations within the States. It is our purpose to prepare within the next day or two a memorial addressed to the Congress, printed in the form of a brief, concerning this matter substantially as above, and will forward same to you for such use as you may see proper to make of it. One or more of us will also come to Washington and take the matter up with the proper authorities or committees as you may think wise and proper, and we would like to hear from you by wire at our expense on receipt of this letter. In the meantime may we ask you to take such active interest in our behalf as may conserve our best interests.

With kind personal regards, we beg to remain, as ever, your friends,

CAMPBELL & SEWELL,
A. G. GREENWOOD.

P. S.—We have addressed similar letters to-day to Senators SHEPPARD and CULBERSON and to Congressmen JOHN C. BOX and TOM CONNALLY, and we are sure they will each be glad to cooperate with you in this matter.

Yours, etc.,

C. & S.,
A. G. G.

No question, therefore, should be left open whereby the people of Palestine and Anderson County may be deprived again of those offices, when the highest court in this land has said that they belong in Palestine under a valid contract and under a valid police regulation. There can be no harm in providing in this bill that the police powers of the States shall be preserved to them, and the amendment should be adopted. [Applause.]

Mr. DENISON. Mr. Chairman, I rise to oppose the amendment which the gentleman from Texas has offered. I am opposed to the amendment, Mr. Chairman, because this bill does not attempt to deprive the States of any of their proper police powers, or any of their police powers in fact, and therefore I think the amendment which the gentleman from Texas has offered is entirely useless and unnecessary and ought not to encumber the bill. Mr. Chairman, in this connection I ask unanimous consent for permission to insert in the RECORD at this place a brief statement about the bill which I attempted to make a few moments ago and to which objection was made.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to insert his statement in the RECORD in the manner indicated. Is there objection? [After a pause.] The Chair hears none.

Mr. DENISON. Mr. Chairman, a few moments ago the House voted to strike out of the bill the rule of rate making recommended by the committee. So far as the making of rates is concerned, that action of the House will leave the Interstate Commerce Commission and the railroads just where they have always been. I believe time will prove this action of the House to be a mistake.

We are providing liberally for helping to finance the railroads by Government aid during the transition or reconstruction period. But thereafter we do very little to foster or improve them; they will drop back into the old methods of making rates. In this respect we are not, I believe, doing what we should for the railroads, or what is best for the Government. Mr. Chairman, we have lost $646,777,000 in the operation of the railroads during the two years of Government control. When we turn them back they will owe the Government at least $775,000,000, which will be funded one way or another.

By guaranteeing their standard return for another six months I have no doubt the actual losses from operation will, for the entire period, amount to $750,000,000. It may be more or may be less than that amount, depending on the amount of business the railroads do in the six months' period. Whatever it is, it will be a dead loss.

By the provisions of the bill for making loans to the railroads for a period of two years, I fear that the amount of their indebtedness to the Government will be materially increased over the $750,000,000 they will already owe when they are returned to their owners. The bill provides $250,000,000 for that purpose. If they borrow that much, they will owe the Government at least $1,000,000,000. It may be a great deal more than that amount.

With a fair, reasonable rule of rate making, as was provided in the committee bill, I had no doubt that the railroads would be able not only to get along without making new loans from the Government but would be able to easily pay back to the Government what they now owe.

But with this rule of rate making stricken out of the bill, I fear that the railroads will never be able to pay back to the Government the $1,000,000,000 which I have no doubt they will soon owe.

If they can not do so the Government will have lost $1,750,000,000 and maybe even more by its experiment in Government operation.

To guard against this unfortunate consequence to the taxpayers of the country I favored the rule of rate making recommended in the bill by the committee, and I feel sure the House has made a serious mistake in striking it out of the bill.

Mr. Chairman, with reference to the provision of the bill as amended by the Committee of the Whole, with reference to the settlement of labor disputes, I want to say, as I said when that provision was under discussion, that my personal view is that from the standpoint of the public as well as of the brotherhoods and other railroad workmen, it would be better if the whole provision were stricken from the bill. If I could have done so properly under the parliamentary situation I would have moved to strike it out. But objection was made.

I think all labor disputes ought to be settled by agreement between employers and employees. It can never be to the benefit of laboring men to settle such matters by legislation. If they can not or will not be settled in that manner, then legislation may become necessary. I hope the necessity for it may not hereafter arise.

I think the present provision of the bill will have to be amended sometime in order to apply to all classes of railroad labor. For this reason I think it would have been better if the whole provision were stricken out, or at least amended. But possibly it can be amended later, if necessary, so as to be workable and treat all railroad workmen alike. I hope it may prove fair and satisfactory to all parties and contribute to the friendly adjustment of all labor disputes hereafter.

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

The question was taken, and the amendment was rejected.

Mr. BRIGGS. Mr. Chairman, I offer another amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. BRIGGS: Page 85, immediately after line 6, insert as a new paragraph to be known as section 438a:

"Nothing in this act shall be construed to amend, abrogate, or in any wise impair any contract between a State or political subdivision thereof and any carrier, which was lawful at the time such contract was made."

Mr. BRIGGS. Mr. Chairman, this is along the same line.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 439. The commerce act is hereby further amended by adding at the end thereof two new sections, to read as follows:

"SEC. 25. That the commission may, after investigation, order any carrier by railroad subject to this act, within a time specified in the order, to install automatic train-stop or train-control devices, which comply with specifications and requirements prescribed by the commission, upon the whole or any part of its railroad, such order to be issued and published at least one year before the date specified for fulfillment: *Provided*, That a carrier shall not be held to be negligent because of its failure to install such devices upon a portion of its railroad not included in the order; and any action arising because of an accident happening upon such portion of its railroad shall be determined without consideration of the use of such devices upon another portion of its railroad. Any common carrier which refuses or neglects to comply with any order of the commission made under the authority conferred by this section shall be liable to a penalty of $100 for each day that such refusal or neglect continues, which shall accrue to the United States, and may be recovered in a civil action brought by the United States.

"SEC. 26. That this act may be cited as the 'Commerce act, 1887.'"

Mr. SANDERS of Louisiana. Mr. Chairman, I move to strike out the last word. Mr. Chairman and gentlemen of the committee, we have gotten to the last section of this bill. This bill is one that seems to be the return of the railroads to their owners. There are 86 pages in this bill, 2 pages are devoted to definitions, 20 pages are devoted to the return of the roads to their owners, 17 pages are devoted to the labor question, and 47 pages, or more than half the bill, undertakes to amend the act known as the commerce act. Mr. Chairman, the bill to return the roads to their owners should have been a bill of not exceeding 20 pages, short, concise, to the point. Mr. Chairman and gentlemen of the committee, the other titles to this bill should never have been brought before this House at this time. Mr. Chairman, I for one will never consent for certain interests in America to capitalize the intense desire of the people to have the railroads returned to their owners, to capitalize it in a bill of this kind which takes care of the railroads but does absolutely nothing for the people and the taxpayers. [Applause.] Mr. Chairman, if anyone will read and understand just one section, section 207, there could be no votes cast for this bill. Let me say to the gentlemen of this committee it is not a question, as the gentleman from Wyoming would have you understand, between this bill and the Plumb plan. It is nothing of the kind. This bill has not one word of the Plumb plan in it. This bill goes to the other extreme. This bill should be amended and in line 5, page 86, before the word "commerce," we should add the word "railroad." [Applause.]

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

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. ANDERSON: Strike out the proviso on page 85, line 17, to and including the word "negligent" in line 18, and the remainder of the proviso after the semicolon in line 20, and insert in lieu thereof the following: "No presumption of negligence on the part of the carrier shall arise."

Mr. ANDERSON. Mr. Chairman, the section under consideration authorizes the Interstate Commerce Commission to require the installation of train stops, train-control devices, and then provides that the carrier shall not be held to be negligent because of its failure to install such devices upon a portion of its roads not included in the order. Now, the effect of that proviso is to take out of the hands of the court and the jury in an action for damages any consideration whatever of the question of whether or not the carrier has been negligent in failing to install safety devices, or, to put it in another way, the mere fact that a carrier has installed safety devices on one portion of its roads absolves it absolutely from negligence for failure to install those same devices upon another portion of its roads. I do not believe that this House wants to provide any such rule. The amendment which I have offered simply restores the situation as it is now under the law. In other words, it simply provides that the fact that the railroad has installed safety devices under the order of the Interstate Commerce Commission on one portion of its roads shall not raise any presumption of negligence because of its failure to install those same devices on other portions.

Mr. ESCH. I have no objection to the amendment.

Mr. BEE. Mr. Chairman, I offer an amendment to the amendment of the gentleman from Minnesota. Strike out all of line 17, beginning with the word "*Provided*," down to line 23 and the word "railroad."

The CHAIRMAN. That does not seem to be an amendment to the amendment of the gentleman from Minnesota.

Mr. ANDERSON. Mr. Chairman, I make the point of order that that is not an amendment to the amendment. It is an independent amendment.

The CHAIRMAN. That is an independent amendment. The question is on agreeing to the amendment offered by the gentleman from Minnesota.

The amendment was agreed to.

Mr. BEE. Mr. Chairman, would it be in order now to move to strike out of section 25 lines 17 to 23, beginning with the word "*Provided*," in line 17, and ending with the word "railroad," in lines 23?

The CHAIRMAN. Yes. The gentleman offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. BEE: Page 85, line 17, strike out all after the word "*Provided*," down to and including the word "railroad," in line 23.

Mr. BEE. Mr. Chairman, section 25 provides that the commission may order any carrier to install automatic train stops or train-control devices. In line 23, after the word "railroad," a penalty is provided for any railroad that refuses or neglects to comply with the order of the commission made under this authority. I can not understand, Mr. Chairman, why there should be a provision in this law that a carrier shall not be held negligent because of his failure to install such devices in a portion of its railroad not included in the order and that any action arising because of an accident happening upon such portion of its railroad shall be determined without consideration of the use of such devices upon another portion of the railroad. I can not see why you should put into this law a protection to the carrier by providing that he shall not be held negligent because he obeys the order of the commission on another portion of his line.

Let me make to the House a prediction: Why should a personal-injury suit of this kind, by reason of the failure to safeguard by providing automatic contrivances and signals, be confused with the operation of this law that relieves the railroad from negligence because it has not complied with some portion of an order of the Interstate Commerce Commission on that subject? In other words, gentlemen of the committee, if you will read the provision, what is the necessity for the insertion of that section except to give to the railroads an excuse to avoid the consequences of an injury that they have committed by reason of their failure to provide necessary safety devices? Wherein does it add to it or strengthen it? You provide that the commission shall designate what they shall do in that respect. Then you provide that if they fail to do it they shall be punished for it. Why put a premium, I suggest to this committee, upon negligence upon their part by excusing them from its provisions? I predict that that will be the use that will be made of this provision.

Mr. MANN of Illinois rose.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] is recognized. [Applause.]

Mr. MANN of Illinois. Mr. Chairman, I took the first action which was taken in Congress looking to the ascertainment if there could be automatic control of railway trains in such a way that it would be impossible to have collisions, and for years, under the appropriations which were made in accordance with the resolutions and amendments which I offered in this House, there have been investigations going on concerning the automatic control of an engine, for instance, so that it will be impossible for two engines to come into collision head on, or impossible for an engine to come into a rear collision with the train ahead of it.

It is no easy matter, as anyone can see, to construct a device so finely geared and so highly working as that it will not interfere with ordinary traffic and yet will work if the engineer sleeps or if an engine order is incorrect. There have been many of these devices tried out in a way upon the railroads on single engines, and the work is still in the experimental stage. No road has been willing to install a device of that kind on one portion of its road, because the moment it is installed upon one portion of the road and somebody is injured on another portion of the road the question of negligence would be set up that that installation was not on that portion of the road where the accident occurred.

Nobody knows yet whether any of these devices will be successful, and, as the gentleman from Minnesota [Mr. ANDERSON] stated, his amendment would leave the situation where it now is. None of these devices is in operation. There are plenty of them that the roads would be willing to try. Railroads have no desire to have accidents on their lines. It is to their interest to dispense with accidents, and if Congress will give them the authority, as proposed by the bill—I have not read the bill, and I judge it is proposed in the bill merely from what was said—to install on the Pennsylvania Railroad, for instance, between here and Baltimore, a signal device which will prevent accidents and collisions, which will automatically control the engine if an order is wrong or when the train comes within a certain distance of the train ahead of it or behind, they will try it.

They will try it; but if you leave it so that if they install that device and then anyone who is injured on any other part of the railroad line can claim negligence on the part of the railroad because it has not installed that device on the rest of the road, we will all go to our graves and be long forgotten before they will commence the installation. [Applause.]

The CHAIRMAN. The question is on the amendment of the gentleman from Texas.

The amendment was rejected.

Mr. GARRETT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Tennessee offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. GARRETT: After line 6, page 86, insert the following, to be a new section, numbered section 440:

"Hereafter no suit against a railroad company, brought in a State court of a State in which the cause of action arose, shall be removed to any court of the United States on the ground that the parties are citizens of different States, if the suit is brought in the county where the cause of action arose or is in the county where the defendant is served with process or the plaintiff resides."

Mr. DENISON. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. DENISON. My point of order is that by the amendment the gentleman seeks to amend the law in reference to the removal of causes. There is nothing in this bill that pertains to or amends the law upon the jurisdiction of the courts of the country. The bill is upon an entirely different subject, and this amendment is not only not germane to this part of the bill, but it is not germane to any part of the bill. If this amendment were offered as an independent proposition it would have to go to the Judiciary Committee. If the Interstate Commerce Committee had brought in the bill with a provision of this kind in it, it would have been subject to a point of order. It is clearly not germane, and I therefore make the point of order against it.

Mr. GARRETT. The gentleman is quite correct in saying that it would have to go to the Judiciary Committee if it were presented as an original bill. But, Mr. Chairman, this amendment was offered at an earlier stage of the bill, and was held not to be in order because not germane to the section to which it was offered. The Chair was correct in so holding. But this bill deals with the question of the liability of carriers. It deals with the question of the statute of limitations. There is involved in this bill the question of the right of shippers and of litigants, and it does not seem to me that it would be straining the timbers of parliamentary law to hold that the tribunal in which rights may be enforced that are fixed under this bill may be named in the bill without being subject to a point of order.

Mr. DENISON. While the bill does in one sense relate to limitations, it is only to the limitation of suits against the Government.

Mr. GARRETT. I beg the gentleman's pardon. The question of limitations as contained in the Lanham amendment did not go to the question of the liability of the Government. It expressly provided that those causes of action that had arisen prior to Government control should not be subject to the statute of limitations during the time that the Government had control, or the war period.

Mr. MANN of Illinois. Mr. Chairman, the question of the removal of causes from the State courts to the Federal courts is carried by the law known as the Judicial Title. The Committee on Interstate and Foreign Commerce does not have jurisdiction of matters relating to that law. The Committee on the Judiciary has jurisdiction of bills that relate to the removal of causes. If the Committee on Interstate and Foreign Commerce had itself offered an amendment to this bill in the language of the amendment of the gentleman from Tennessee, it would not have been in order. There is nothing in the bill relating to the removal of causes. The gentleman might as well claim that an amendment was in order, fixing the salary of the judge who was to try a case, because the railroad was a party to the suit. The removal of causes is a judicial matter, belonging to the Judicial Title, and not relating to matter belonging to the railroad committee.

The CHAIRMAN. The amendment offered by the gentleman from Tennessee prevents the removal of suits against a railroad company from the State courts of the State in which a cause of action arises to any court of the United States, on the ground that the party is a citizen of a different State, if the suit is brought in the county where the cause of action arose, or is in the county where the defendant is served with process, or the plaintiff resides.

In the opinion of the Chair the provisions of the bill contain nothing to which this amendment would be germane, nor are there any provisions in the commerce act relating to the removal of causes of action, and the Chair therefore sustains the point of order.

Mr. McCLINTIC. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Oklahoma offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. McCLINTIC: Page 86, line 6, after the figures "1887," insert a new section—to be known as section 440:

"That the foregoing provisions contained in this act shall not be construed to increase or diminish the jurisdiction or the powers exercised by State commissions prior to April 6, 1917."

Mr. McCLINTIC. Mr. Chairman, there is doubt in the minds of many Members of Congress as to whether or not the State railroad commissions will have any jurisdiction or authority left should this bill become a law. I have offered a new section to this bill in order that this question may be definitely decided. If the Members of this body are in favor of State commissions retaining the same jurisdiction they exercised prior to the war they will vote for my amendment, which is as follows:

That the foregoing provisions contained in this act shall not be construed to increase or diminish the jurisdiction or powers exercised by State commissions prior to April 6, 1917.

On yesterday I offered an amendment to this bill for the purpose of giving State commissions jurisdiction over certain questions that related to the operation of railroads wholly within a State. The chairman of the committee made a statement which was to the effect that in his opinion the regulation of questions relating to depots would remain under the control of State commissions. If I have construed the wording of this bill correctly, the jurisdiction formerly exercised by State commissions will be destroyed by the terms of this act. However, the Interstate Commerce Commission may be magnanimous enough to allow State commissions to deal with questions concerning road crossings, the location of section houses, the building of spurs, sidetracks, and water tanks.

The people of Oklahoma during the past year have suffered great losses because of a shortage of cars to handle the grain crop. The president of the State board of agriculture has estimated that over a million bushels of wheat has rotted in the fields because sufficient cars could not be furnished to carry the same to market. The Railroad Administration here in Washington is so far away from the territory where these facilities are needed that it has been a very hard matter to gain a comprehensive view of what was needed to provide the necessary relief. If the State commission of Oklahoma had jurisdiction over this subject I am sure that some arrangement would have been made which would have resulted in the saving of this vast amount of grain.

At the beginning of the war the railroad owners threw up their hands and said it would be impossible to furnish a sufficient amount of equipment to take care of the needs of the country unless they could obtain assistance from the Government. The management of the railroads was taken over by the Government, and a guaranty was made that their earnings would equal the amount made during certain years. No one ever dreamed that when the time came for these properties to be returned to the owners the Government would be called on to guarantee their earnings after Government control had been relinquished. This bill contains a provision of this kind. The money indi-

rectly will have to come from the people in the form of taxation. It is the most unjust and unfair provision in the act, and while I am in favor of turning the railroads back to their owners at the earliest date possible, I can never vote for a bill that is so unfair to the people and the Government.

This bill will allow the railroad companies to increase passenger and freight rates. It practically destroys the effect of all State legislation relative to intrastate matters. It will cause delegations to travel thousands of miles to present questions which could have been adjusted by State commissions prior to the enactment of this legislation. Every amendment offered in the interest of the people has been defeated. I will never vote for a bill that grants this kind of a subsidy to the railroad owners, and I sincerely hope the Senate, when it considers this subject, will strike out all of the bill after the enacting clause and send back to the House of Representatives a bill that will provide for the turning back of the railroads to their owners, allowing State commissions to exercise the same jurisdiction they had prior to the war. When this is done I shall be very glad to vote for the bill.

The CHAIRMAN. The question is on the amendment of the gentleman from Oklahoma.

The amendment was rejected.

Mr. EVANS of Nebraska. Mr. Chairman, I ask unanimous consent to return to section 207 for the purpose of offering an amendment.

Mr. SWEET. Mr. Chairman, I object.

By unanimous consent, leave was given to Mr. SMALL, Mr. BRIGGS, Mr. LINTHICUM, Mr. OLIVER, Mr. KITCHIN, Mr. HEFLIN, Mr. FIELDS, Mr. SABATH, Mr. HENRY T. RAINEY, Mr. LANKFORD, Mr. CARAWAY, Mr. GRIFFIN, Mr. BEE, Mr. LARSEN, and Mr. WELLING to extend remarks in the RECORD.

Mr. ESCH. Mr. Chairman, I will make a request for general leave to print for five legislative days when we get in the House. I move that the committee do now rise and report the bill to the House with the amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. WALSH, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 10453) to provide for the termination of Federal control of railroads and systems of transportation; to provide for the settlement of disputes between carriers and their employees; to further amend an act entitled "An act to regulate commerce," approved February 4, 1887, as amended, and for other purposes, and had directed him to report the same back with various and sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

SWEARING IN OF A MEMBER.

Mr. MORGAN. Mr. Speaker, it is my pleasant duty to announce the election of JOHN W. HARRELD in the fifth district of Oklahoma, to succeed the late lamented Joseph B. Thompson. Mr. HARRELD is present, and I ask unanimous consent that he be sworn in.

Mr. HARRELD appeared at the bar of the House and took the oath of office prescribed by law.

THE RAILROAD BILL.

Mr. ESCH. Mr. Speaker, I move the previous question.

The SPEAKER. That is not necessary. Under the rule the previous question is considered as ordered. Is a separate vote demanded on any amendment?

Mr. ESCH. I ask for a separate vote on the Sweet amendment, page 50, line 15; also on the amendment offered by the gentleman from North Carolina [Mr. SMALL], on page 59, line 24, and page 60, line 22. The amendments were voted on en bloc relating to docks. Also, on page 61, striking out lines 1 to 5, section 412.

Mr. RAYBURN. Mr. Speaker, I demand a separate vote on the Anderson amendment.

Mr. WALSH. Mr. Speaker, I ask for a separate vote on the amendment to strike out all of the sections in Title III, after section 300. It was voted on as one amendment.

Mr. MANN of Illinois. I ask a separate vote on the amendment of the gentleman from Minnesota [Mr. ANDERSON] relating to automatic control devices, found on page 85, line 17.

The SPEAKER. Is there any other amendment on which a separate vote is demanded? If not, the Chair will put the other amendments in gross.

There was no further demand for a separate vote and the other amendments were agreed to.

The SPEAKER. The Chair will put the amendments in the order that they were asked for unless there is some other suggestion. The Clerk will report the first amendment.

The Clerk read the Sweet amendment, as follows:

Amendment offered by Mr. SWEET: Amend paragraph (16), on page 50, by adding after the word "States," in line 15 thereof, the following: "*Provided, however*, That nothing in this act shall impair or affect the right of the State in the exercise of its police power to require just and reasonable freight and passenger service and the fair exchange and distribution of equipment for intrastate business."

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

The question was taken; and on a division (demanded by Mr. ESCH), there were 193 ayes and 77 noes.

So the amendment was agreed to.

The SPEAKER. The Clerk will report the amendment offered by the gentleman from North Carolina [Mr. SMALL].

Mr. ESCH. These amendments were offered and voted on en bloc.

The SPEAKER. Voted on as one amendment?

Mr. ESCH. Yes; and I ask that the vote be taken in the same way.

Mr. SMALL. That is entirely agreeable.

The Clerk read as follows:

Amendments offered by Mr. SMALL: Page 60, lines 1 and 2, strike out the words "irrespective of the ownership of the dock"; page 60, line 7, strike out the words "construct a suitable dock and"; page 60, lines 10, 11, and 12, strike out the words "Such docks shall be considered a terminal, within the meaning of that term as used in other sections of the act, and the powers here conferred are in addition to those provided in other sections"; page 60, line 14, strike out the words "docks and"; and page 60, line 16, strike out the words "docks and."

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

The question was taken; and on a division (demanded by Mr. ESCH) there were 148 ayes and 97 noes.

So the amendments were agreed to.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

Amendment offered by Mr. SMALL: Page 61, strike out lines 1 to 5, inclusive.

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

The question was taken; and on a division (demanded by Mr. SMALL) there were—ayes 156, noes 116.

So the amendment was agreed to.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

Amendment offered by Mr. BLAND of Missouri: Page 61, preceding line 6, insert: "The absorption out of its port-to-port water rates, or out of its proportional through rates, by a water carrier of the switching, terminal, lighterage, car rental, trackage, handling, or other charges by a rail carrier for services within the switching, drayage, lighterage, or corporate limits of a port terminal or district, shall not be held to constitute 'an arrangement for a continuous carriage or shipment,' within the meaning of the act to regulate commerce, and shall not subject such water carrier to the provisions of such act."

The SPEAKER. The question is on the amendment.

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

The SPEAKER. The Clerk will report the next amendment, the Anderson amendment.

Mr. BARKLEY. Mr. Speaker, I ask unanimous consent that the reading of the amendment be dispensed with, in view of the fact that it was read the other day and is very long.

The SPEAKER. The gentleman asks unanimous consent that the reading of the amendment be dispensed with. Is there objection?

Mr. LANGLEY. I object.

The SPEAKER. The gentleman from Kentucky objects.

Mr. LANGLEY. Mr. Speaker, I withdraw the objection.

The SPEAKER. The gentleman from Kentucky withdraws his objection. Is there objection?

There was no objection.

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

The question was taken; and on a division (demanded by Mr. NOLAN) there were—ayes 153, noes 111.

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

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

The SPEAKER. The gentlemen from Texas [Mr. BLACK and Mr. BLANTON] demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 254, nays, 111, not voting 67, as follows:

YEAS—254.

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|---|---|---|---|
| Almon | Babka | Begg | Briggs |
| Anderson | Baer | Bland, Ind. | Brooks, Ill. |
| Andrews, Nebr. | Bankhead | Bland, Mo. | Brooks, Pa. |
| Aswell | Barbour | Bowers | Browne |
| Ayres | Bee | Box | Buchanan |

| | | | |
|---|---|---|---|
| Burdick | Greene, Mass. | McGlennon | Rubey |
| Burke | Griffin | McKinley | Rucker |
| Byrnes, S. C. | Hamill | McLane | Sabath |
| Byrns, Tenn. | Hardy, Colo. | McLaughlin, Nebr. | Sanders, Ind. |
| Caldwell | Hardy, Tex. | MacCrate | Sanders, La. |
| Campbell, Kans. | Harreld. | MacGregor | Sanders, N. Y. |
| Campbell, Pa. | Haskell | Magee | Schall |
| Candler | Hastings | Maher | Scott |
| Cantrill | Hawley | Mann, S. C. | Sears |
| Caraway | Hayden | Mapes | Sells |
| Carew | Hays | Martin | Siegel |
| Carss | Heflin | Mays | Sims |
| Casey | Hernandez | Mead | Sinnott |
| Chindblom | Hersey | Michener | Smith, Idaho |
| Clark, Mo. | Hersman | Miller | Smith, Ill. |
| Classon | Hickey | Minahan, N. J. | Smith, Mich. |
| Cleary | Hill | Monahan, Wis. | Smith, N. Y. |
| Cole | Houghton | Mooney | Smithwick |
| Collier | Howard | Moore, Ohio | Stedman |
| Connally | Huddleston | Morgan | Stephens, Ohio |
| Cooper | Hudspeth | Morin | Stevenson |
| Costello | Hulings | Mott | Stoll |
| Crowther | Hull, Iowa | Mudd | Strong, Kans. |
| Cullen | Igoe | Murphy | Strong, Pa. |
| Curry, Calif. | Ireland | Nelson, Mo. | Sullivan |
| Dallinger | James | Nelson, Wis. | Summers, Wash. |
| Darrow | Jefferis | Newton, Mo. | Sumners, Tex. |
| Davey | Johnson, Miss. | Nicholls, S. C. | Sweet |
| Denison | Johnson, Wash. | Nichols, Mich. | Tague |
| Dickinson, Mo. | Johnston, N. Y. | Nolan | Taylor, Colo. |
| Dickinson, Iowa | Jones, Tex. | O'Connell | Taylor, Tenn. |
| Dominick | Kearns | O'Connor | Temple |
| Donovan | Keller | Ogden | Thomas |
| Dooling | Kelly, Pa. | Oldfield | Thompson |
| Doughton | Kendall | Overstreet | Tillman |
| Dowell | Kennedy, R. I. | Park | Tinkham |
| Dunbar | Kincheloe | Pell | Towner |
| Dupré | King | Phelan | Vare |
| Eagan | Kinkaid | Porter | Venable |
| Echols | Kleczka | Pou | Vestal |
| Ellsworth | Knutson | Quin | Vinson |
| Emerson | Kraus | Radcliffe | Voigt |
| Evans, Mont. | LaGuardia | Rainey, Ala. | Walters |
| Evans, Nev. | Lampert | Rainey, J. W. | Watkins |
| Fields | Langley | Raker | Weaver |
| Fisher | Lanham | Ramsey | Whaley |
| Focht | Lankford | Ramseyer | Wheeler |
| Foster | Larsen | Randall, Calif. | White, Kans. |
| Frear | Layton | Randall, Wis. | White, Me. |
| Fuller, Mass. | Lazaro | Reed, N. Y. | Williams |
| Gallagher | Lea, Calif. | Reed, W. Va. | Wilson, Ill. |
| Gallivan | Lesher | Ricketts | Wilson, La. |
| Ganly | Little | Riordan | Wilson, Pa. |
| Gard | Lonergan | Robsion, Ky. | Wingo |
| Garland | Longworth | Rodenberg | Wise |
| Goldfogle | Luhring | Romjue | Young, N. Dak. |
| Goodwin, Ark. | McAndrews | Rose | Zihlman |
| Goodykoontz | McClintic | Rouse | |
| Graham, Ill. | McCulloch | Rowan | |

NAYS—111.

| | | | |
|---|---|---|---|
| Alexander | Fess | Luce | Rowe |
| Bacharach | Flood | Lufkin | Sanford |
| Barkley | Freeman | McArthur | Saunders, Va. |
| Benson | French | McDuffie | Sisson |
| Black | Garrett | McFadden | Slemp |
| Blackmon | Glynn | McPherson | Small |
| Bland, Va. | Gould | Madden | Snell |
| Blanton | Green, Iowa | Mann, Ill. | Snyder |
| Brand | Greene, Vt. | Mansfield | Steagall |
| Browning | Griest | Merritt | Steele |
| Burroughs | Hadley | Mondell | Steenerson |
| Butler | Hamilton | Montague | Stiness |
| Cannon | Harrison | Moore, Va. | Tilson |
| Christopherson | Haugen | Newton, Minn. | Timberlake |
| Clark, Fla. | Hicks | Oliver | Treadway |
| Coady | Hoch | Olney | Vaile |
| Copley | Holland | Osborne | Volstead |
| Crago | Hull, Tenn. | Padgett | Wason |
| Cramton | Humphreys | Paige | Watson, Pa. |
| Crisp | Husted | Parker | Watson, Va. |
| Dale | Hutchinson | Parrish | Webster |
| Davis, Tenn. | Johnson, S. Dak. | Platt | Welling |
| Dent | Jones, Pa. | Purnell | Winslow |
| Doremus | Kelley, Mich. | Rainey, H. T. | Wood, Ind. |
| Eagle | Kiess | Rayburn | Woods, Va. |
| Elliott | Kitchin | Reber | Yates |
| Esch | Lehlbach | Robinson, N. C. | Young, Tex. |
| Evans, Nebr. | Linthicum | Rogers | |

NOT VOTING—67.

| | | | |
|---|---|---|---|
| Ackerman | Dunn | Kahn | Rhodes |
| Andrews, Md. | Dyer | Kennedy, Iowa | Riddick |
| Anthony | Edmonds | Kettner | Scully |
| Ashbrook | Elston | Kreider | Sherwood |
| Bell | Fairfield | Lee, Ga. | Shreve |
| Benham | Ferris | McKenzie | Sinclair |
| Boies | Fordney | McKeown | Stephens, Miss. |
| Booher | Fuller, Ill. | McKinley | Swope |
| Brinson | Gandy | McLaughlin, Mich. | Taylor, Ark. |
| Britten | Garner | Major | Tincher |
| Brumbaugh | Godwin, N. C. | Mason | Upshaw |
| Carter | Good | Moon | Walsh |
| Currie, Mich. | Goodall | Moore, Pa. | Ward |
| Davis, Minn. | Graham, Pa. | Moores, Ind. | Welty |
| Dempsey | Jacoway | Neely | Woodyard |
| Dewalt | Johnson, Ky. | Peters | Wright |
| Drane | Juul | Reavis | |

So the Anderson amendment was agreed to.

The Clerk announced the following pairs:

Until further notice:

Mr. BOIES with Mr. STEPHENS of Mississippi.

Mr. DAVIS of Minnesota with Mr. SCULLY.

Mr. ACKERMAN with Mr. LEA of Georgia.

Mr. WOODYARD with Mr. GANDY.

Mr. WALSH with Mr. NEELY.

Mr. GOODALL with Mr. DRANE.

Mr. JUUL with Mr. DEWALT.

Mr. KAHN with Mr. CARTER.

Mr. KENNEDY of Iowa with Mr. BRUMBAUGH.

Mr. DUNN with Mr. MOON.

Mr. CURRIE of Michigan with Mr. MCKEOWN.

Mr. KREIDER with Mr. BRINSON.

Mr. MCKENZIE with Mr. BOOHER.

Mr. GRAHAM of Pennsylvania with Mr. UPSHAW.

Mr. RHODES with Mr. MAJOR.

Mr. EDMONDS with Mr. KETTNER.

Mr. DEMPSEY with Mr. WRIGHT.

Mr. ANDREWS of Maryland with Mr. WELTY.

Mr. ANTHONY with Mr. TAYLOR of Arkansas.

Mr. MCKINLEY with Mr. ASHBROOK.

Mr. TINCHER with Mr. BELL.

Mr. ELSTON with Mr. JOHNSON of Kentucky.

Mr. FAIRFIELD with Mr. JACOWAY.

Mr. FORDNEY with Mr. GODWIN of North Carolina.

Mr. FULLER of Illinois with Mr. GARNER.

Mr. GOOD with Mr. FERRIS.

Mr. SHREVE with Mr. SHERWOOD.

Mr. WELTY. Mr. Speaker, I desire to vote. I just came into the Hall a while ago.

The SPEAKER. Was the gentleman present and listening when his name was called? The gentleman must answer to qualify. The Chair is obliged to put the stereotyped question. Was the gentleman present when his name was called?

Mr. WELTY. I was not here at the time.

The SPEAKER. Unless the gentleman can answer in the affirmative, he can not vote.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

Strike out all the sections after section 300 of Title III.

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

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

Page 88, line 17, amendment offered by Mr. ANDERSON: Strike out the proviso on page 85, line 17, to and including the word "negligent" in line 18, and the remainder of the proviso after the semicolon in line 20 down to and including the word "railroad" in line 23, and insert in lieu of the first words stricken out the following: "No assumption of negligence on the part of the carrier shall arise."

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

On a division (demanded by Mr. ANDERSON) there were—ayes 38, noes 115.

So the amendment was rejected.

The SPEAKER. The question is on ordering the bill to be engrossed and read the third time.

The bill was ordered to be engrossed and read the third time, was read the third time.

Mr. SIMS. Mr. Speaker, I move to recommit the bill to the Committee on——

The SPEAKER. Is the gentleman opposed to the bill?

Mr. SIMS. I certainly am as reported from the committee. I move to recommit the bill to the Committee on Interstate and Foreign Commerce with instructions to report the same back to the House forthwith with an amendment striking out section 207 of the bill, and on that I move the previous question.

Mr. ESCH. Mr. Speaker, I move the previous question on the motion to recommit.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

By Mr. SIMS: I move to recommit the bill to the Committee on Interstate and Foreign Commerce with instructions to report the same back to the House forthwith with an amendment striking out section 207 of the bill.

Mr. SIMS. And on that I move the previous question.

The SPEAKER. The gentleman from Wisconsin moves the previous question on the motion to recommit.

The previous question was ordered.

Mr. CRISP. Mr. Speaker, may we have the section read so that we may know what it is?

The SPEAKER. It has been read twice.

Mr. CRISP. I withdraw the request.

The SPEAKER. The question is on the motion to recommit.

The question was taken.

The SPEAKER. The noes seem to have it.

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

The SPEAKER. Obviously a sufficient number of gentlemen have risen, and the yeas and nays are ordered.

The question was taken; and there were—years 167, nays 198, not voting 67, as follows:

YEAS—167.

| | | | |
|---|---|---|---|
| Alexander | Eagan | LaGuardia | Randall, Calif. |
| Almon | Ellsworth | Lampert | Randall, Wis. |
| Aswell | Emerson | Lanham | Riordan |
| Ayres | Evans, Mont. | Lankford | Robinson, N. C. |
| Babka | Evans, Nebr. | Larsen | Romjue |
| Baer | Evans, Nev. | Lazaro | Rowan |
| Bankhead | Fisher | Lea, Calif. | Rubey |
| Bee | Frear | Luce | Rucker |
| Blackmon | French | McAndrews | Sabath |
| Bland, Va. | Gallagher | McClintic | Sanders, La. |
| Blanton | Gallivan | McDuffie | Schall |
| Box | Ganly | McGlennon | Sears |
| Brand | Gard | McKiniry | Sims |
| Briggs | Garrett | McLane | Sisson |
| Brinson | Goldfogle | Maher | Smith, N. Y. |
| Browne | Goodwin, Ark. | Mann, S. C. | Smithwick |
| Buchanan | Griffin | Mansfield | Steagall |
| Byrnes, S. C. | Hamill | Martin | Stedman |
| Byrns, Tenn. | Hardy, Tex. | Mays | Steenerson |
| Caldwell | Haskell | Mead | Stevenson |
| Candler | Hastings | Minahan, N. J. | Stoll |
| Cantrill | Haugen | Mooney | Sumners, Tex. |
| Caraway | Hayden | Nelson, Mo. | Tague |
| Carew | Heflin | Newton, Minn. | Taylor, Colo. |
| Carss | Hersman | Nichols, Mich. | Thomas |
| Casey | Hoch | Nolan | Tillman |
| Clark, Mo. | Howard | O'Connell | Venable |
| Classon | Huddleston | O'Connor | Vinson |
| Collier | Hull, Tenn. | Oldfield | Volgt |
| Connally | Humphreys | Oliver | Volstead |
| Cramton | Igoe | Overstreet | Watkins |
| Crisp | James | Padgett | Weaver |
| Cullen | Johnson, Miss. | Park | Welling |
| Davey | Johnston, N. Y. | Parrish | Welty |
| Davis, Tenn. | Jones, Tex. | Phelan | Whaley |
| Dent | Keller | Pou | Wilson, La. |
| Dickinson, Mo. | Kelly, Pa. | Quin | Wilson, Pa. |
| Dominick | Kincheloe | Rainey, Ala. | Wingo |
| Dooling | King | Rainey, H. T. | Wise |
| Doremus | Kitchin | Rainey, J. W. | Young, N. Dak. |
| Doughton | Kleczka | Raker | Young, Tex. |
| Dowell | Knutson | Ramseyer | |

NAYS—198.

| | | | |
|---|---|---|---|
| Anderson | Garland | McArthur | Sanford |
| Andrews, Nebr. | Glynn | McCulloch | Saunders, Va. |
| Bacharach | Goodykoontz | McFadden | Scott |
| Barbour | Gould | McKinley | Sells |
| Barkley | Graham, Ill. | McLaughlin, Nebr. | Siegel |
| Begg | Green, Iowa | McPherson | Sinnott |
| Benson | Greene, Mass. | MacCrate | Slemp |
| Black | Greene, Vt. | MacGregor | Small |
| Bland, Ind. | Griest | Madden | Smith, Idaho |
| Bland, Mo. | Hadley | Magee | Smith, Ill. |
| Bowers | Hamilton | Mann, Ill. | Smith, Mich. |
| Brooks, Ill. | Hardy, Colo. | Mapes | Snell |
| Browning | Harrison | Merritt | Snyder |
| Burdick | Harreld | Michener | Steele |
| Burke | Hawley | Miller | Stephens, Ohio |
| Burroughs | Hays | Monahan, Wis. | Stiness |
| Butler | Hernandez | Mondell | Strong, Kans. |
| Campbell, Kans. | Hersey | Montague | Strong, Pa. |
| Campbell, Pa. | Hickey | Moore, Ohio | Sullivan |
| Cannon | Hicks | Moore, Va. | Summers, Wash. |
| Chindblom | Hill | Morgan | Sweet |
| Christopherson | Holland | Morin | Taylor, Tenn. |
| Clark, Fla. | Houghton | Mudd | Temple |
| Cleary | Hudspeth | Murphy | Thompson |
| Coady | Hulings | Nelson, Wis. | Tilson |
| Cole | Hull, Iowa | Newton, Mo. | Timberlake |
| Cooper | Husted | Nicholls, S. C. | Tinkham |
| Copley | Hutchinson | Ogden | Towner |
| Costello | Ireland | Olney | Treadway |
| Crago | Jefferis | Osborne | Vaile |
| Crowther | Johnson, S. Dak. | Paige | Vare |
| Curry, Calif. | Johnson, Wash. | Parker | Vestal |
| Dale | Jones, Pa. | Pell | Walsh |
| Dallinger | Kearns | Platt | Walters |
| Darrow | Kelley, Mich. | Porter | Wason |
| Denison | Kendall | Purnell | Watson, Pa. |
| Dickinson, Iowa | Kennedy, R. I. | Radcliffe | Watson, Va. |
| Donovan | Kiess | Ramsey | Webster |
| Dunbar | Kinkaid | Rayburn | Wheeler |
| Dupré | Kraus | Reber | White, Kans. |
| Eagle | Langley | Reed, W. Va. | White, Me. |
| Elliott | Layton | Ricketts | Williams |
| Esch | Lehlbach | Robsion, Ky. | Wilson, Ill. |
| Fess | Lesher | Rodenberg | Winslow |
| Fields | Linthicum | Rogers | Wood, Ind. |
| Flood | Little | Rose | Woods, Va. |
| Focht | Lonergan | Rouse | Yates |
| Foster | Longworth | Rowe | Zihlman |
| Freeman | Lufkin | Sanders, Ind. | |
| Fuller, Mass. | Luhring | Sanders, N. Y. | |

NOT VOTING—67.

| | | | |
|---|---|---|---|
| Ackerman | Carter | Fairfield | Johnson, Ky. |
| Andrews, Md. | Currie, Mich. | Ferris | Juul |
| Anthony | Davis, Minn. | Fordney | Kahn |
| Ashbrook | Dempsey | Fuller, Ill. | Kennedy, Iowa |
| Bell | Dewalt | Gandy | Kettner |
| Benham | Drane | Garner | Kreider |
| Boles | Dunn | Godwin, N. C. | Lee, Ga. |
| Booher | Dyer | Good | McKenzie |
| Britten | Echols | Goodall | McKeown |
| Brooks, Pa. | Edmonds | Graham, Pa. | McLaughlin, Mich. |
| Brumbaugh | Elston | Jacoway | Major |
| Mason | Peters | Sherwood | Tincher |
| Moon | Reavis | Shreve | Upshaw |
| Moore, Pa. | Reed, N. Y. | Sinclair | Ward |
| Moores, Ind. | Rhodes | Stephens, Miss. | Woodyard |
| Mott | Riddick | Swope | Wright |
| Neely | Scully | Taylor, Ark. | |

So the motion to recommit was rejected.

The Clerk announced the following pairs:

Until further notice:

Mr. MOORES of Indiana with Mr. ASHBROOK.

Mr. MCLAUGHLIN of Michigan with Mr. NEELY.

Mr. REED of West Virginia. Mr. Speaker, I desire to vote "nay."

The SPEAKER. Was the gentleman present and listening when his name was called?

Mr. REED of West Virginia. I am not certain. I went out while the roll call was on, and came back.

The SPEAKER. Unless the gentleman can answer that he was present and listening when his name was called, the rule does not allow him to vote.

The result of the vote was announced as above recorded.

Tht SPEAKER. The question is on the passage of the bill.

Mr. ESCH and Mr. BLANTON demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 204, nays 161, not voting 67, as follows:

YEAS—204.

| | | | |
|---|---|---|---|
| Anderson | Foster | Lufkin | Rose |
| Andrews, Nebr. | Freeman | Luhring | Rowe |
| Bacharach | French | McArthur | Sanders, Ind. |
| Barbour | Fuller, Mass. | McCulloch | Sanders, N. Y. |
| Barkley | Glynn | McFadden | Saunders, Va. |
| Begg | Goodykoontz | McKinley | Scott |
| Benson | Gould | McLaughlin, Nebr. | Sells |
| Black | Graham, Ill. | McPherson | Siegel |
| Bland, Ind. | Green, Iowa | MacCrate | Sinnott |
| Bowers | Greene, Mass. | MacGregor | Slemp |
| Brand | Greene, Vt. | Madden | Small |
| Brooks, Ill. | Griest | Magee | Smith, Idaho |
| Brooks, Pa. | Hadley | Mann, Ill. | Smith, Ill. |
| Browning | Hamilton | Mapes | Smith, Mich. |
| Burdick | Hardy, Colo. | Merritt | Snell |
| Burke | Harrison | Michener | Snyder |
| Burroughs | Hawley | Miller | Steenerson |
| Butler | Hays | Monahan, Wis. | Stephens, Ohio |
| Campbell, Kans. | Hernandez | Mondell | Stiness |
| Cannon | Hersey | Montague | Strong, Kans. |
| Cantrill | Hickey | Moore, Ohio | Strong, Pa. |
| Chindblom | Hicks | Morgan | Summers, Wash. |
| Christopherson | Hill | Morin | Sweet |
| Clark, Fla. | Hoch | Mott | Swope |
| Cleary | Holland | Mudd | Taylor, Tenn. |
| Coady | Houghton | Murphy | Temple |
| Cole | Hulings | Nelson, Wis. | Thompson |
| Cooper | Hull, Iowa | Newton, Minn. | Tilson |
| Copley | Humphreys | Newton, Mo. | Timberlake |
| Costello | Husted | Ogden | Tinkham |
| Crago | Hutchinson | Olney | Towner |
| Crisp | Ireland | Osborne | Treadway |
| Crowther | Jefferis | Paige | Vaile |
| Curry, Calif. | Johnson, S. Dak. | Park | Vare |
| Dale | Johnson, Wash. | Parker | Venable |
| Dallinger | Jones, Pa. | Pell | Vestal |
| Darrow | Kearns | Phelan | Volstead |
| Denison | Kelley, Mich. | Platt | Walsh |
| Dickinson, Iowa | Kendall | Porter | Walters |
| Donovan | Kennedy, R. I. | Purnell | Wason |
| Dowell | Kiess | Radcliffe | Watson, Pa. |
| Dunbar | Kincheloe | Ramsey | Wheeler |
| Dupré | Kinkaid | Ramseyer | White, Kans. |
| Echols | Kraus | Randall, Wis. | White, Me. |
| Elliott | Langley | Rayburn | Williams |
| Esch | Layton | Reber | Wilson, Ill. |
| Evans, Nebr. | Lehlbach | Reed, W. Va. | Winslow |
| Fess | Linthicum | Ricketts | Wood, Ind. |
| Fields | Little | Robsion, Ky. | Woods, Va. |
| Flood | Lonergan | Rodenberg | Yates |
| Focht | Longworth | Rogers | Zihlman |

NAYS—161.

| | | | |
|---|---|---|---|
| Alexander | Casey | Gallivan | Kelly, Pa. |
| Almon | Clark, Mo. | Ganly | King |
| Aswell | Classon | Gard | Kitchin |
| Ayres | Collier | Garrett | Kleczka |
| Babka | Connally | Goldfogle | Knutson |
| Baer | Cramton | Goodwin, Ark. | LaGuardia |
| Bankhead | Cullen | Griffin | Lampert |
| Bee | Davey | Hamill | Lanham |
| Blackmon | Davis, Tenn. | Hardy, Tex. | Lankford |
| Bland, Mo. | Dent | Haskell | Larsen |
| Bland, Va. | Dewalt | Hastings | Lazaro |
| Blanton | Dickinson, Mo. | Haugen | Lea, Calif. |
| Box | Dominick | Hayden | Lesher |
| Briggs | Dooling | Heflin | McAndrews |
| Brinson | Doremus | Hersman | McClintic |
| Browne | Doughton | Howard | McDuffie |
| Buchanan | Eagan | Huddleston | McGlennon |
| Byrnes, S. C. | Eagle | Hudspeth | McKiniry |
| Byrns, Tenn. | Ellsworth | Hull, Tenn. | McLane |
| Caldwell | Emerson | Igoe | Maher |
| Campbell, Pa. | Evans, Mont. | James | Mann, S. C. |
| Candler | Evans, Nev. | Johnson, Miss. | Mansfield |
| Caraway | Fisher | Johnston, N. Y. | Martin |
| Carew | Frear | Jones, Tex. | Mays |
| Carss | Gallagher | Keller | Mead |

| | | | |
|---|---|---|---|
| Minahan, N. J. | Rainey, Ala. | Sims | Watkins |
| Mooney | Rainey, H. T. | Sisson | Watson, Va. |
| Moore, Va. | Rainey, J. W. | Smith, N. Y. | Weaver |
| Nelson, Mo. | Raker | Smithwick | Webster |
| Nicholls, S. C. | Randall, Calif. | Steagall | Welling |
| Nichols, Mich. | Riordan | Stedman | Welty |
| Nolan | Robinson, N. C. | Steele | Whaley |
| O'Connell | Romjue | Stevenson | Wilson, La. |
| O'Connor | Rouse | Sullivan | Wilson, Pa. |
| Oldfield | Rowan | Sumners, Tex. | Wingo |
| Oliver | Rubey | Tague | Wise |
| Overstreet | Rucker | Taylor, Colo. | Young, N. Dak. |
| Padgett | Sabath | Thomas | Young, Tex. |
| Parrish | Sanders, La. | Tillman | |
| Pou | Schall | Vinson | |
| Quin | Sears | Voigt | |

NOT VOTING—67.

| | | | |
|---|---|---|---|
| Ackerman | Edmonds | Kahn | Reed, N. Y. |
| Andrews, Md. | Elston | Kennedy, Iowa | Rhodes |
| Anthony | Fairfield | Kettner | Riddick |
| Ashbrook | Ferris | Kreider | Sanford |
| Bell | Fordney | Lee, Ga. | Scully |
| Benham | Fuller, Ill. | Luce | Sherwood |
| Boies | Gandy | McKenzie | Shreve |
| Booher | Garland | McKeown | Sinclair |
| Britten | Garner | McLaughlin, Mich. | Stephens, Miss. |
| Brumbaugh | Godwin, N. C. | Major | Stoll |
| Carter | Good | Mason | Taylor, Ark. |
| Currie, Mich. | Goodall | Moon | Tincher |
| Davis, Minn. | Graham, Pa. | Moore, Pa. | Upshaw |
| Dempsey | Harreld | Moores, Ind. | Ward |
| Drane | Jacoway | Neely | Woodyard |
| Dunn | Johnson, Ky. | Peters | Wright |
| Dyer | Juul | Reavis | |

So the bill was passed.

The Clerk announced the following additional pairs:

On this vote:

Mr. MCKENZIE (for) with Mr. SINCLAIR (against).

Mr. SHREVE (for) with Mr. SHERWOOD (against).

Mr. GRAHAM of Pennsylvania (for) with Mr. UPSHAW (against).

Mr. CURRIE of Michigan (for) with Mr. MCKEOWN (against).

Until further notice:

Mr. REAVIS with Mr. STOLL.

Mr. MCLAUGHLIN of Michigan with Mr. JACOWAY.

Mr. SANFORD. Mr. Speaker, I wish to vote "yea."

The SPEAKER. Was the gentleman present and listening when his name was called?

Mr. SANFORD. I was on the other side of the threshold, within hearing of the voice of the Clerk, and immediately thereafter I returned; and I insist on my constitutional right to have my district recorded in favor of this bill, the rulings of the House to the contrary notwithstanding.

The SPEAKER. The gentleman does not qualify under the rule.

Mr. SANFORD. I think the ruling was never thoroughly considered, and I have examined it, and there is no reason behind it so far as I can find.

The SPEAKER. The Chair will follow the precedents until convinced to the contrary.

The result of the vote was announced as above recorded.

On motion of Mr. ESCH, a motion to reconsider the vote by which the bill was passed was laid on the table.

EXTENDING REMARKS ON THE RAILROAD BILL.

Mr. ESCH. Mr. Speaker, I ask unanimous consent that all Members of the House may be allowed five legislative days in which to extend remarks upon the railroad bill.

The SPEAKER. The gentleman from Wisconsin asks unanimous consent that all gentlemen may have five legislative days to publish remarks upon the bill just passed. Is there objection?

Mr. WINGO. Reserving the right to object; that is, to be confined to their own remarks and with no newspaper or other clippings.

Mr. ESCH. I said "their own remarks."

Mr. WALSH. Mr. Speaker, supposing there are not five legislative days remaining in the session, what would be the situation under that condition?

Mr. JOHNSON of Washington. The RECORD will be printed for several days, even though there should be an adjournment.

Mr. ESCH. Mr. Speaker, I will make it five calendar days.

The SPEAKER. The gentleman modifies his request to five calendar days. Is there objection?

There was no objection.

REPRINT OF THE RAILROAD BILL.

Mr. ESCH. Mr. Speaker, I ask unanimous consent that there may be a reprint of the railroad bill with the amendments that were adopted by the House.

The SPEAKER. The gentleman from Wisconsin asks unanimous consent for the reprint of the railroad bill with amendments adopted by the House. Is there objection?

There was no objection.

METROPOLITAN POLICE.

Mr. MAPES. Mr. Speaker, I call up the conference report on the bill H. R. 9821, an act to amend an act entitled "An act relating to the Metropolitan police of the District of Columbia, approved February 28, 1901, and for other purposes," and I ask unanimous consent that the statement may be read in lieu of the report.

The SPEAKER. The gentleman from Michigan calls up the conference report on the Metropolitan police bill and asks that the statement may be read instead of the report. Is there objection?

There was no objection.

The Clerk read the statement.

The report and statement are as follows:

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H. R. 9821, "An act to amend an act entitled 'An act relating to the Metropolitan police of the District of Columbia,' approved February 28, 1901, and for other purposes," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment as follows: In lieu of the matter proposed by the Senate amendment insert the following:

"That paragraphs 2, 8, and 9 of section 1 of the act entitled 'An act relating to the Metropolitan police of the District of Columbia,' approved February 28, 1901, as amended by the act approved June 8, 1906, entitled 'An act to amend section 1 of an act entitled "An act relating to the Metropolitan police of the District of Columbia," approved February 28, 1901,' are hereby amended to read as follows:

"'Par. 2. The Commissioners of said District shall appoint to office, assign to such duty or duties as they may prescribe, and promote all officers and members of said Metropolitan police force: *Provided*, That all officers, members, and civilian employees of the force, except the major and superintendent, the assistant superintendents, and the inspectors shall hereafter be appointed and promoted in accordance with the provisions of an act entitled "An act to regulate and improve the civil service of the United States," approved January 16, 1883, as amended, and the rules and regulations made in pursuance thereof, in the same manner as members of the classified civil service of the United States: *Provided further*, That hereafter the assistant superintendents and inspectors shall be selected from among the captains of the force and shall be returned to the rank of captain when the commissioners so determine: *Provided further*, That privates of class one if found efficient shall serve one year on probation, privates of class two shall serve two years subsequent to service in class one, and privates of class three shall include all those privates who have served efficiently three or more years.'

"'Par. 8. That the annual basic salaries of the officers and members of the Metropolitan police of the District of Columbia shall be as follows: Major and superintendent, $4,500; assistant superintendents, $3,000 each; inspectors, $2,400 each; police surgeons, $1,600 each; captains, $2,400 each; lieutenants, $2,000 each; sergeants, $1,800 each; privates of class three, $1,660 each; privates of class two, $1,560 each; privates of class one, $1,460 each. Members of said police force who may be mounted on horses, furnished and maintained by themselves, shall each receive an extra compensation of $540 per annum; and members of the said force who may be mounted on motor vehicles, furnished and maintained by themselves, shall each receive an extra compensation of $480 per annum; and members of the said force who may be mounted on bicycles shall each receive an extra compensation of $70 per annum: *Provided*, That patrol drivers of the Metropolitan police are hereby declared to be members of the Metropolitan police of the District of Columbia, but shall not be rated above class-two privates, and those patrol drivers who have been appointed since April 6, 1917, shall be required to pass the usual physical and other tests required for members of the regular force: *Provided further*, That every officer or member of the Metropolitan police at the time this act becomes law, shall, in addition to the salary received by him for his period of service between August 1, 1919, and the time this act becomes law, receive for such period the difference between such salary and the salary payable to him under the provisions of this act, for a period of equal duration.

"'Par. 9. No member of the Metropolitan police of the District of Columbia shall be or become a member of any organization, or of an organization affiliated with another organization, which itself, or any subordinate, component, or affiliated organ-

ization of which holds, claims, or uses the strike to enforce its demands. Upon sufficient proof to the Commissioners of the District of Columbia that any member of the Metropolitan police of the District of Columbia has violated the provisions of this section, it shall be the duty of the Commissioners of the District of Columbia to immediately discharge such member from the service.

"'Any member of the Metropolitan police who enters into a conspiracy, combination, or agreement with the purpose of substantially interfering with or obstructing the efficient conduct or operation of the police force in the District of Columbia by a strike or other disturbance shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $300 or by imprisonment of not more than six months, or by both.

"' No officer or member of the said police force, under penalty of forfeiting the salary or pay which may be due him, shall withdraw or resign, except by permission of the Commissioners of the District of Columbia, unless he shall have given the major and superintendent one month's notice in writing of such intention.'

"SEC. 2. That one-half of the amount necessary to provide for the increased salaries and compensation of the Metropolitan police authorized in this act is hereby appropriated, out of any money in the Treasury not otherwise appropriated, and the other one-half out of the revenues of the District of Columbia, to supplement the amounts appropriated for the members and employees of the Metropolitan police mentioned in the act entitled 'An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1920, and for other purposes,' approved July 11, 1919.

"SEC. 3. That the watchmen provided by the United States Government for service in any of the public squares and reservations in the District of Columbia shall hereafter be known as the 'United States park police,' and their annual basic salaries shall be as follows: Lieutenant, $1,900; first sergeant, $1,700; sergeants, $1,580; privates, $1,360: *Provided*, That every watchman employed for such service at the time this act becomes law shall, in addition to the salary received by him for the period of service between August 1, 1919, and the time this act becomes law, receive for such period the difference between such salary and the salary payable to him under the provisions of this section for a period of equal duration.

"SEC. 4. That to provide for the increased salaries and compensation of the United States park police so much as is necessary is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to supplement the amounts appropriated for park watchmen mentioned in the act entitled 'An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1920, and for other purposes,' approved March 1, 1919."

And the Senate agree to the same.

CARL E. MAPES,
N. J. GOULD,
JAS. P. WOODS,
*Managers on the part of the House.*
LAWRENCE Y. SHERMAN,
WILLIAM M. CALDER,
MORRIS SHEPPARD,
*Managers on the part of the Senate.*

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to H. R. 9821, entitled "An act to amend an act entitled 'An act relating to the Metropolitan police of the District of Columbia,' approved February 28, 1901, and for other purposes," submit the following statement in explanation of the effect of the action agreed upon by the conference committee and submitted in the accompanying conference report as to the amendment of the Senate, namely:

The Senate amendment struck out all after the enacting clause of the House bill and inserted a substitute therefor. The House recedes from its disagreement to the amendment of the Senate and agrees to the same with amendment as reported by the committee of conference.

The Senate recedes and accepts the House provisions as to the salaries of officers and members of the Metropolitan police force except the salary for police surgeon, which was fixed at $1,600 per annum instead of the House provision of $1,400 and the Senate provision of $1,800; except the salary of captain, which was fixed at $2,400 per annum instead of the House provision of $2,300 and the Senate provision of $2,500; except the extra compensation of mounted police, which was fixed at $540 per annum instead of the House provision of $480 and the Senate provision of $600; and except the extra compensation of bicycle police, which was fixed at $70 per annum instead of the House provision of $60 and the Senate provision of $75.

The compensation of the major and superintendent, the assistant superintendents, inspectors, lieutenants, sergeants, and privates of classes 1, 2, and 3, and the compensation of the members of the force mounted on motor vehicles remain the same as in the House bill.

The conference report accepts the provision of the Senate amendment requiring the appointment and promotion of the officers, members, and civilian employees of the Metropolitan police to be made according to the provisions of the civil-service act, except the major and superintendent, the assistant superintendents, and the inspectors, and provides for two assistant superintendents, as provided for by the Senate.

The House provision which in effect prevents the members of the police force from joining any organization affiliated with another organization which holds, claims, or exercises the right to strike is retained with an amendment to perfect the text. The Senate recedes from the so-called "Myers amendment," which would extend the scope of this provision to all organizations of Federal employees.

The Senate provisions making it a misdemeanor for any member of the Metropolitan police force to enter into a conspiracy, combination, or agreement with the intent or purpose of substantially interfering with the efficient conduct or operation of the police force in the District of Columbia by a strike or other disturbances is retained.

The conferees accepted the provision of the Senate amendment providing for increased compensation for the watchmen of the Federal parks within the District of Columbia (to be known hereafter as the "United States park police"), which will amount to about $30,000 per year, and the provisions making appropriations to meet the increases of salaries provided for.

The Senate receded from the provisions of the Senate amendment giving increases of compensation to the civilian employees in the police department, awaiting the report of the Joint Commission on Reclassification of Salaries.

CARL E. MAPES,
N. J. GOULD,
JAMES P. WOODS,
*Managers on the part of the House.*

Mr. MAPES. Mr. Speaker, the statement gives a very clear explanation of what was done in conference, and unless there is some question——

Mr. BLANTON. Mr. Speaker, I would like to ask the gentleman a question. Is it a fact that the Senate has refused to approve of the conference report?

Mr. MAPES. Not to my knowledge. I do not see how it could, because we have had possession of the papers and the report has not been before the Senate.

Mr. BLANTON. I have not read the evening paper myself, but I heard that to-night's paper had that statement.

Mr. MAPES. I have not heard of it, and it would be impossible, because we have had possession of the papers ever since before the Senate began session this morning. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

On motion of Mr. MAPES, a motion to reconsider the vote whereby the conference report was agreed to was laid on the table.

AMENDING THE FEDERAL RESERVE ACT.

Mr. PLATT. Mr. Speaker, I present a conference report on the bill S. 2472, an act to amend the act approved December 23, 1913, known as the Federal reserve act, for printing in the RECORD.

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill S. 2472 having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendments numbered 1, 4, and 17.

That the Senate recede from its disagreement to the amendments of the House numbered 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 18, 20, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35, and agree to the same.

Amendment numbered 14: That the Senate recede from its disagreement to the amendment of the House numbered 14, and agree to the same with amendments as follows: After the word "such," in said amendment, insert the words "general conditions as to security and such"; and the House agree to the same.

Amendment numbered 15: That the Senate recede from its disagreement to the amendment of the House numbered 15, and agree to the same with an amendment as follows: After the word "herein" insert a new sentence as follows: "Nothing contained in this section shall be construed to prohibit the Federal Reserve Board, under its power to prescribe rules and regulations, from limiting the aggregate amount of liabilities of any or all classes incurred by the corporation and outstanding at any one time"; and the House agree to the same.

Amendment numbered 16: That the Senate recede from its disagreement to the amendment of the House numbered 16, and agree to the same with an amendment as follows: After the words "United States" insert the words "authorized by this section"; also strike out the figure "5" and insert "10"; and the House agree to the same.

Amendment numbered 19: That the Senate recede from its disagreement to the amendment of the House numbered 19, and agree to the same with an amendment as follows: Strike out all of the amendment except the word "but" and insert the following: "not engaged in the general business of buying or selling goods, wares, merchandise, or commodities in the United States, and not"; also, after the word "transacting," insert the word "any" and strike out the comma after the words "United States" and before the word "except"; and the House agree to the same.

Amendment numbered 21: That the Senate recede from its disagreement to the amendment of the House numbered 21, and agree to the same with an amendment as follows: The words "except in a corporation engaged in the business of banking, when 15 per cent of its capital and surplus may be invested," stricken out by the House, to be retained in the bill; and the House agree to the same.

Amendment numbered 22: That the Senate recede from its disagreement to the amendment of the House numbered 22, and agree to the same with an amendment as follows: Strike out the word "they" and insert in lieu thereof the words "it either directly or indirectly"; and the House agree to the same.

Amendment numbered 36: That the Senate recede from its disagreement to the amendment of the House numbered 36, and agree to the same with amendments as follows: Strike out the proviso at the end of the first paragraph, and insert a period after the word "corporations"; in the first line of the third paragraph insert after the word "institution" the words "principally engaged in foreign business"; and the House agree to the same.

EDMUND PLATT,
L. T. MCFADDEN,
PORTER H. DALE,
MICHAEL F. PHELAN,
OTIS WINGO,
*Managers on the part of the House.*

GEO. P. MCLEAN,
CARROLL S. PAGE,
ROBT. L. OWEN,
*Managers on the part of the Senate.*

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2472) to amend the act approved December 23, 1913, known as the Federal reserve act, submit the following statement in explanation of the effect of the action agreed upon by the conference committee and submitted in the accompanying conference report:

To nearly all of the restrictions and limitations placed in the bill by the House the Senate conferees readily agreed, but in agreeing with some of them further amendments were submitted and agreed to by the House conferees, as follows:

On No. 14: The right to issue debentures, undoubtedly included in the power to borrow, was clearly set forth and limited in this amendment, which is further safeguarded by the insertion of the words "general conditions as to security and such," so that the amendment as agreed to will read: "to issue debentures, bonds, and promissory notes under such general conditions as to security and under such limitations as the Federal Reserve Board may prescribe, but in no case having liabilities outstanding thereon exceeding 10 times its capital stock and surplus."

On No. 15: To this amendment was added a sentence further referring to the limiting of liabilities "of any and all classes" by the Federal Reserve Board.

On No. 16: The addition of the words "authorized by this section" in this amendment was made to conform with the restrictions upon deposits made above in the same paragraph, and the reserve required is raised from 5 to 10 per cent.

On No. 19: Most of the amendment inserted by the House is stricken out as unnecessary and possibly hampering to the successful operation of the financial corporations in competition with similar foreign institutions and with the great private banking firms. In certain South American countries control of trading companies through ownership of stocks is declared to be necessary, and there are certain other countries where American goods, raw materials, or machinery can not be safely sold on long-time credit unless a voice in the management of the properties during the period of the credit can be obtained. In receding from most of this amendment a further amendment was agreed to making certain that none of these subsidiary corporations should engage in the general business of buying and selling goods in the United States.

On No. 22: This amendment further strengthens the safeguards against attempting to control prices of commodities.

On No. 36: The proviso in the taxation paragraph is stricken out. This has reference to the taxation of shares owned by nonresidents.

In the third paragraph, first line, after the word "institution," the words "principally engaged in foreign business" are inserted to prevent a National or State bank of discount and deposit from being converted into an international banking or financial institution under the terms of this section.

EDMUND PLATT,
L. T. MCFADDEN,
PORTER H. DALE,
OTIS WINGO,
MICHAEL F. PHELAN,
*Managers on the part of the House.*

LEAVE OF ABSENCE.

Mr. DOWELL, by unanimous consent, was given leave of absence for the remainder of the session.

LEAVE TO EXTEND REMARKS.

Mr. SUMMERS of Washington. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on a bill that I have this day introduced.

The SPEAKER. The gentleman from Washington asks unanimous consent to extend his remarks. Is there objection?

Mr. BLANTON. Reserving the right to object, on what subject is the bill?

Mr. SUMMERS of Washington. Antisedition, a bill against the Bolsheviks; no politics in it.

Mr. BLANTON. I have no objection.

The SPEAKER. Is there objection?

There was no objection.

Mr. STRONG of Kansas. Mr. Speaker, I ask unanimous consent to have printed in the RECORD a resolution of the Cottage Hill Farmers' Union of my county of which I am very proud.

The SPEAKER. The gentleman from Kansas asks unanimous consent to print in the RECORD a resolution by the Cottage Hill Farmers' Union, of Marshall County, Kans. Is there objection?

There was no objection.

The resolution is as follows:

At a meeting of Cottage Hill Union, F. E. and C. U. of A., held November 12, 1919, the following resolutions were adopted:

"*Resolved*, That we resent the implication that the farmers of this country can be yoked up with greed and lawlessness, whether capitalistic, laboristic, or Bolshevistic, and we call upon all in authority to quell lawlessness wherever it may occur with firmness and dispatch, and demand of those in positions of leadership in farmers' organizations and the organizations themselves shall take such action as will place the farmers in the attitude of true, uncompromising Americanism. Be it further

"*Resolved*, That this union send a copy to the following in authority: Senator CAPPER and Congressman STRONG, also to State President McAuliffe to be published in the Farmers' Union, and a copy be sent to the Blue Rapids Times and the Waterville Telegraph.

"H. T. BRUNNER,
"ED NELSON,
"J. C. STYKER,
"*Committee.*"

Mr. SIEGEL. Mr. Speaker, I ask unanimous consent to print in the RECORD a tribute to Col. Roosevelt by the Speaker.

The SPEAKER. The gentleman from New York was not recognized for that purpose.

Mr. SIEGEL. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD in which I will include the tribute by the Speaker.

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

There was no objection.

ORDER OF BUSINESS.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent to make a very brief statement as to the business of the session.

The SPEAKER. The gentleman from Wyoming asks unanimous consent to make a brief statement in regard to the business of the session. Is there objection?

There was no objection.

Mr. MONDELL. Mr. Speaker, I said this morning that I hoped the House would not attempt to transact any important business for the remainder of the session after the passage of the railroad bill. That is still my view of what should not be done. The Senate is likely to send to the House to-morrow a resolution extending the authority of the War Trade Board over the importation of dyestuffs until the 15th of January. If that comes I hope that it can be agreed upon by unanimous consent. The gentleman from Wisconsin will make the motion to adjourn under which the House will adjourn until noon to-morrow. At that time I hope it may be found possible to obtain an agreement for an adjournment sine die. [Applause.]

If that agreement can not be secured at that time, it is my purpose to seek to secure such an agreement until it is secured, and not to ask the House to transact any important business in the meantime.

Mr. Speaker, I ask unanimous consent that I may extend my remarks in the RECORD upon the subject of the business of the extra session.

The SPEAKER. The gentleman from Wyoming asks unanimous consent to extend his remarks in the RECORD on the subject of the business of the session. Is there objection? The Chair hears none.

DEPORTATIONS.

Mr. JOHNSON of Washington. Mr. Speaker, will not the gentleman from Wyoming [Mr. MONDELL] consent to have the chairman of the Committee on Rules call up the resolution from the Committee on Rules allowing the Committee on Naturalization and Immigration to sit during the recess?

Mr. MONDELL. I do not imagine there will be any objection to that, if the gentleman will submit a request for unanimous consent to have his committee sit during the recess.

Mr. MADDEN. Mr. Speaker, I ask unanimous consent that the Committee on Immigration and Naturalization be permitted to sit during the recess.

Mr. RAKER. Or a subcommittee of that committee.

Mr. MADDEN. Or a subcommittee.

Mr. JOHNSON of Washington. And to summon witnesses.

Mr. GARRETT. Oh, I shall object to any unanimous consent, but if the chairman of the Committee on Rules desires to submit the resolution, well and good.

Mr. JOHNSON of Washington. It will take only a minute. If the chairman of the Committee on Rules will submit it, it will soon be disposed of. There is some work to do here, and the House is quite liable to be without a quorum.

Mr. CAMPBELL of Kansas. Mr. Speaker, a resolution was agreed to by the Committee on Rules authorizing the Committee on Immigration and Naturalization to sit during the recess of the House, and I will read the resolution.

The SPEAKER. It will only have to be read again by the Clerk, the Chair would suggest to the gentleman.

Mr. CAMPBELL of Kansas. If it is offered, of course it will have to be read again.

Mr. GARRETT. Mr. Speaker, reserving the right to object, I think I can cut the thing a little bit short, if I may be permitted to ask the gentleman from Washington a question or two.

Mr. JOHNSON of Washington. Very well.

Mr. GARRETT. This resolution was agreed to in the Committee on Rules unanimously. Since that time—and I wish to be perfectly frank with the gentleman—I have understood that a resolution has been presented to the Committee on Accounts authorizing this Committee on Immigration and Naturalization to employ an attorney or attorneys?

Mr. JOHNSON of Washington. Yes.

Mr. GARRETT. And that that was being considered. If that is true, the gentleman from Washington will understand why objection is made. We go a long way in the resolution in that we authorize a legislative committee of the House, for the purposes of legislation, to bring witnesses before it and swear them—a most unusual thing.

Mr. JOHNSON of Washington. Yes.

Mr. GARRETT. I want to say to the gentleman with entire frankness that while I agree to that, yet if this is to be followed by a resolution authorizing this committee, for the purpose of preparing legislation, to employ attorneys, I do not feel disposed to let it come up by unanimous consent.

Mr. JOHNSON of Washington. I would say to the gentleman that I have not been able to get the committee together the last two or three days. The only thought of an attorney which was in my mind was to offer the pay of a Member of Congress to an attorney for a week, on some work considered necessary. However, I am quite willing to waive that and get along without an attorney. I waive that provision.

Mr. CAMPBELL of Kansas. Mr. Speaker, the Committee on Rules acts in good faith with Members of the House and must have a complete understanding with the Members of the House with respect to what it does. This resolution authorizes the Committee on Immigration and Naturalization to sit during the recess of the House here or elsewhere, and it is the understanding of the Committee on Rules that "elsewhere" meant New York.

Mr. JOHNSON of Washington. That is true.

Mr. CAMPBELL of Kansas. During the recess of the House. It has since been stated that it was contemplated that a committee should go to the Pacific coast.

Mr. JOHNSON of Washington. That is not the case.

Mr. CAMPBELL of Kansas. If that is true, I will not offer the resolution, and I want the chairman of the Committee on Immigration and Naturalization to make a statement with respect to that.

Mr. JOHNSON of Washington. I will say to the gentleman that it is not contemplated to do anything between now and the 1st of December except to make an investigation at Ellis Island and elsewhere in New York.

Mr. CAMPBELL of Kansas. That was the statement made.

Mr. JOHNSON of Washington. In regard to any further resolution as to expenditure, permit me to say that I secured from the rooms of the Committee on Accounts a copy of a resolution previously adopted and adapted it to this situation, with no thought of asking for powers too broad. This committee has no idea of visiting Hawaii or the Pacific coast or Japan or any far-distant place without additional authority from the House of Representatives.

Mr. CAMPBELL of Kansas. Mr. Speaker, I submit a privileged resolution from the Committee on Rules.

Mr. MAPES. Mr. Speaker, reserving the right to object——

Mr. CAMPBELL of Kansas. This is not subject to objection.

Mr. MAPES. Will the gentleman yield for me to ask the chairman a question?

Mr. CAMPBELL of Kansas. I will.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 379.

*Resolved*, That the Committee on Immigration and Naturalization of the House of Representatives, or any subcommittee thereof, in the preparation of such legislation as may be advantageous, necessary, and compatible with sound American policy, be authorized to sit during sessions of the House and the recesses of Congress in the city of Washington or elsewhere in the United States, to compel the attendance of witnesses, to send for persons and papers, and to administer oaths to witnesses.

Mr. CAMPBELL of Kansas. Mr. Speaker, the purpose of the resolution has been stated on the floor. There is an additional purpose that I think the House and the country should know: Many alien enemies have long since been marked for deportation. These enemies are still within the country. Some of them are at Ellis Island. I think it important to the country to know why these men have not been deported and why greater activity has not been undertaken in the deportation of alien enemies and enemies to the Government and people of the United States. [Applause.] It was with the view of expediting the deportation of undesirable enemies of the United States, alien and otherwise, to look into the question of the citizenship of men who have taken partial steps to securing citizenship, that this resolution was agreed to by the Committee on Rules authorizing the Committee on Immigration and Naturalization to take steps in that direction.

Mr. McFADDEN. Will the gentleman yield?

Mr. CAMPBELL of Kansas. I will.

Mr. McFADDEN. My attention has been called to the situation in New York, and I want to ask the gentleman whether this resolution will remedy this situation. I understand at the present time that in New York at the Bureau of Naturalization there are now between 125 and 130 declarations of intentions daily, and that from 40 to 50 per cent of the applications are avowed Socialists, who are sent there by the New York Socialist

organization to become citizens. There is no question, according to the answers given, that they are enemies of our Government and that something should be done by the Congress to remedy the situation. Will this reach that class of people?

Mr. CAMPBELL of Kansas. One purpose of this resolution is to acquaint the membership of the Committee on Immigration and Naturalization with just such a situation and enable them to prepare legislation to meet it.

Mr. McFADDEN. I am heartily in favor of it.

Mr. CAMPBELL of Kansas. I yield five minutes to the gentleman from Tennessee [Mr. GARRETT].

The CHAIRMAN. There is an amendment to the rule which the Clerk failed to report. The Clerk will now report the amendment.

The Clerk read as follows:

Committee amendment: After the word "thereof," line 3, insert the words "for the purpose of examining the proceedings under which deportations are made under the act of February 5, 1917," so that as amended the resolution will read:

"*Resolved*, That the Committee on Immigration and Naturalization of the House of Representatives, or any subcommittee thereof, for the purpose of examining the proceedings under which deportations are made under the act of February 5, 1917, in the preparation of such legislation," etc.

Mr. GARRETT. Mr. Speaker, this resolution is a very unusual one. Once before during this session the Committee on Rules has reported a resolution authorizing the Committee on the Merchant Marine and Fisheries, for legislative purposes alone, to summon witnesses, to send for books and papers, to administer oaths, and so forth. That is a very unusual proceeding. This is the second resolution of that character, authorizing this Committee on Immigration and Naturalization to send for persons and papers, to administer oaths, and so forth, for legislative purposes, and in order to look into the proceedings in reference to the deportations that should have been made. Now, I think that there are two reasons why deportations have not been made. I do not know whether I should go into that or not, but I think it is due very largely to the personal disposition of that gentleman who was at the port of New York—I have forgotten his name——

SEVERAL MEMBERS. Howe.

Mr. GARRETT. I think very largely due to him in the first place; he is out of the service now, and I think very fortunately for the service, from what I have learned here on the floor of the House. [Applause.] The other reason is the lack of funds to carry out this deportation.

To be entirely frank about it, I do not think this committee in its investigations is going to find anything much more than that, so far as I have been able to learn about it. However, it was agreed by the minority members of the Committee on Rules not to oppose this resolution if the majority decided to take the responsibility of passing it and not to object to it; we agreed that we would share the responsibility with them. I will put it that way. I did learn subsequently that this resolution was pending before the Committee on Accounts, which would involve a lot of expense; and while it has not been the policy, is not now the policy, of the minority to oppose the majority in any investigation of departments that it may see fit to make, at the same time upon this proposition, which is declared to be legislative in intention and not for the purpose of investigating expenditures, I did not feel that I wanted to share, and the minority, so far as I can speak for them, did not feel that they wanted to share, the responsibility of going into the Treasury for money to pay the expenses of an attorney, and for that reason I interposed my objection.

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

Mr. CAMPBELL of Kansas. Yes.

Mr. BLANTON. I want to say to the gentleman that in my judgment until this service is taken out of the Department of Labor and placed in the Department of Justice we shall not get any anarchists deported. [Applause.]

Mr. CAMPBELL of Kansas. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

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

The committee amendment was agreed to.

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

The resolution as amended was agreed to.

EXPENSES OF THE COMMITTEE ON IMMIGRATION AND NATURALIZATION.

Mr. MAPES. Mr. Speaker, I present a privileged resolution from the Committee on Accounts.

The SPEAKER. The gentleman from Michigan presents a privileged report from the Committee on Accounts, which the Clerk will report.

The Clerk read as follows:

The Committee on Accounts, to whom was referred House resolution 382, authorizing the Committee on Immigration and Naturalization to make expenditures from the contingent fund of the House in carrying out the provisions of House resolution 319, after having had the same under consideration, recommend its passage, as follows:

"House resolution 382.

"*Resolved*, That the Committee on Immigration and Naturalization, or any subcommittee thereof, be, and is hereby, authorized and empowered to employ such stenographic, clerical, and legal assistance, and to have such printing and binding done as it may deem necessary.

"All expenses that may be incurred by said committee, including the expenses of said committee or any subcommittee thereof when sitting outside of the District of Columbia, shall be paid out of the contingent fund of the House of Representatives on vouchers signed by the chairman of said committee, or by the chairman of a subcommittee, where such expenses are incurred by such subcommittee."

With the following committee amendments:

In line 3, after the word "empowered," insert the words "under the provisions of House resolution 379."

In line 6, after the word "committee," insert the words "under the provisions of said House resolution 379."

Mr. MAPES. Mr. Speaker, I have a further amendment to carry out the understanding that was had here on the floor.

The SPEAKER. The Clerk will report the amendment offered by the gentleman from Michigan.

The Clerk read as follows:

Amendment offered by Mr. MAPES: Line 4, after the word "clerical," strike out the words "and legal."

Mr. WALSH. Mr. Speaker, will the gentleman state what House resolution 379 is? Will he state what that covered?

Mr. MAPES. That is the one that was just adopted by the House.

Mr. WALSH. Authorizing the committee to sit during the sessions and recess of the House?

Mr. MAPES. Yes, sir.

The SPEAKER. The question is on agreeing to the last amendment by the gentleman from Michigan, striking out the words "and legal."

The amendment was agreed to.

Mr. MAPES. I ask unanimous consent that the word "and" be inserted before the word "clerical."

The SPEAKER. The gentleman from Michigan asks unanimous consent that the word "and" be inserted before the word "clerical." Is there objection?

There was no objection.

The SPEAKER. The question is on agreeing to the other amendments.

The other committee amendments were agreed to.

Mr. CALDWELL. Mr. Speaker, I would like to ask the chairman of the Committee on Accounts a question. Does not the gentleman think the resolution ought to limit the amount of money to be expended?

Mr. MAPES. The limitation is in the original resolution; and I might say for the purposes of the RECORD that the Committee on Accounts did not report the resolution allowing legal assistance until they were assured that the expenditures for an attorney would be very small, not to exceed at the outside $500.

Mr. CALDWELL. This carries a proposition to employ stenographers.

Mr. JOHNSON of Washington. That service will be required in order to enable the members of the Committee on Immigration and Naturalization who are willing to stay to perform this work to be back here with the proposed legislation ready the first week in December.

Mr. CALDWELL. I think there ought to be a limitation, and I therefore move as an amendment that the moneys expended under this resolution shall not exceed $5,000.

Mr. MAPES. I move the previous question on this resolution.

The SPEAKER. The gentleman from Michigan moves the previous question.

Mr. CALDWELL. I have the floor.

The SPEAKER. The Chair was not aware that the gentleman had the floor.

Mr. CALDWELL. I asked recognition and got it.

The SPEAKER. The Chair recognized the gentleman to ask a question. The gentleman from Michigan [Mr. MAPES] has the floor, and he moves the previous question.

The previous question was ordered.

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

The resolution was agreed to.

ADJOURNMENT.

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

The motion was agreed to; accordingly (at 8 o'clock and 45 minutes p. m.) the House adjourned until Tuesday, November 18, 1919, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting report of an inspection of the several branches of the National Home for Disabled Volunteer Soldiers (H. Doc. No. 299); to the Committee on Military Affairs and ordered to be printed.

2. A letter from the Secretary of the Navy, transmitting a tentative draft of a bill to amend the act of February 28, 1919, entitled "An act permitting any person who served in the United States Army, Navy, or Marine Corps in the present war to retain his uniform and personal equipment and to wear the same under certain conditions" (H. Doc. No. 300), to the Committee on Naval Affairs and ordered to be printed.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. VOLSTEAD, from the Committee on the Judiciary, to which was referred the bill (H. R. 10074) to enlarge the jurisdiction of the municipal court of the District of Columbia, and to regulate appeals from the judgments of said court, and for other purposes, reported the same with amendments, accompanied by a report (No. 472), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

## PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. DICKINSON of Missouri: A bill (H. R. 10608) for the purchase of a site for a public building at Pleasant Hill, Cass County, Mo.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 10609) for the purchase of a site for a public building at Rich Hill, Bates County, Mo.; to the Committee on Public Buildings and Grounds.

By Mr. TAGUE: A bill (H. R. 10610) to increase the cost of the immigration station at Boston, Mass.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 10611) to donate captured cannons to the city of Boston, in the Commonwealth of Massachusetts, for loan to the Bunker Hill Monument Association; to the Committee on Military Affairs.

Also, a bill (H. R. 10612) to provide for the purchase of a site and for the erection of a public building thereon at East Boston, Mass.; to the Committee on Public Buildings and Grounds.

By Mr. LAGUARDIA: A bill (H. R. 10613) providing for appropriation for the purchase of airplanes and airplane motors, with the necessary spare parts, for the Air Service of the United States Army; to the Committee on Appropriations.

By Mr. SUMMERS of Washington: A bill (H. R. 10614) to prohibit and punish certain seditious acts against the Government of the United States and to prohibit the use of the mails for the purpose of promoting such acts; to the Committee on the Judiciary.

By Mr. NOLAN: A bill (H. R. 10615) to employ prison labor for the production of supplies and to authorize their purchase by the Federal Government; to regulate the compensation and hours of prison labor and fix standards; to prohibit the purchase of supplies manufactured by prison labor under private contract; to limit the effect of interstate commerce between the States in goods, wares, and merchandise wholly or in part manufactured, mined, or produced by prison labor or in any prison or reformatory; and to equip United States penitentiaries and the United States Army prisons and disciplinary barracks and the United States naval prison for the manufacture of supplies for the use of the Government; for the compensation of prisoners for their labor, and for other purposes; to the Committee on the Judiciary.

By Mr. HADLEY: A bill (H. R. 10616) to prohibit certain seditious acts, providing punishment therefor, and prohibiting the use of mails for the promotion of such acts, and for other purposes; to the Committee on the Judiciary.

By Mr. KLECZKA: A bill (H. R. 10617) to prohibit the payment of compensation to Senators, Representatives, and Delegates in Congress, and other officers and employees under certain conditions; to the Committee on the Judiciary.

By Mr. McKINIRY: A bill (H. R. 10649) donating captured German cannon or field guns and carriages to the county of Bronx, State of New York, for decorative and patriotic purposes; to the Committee on Military Affairs.

By Mr. DAVEY: A bill (H. R. 10650) defining sedition, the promoting thereof, providing punishment therefor, and for other purposes; to the Committee on the Judiciary.

By Mr. CRAGO: A bill (H. R. 10651) requiring receivers for national banks to file accounts in the district courts of the United States; to the Committee on Banking and Currency.

By Mr. HULINGS: Resolution (H. Res. 392) ordering an investigation of treatment of military prisoners at Fort Jay, N. Y.; to the Committee on Rules.

By Mr. SEARS: Joint resolution (H. J. Res. 248) to authorize the Secretary of War to permit the temporary use and occupancy of Camp Johnston at Jacksonville, Fla., or any part thereof, by the University of the South, of Sewanee, Tenn.; to the Committee on Military Affairs.

By Mr. GREEN of Iowa: Joint resolution (H. J. Res. 249) to continue the control of imports of dyes and coal-tar products; to the Committee on Ways and Means.

## PRIVATE BILLS AND RESOLUTIONS.

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

By Mr. ASHBROOK: A bill (H. R. 10618) granting an increase of pension to Seymour Stiles; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10619) granting an increase of pension to John Wharton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10620) granting a pension to Victoria M. Davis; to the Committee on Invalid Pensions.

By Mr. BEGG: A bill (H. R. 10621) granting an increase of pension to Maria C. Sinclair; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10622) granting a pension to Harriett A. Polley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10623) granting a pension to Henry Reimiller; to the Committee on Pensions.

By Mr. BYRNS of Tennessee: A bill (H. R. 10624) granting an increase of pension to Mary S. Wilson; to the Committee on Pensions.

By Mr. CASEY: A bill (H. R. 10625) granting an increase of pension to Emaline C. Lindner; to the Committee on Invalid Pensions.

By Mr. DALE: A bill (H. R. 10626) granting an increase of pension to Jason Johnson; to the Committee on Invalid Pensions.

By Mr. DEWALT: A bill (H. R. 10627) granting an increase of pension to William Haines; to the Committee on Invalid Pensions.

By Mr. FIELDS: A bill (H. R. 10628) granting an increase of pension to Basil R. Hargett; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10629) granting an increase of pension to William P. Davis; to the Committee on Pensions.

By Mr. FULLER of Illinois: A bill (H. R. 10630) granting an increase of pension to Harriet L. Potter; to the Committee on Invalid Pensions.

By Mr. GREENE of Vermont: A bill (H. R. 10631) granting a pension to Lucy A. Leach; to the Committee on Invalid Pensions.

By Mr. HAYS: A bill (H. R. 10632) granting an increase of pension to James T. Dunn; to the Committee on Invalid Pensions.

By Mr. McARTHUR: A bill (H. R. 10633) granting a pension to Christ L. Einkopf; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10634) authorizing the appointment of William S. Biddle, formerly captain of Infantry, United States Army, a captain on the retired list; to the Committee on Military Affairs.

By Mr. MERRITT: A bill (H. R. 10635) for the relief of Vincent L. Keating; to the Committee on Claims.

By Mr. MURPHY: A bill (H. R. 10636) to correct the military record of George Duncan; to the Committee on Military Affairs.

By Mr. HENRY T. RAINEY: A bill (H. R. 10637) granting an increase of pension to John C. Langford; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10638) granting an increase of pension to Mathew T. Curry; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10639) granting an increase of pension to Donly Toland; to the Committee on Invalid Pensions.

By Mr. RHODES: A bill (H. R. 10640) granting a pension to Alice B. Ward; to the Committee on Invalid Pensions.

By Mr. SEARS: A bill (H. R. 10641) granting an increase of pension to Franklin D. Russell; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Tennessee: A bill (H. R. 10642) granting an increase of pension to Docie B. Keeble; to the Committee on Pensions.

Also, a bill (H. R. 10643) granting a pension to Henry B. Jones; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10644) for the relief of Henry B. Jones; to the Committee on Military Affairs.

By Mr. THOMAS: A bill (H. R. 10645) granting a pension to Florence Moxey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10646) granting a pension to Richard Roads; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10647) for the relief of Dr. W. M. Ewing; to the Committee on Claims.

Also, a bill (H. R. 10648) for the relief of Josiah Morris; to the Committee on War Claims.

By Mr. CANDLER: Resolution (H. Res. 391) for the relief of Mattie Long; to the Committee on Accounts.

## PETITIONS, ETC.

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

By the SPEAKER: Petition of Farragut Post, No. 25, Grand Army of the Republic, Lincoln, Nebr., favoring the Fuller bill; to the Committee on Agriculture.

By Mr. BROOKS of Pennsylvania: Petition of Pennsylvania State Highway Department, protesting against House bill 10182, for regulating interstate use of automobiles and self-propelled vehicles which use the public highways in interstate commerce; to the Committee on Interstate and Foreign Commerce.

By Mr. CULLEN: Petition of the Benevolent and Protective Order of Elks of America for the adoption of the Mondell bill to enlarge Yellowstone National Park; to the Committee on the Public Lands.

By Mr. CRAGO: Petition of Grand Lodge Benevolent and Protective Order of Elks, favoring bill to add certain lands to the Yellowstone National Park; to the Committee on the Public Lands.

By Mr. ESCH: Petition of Wisconsin Woman's Suffrage Association, indorsing the Smith-Bankhead Americanization bill; to the Committee on Education.

By Mr. JOHNSTON of New York: Petition of the associated fruit and vegetable industries of eastern and western New York, protesting against House bill 9521; to the Committee on Agriculture.

Also, petition of New York State Horticultural Society, indorsing the adoption of the Capper-Hersman bill to amend the Sherman antitrust law; to the Committee on Ways and Means.

Also, petition of the Railroad Yardmasters of America, the Roadmasters' Association, the Railway Traveling Auditors' Association, and the National Order of Railroad Claim Men, objecting to the passage of Senate bill 3288, known as the Cummins bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of Motor Truck Association of America, for the adoption of House bill 9412, known as the Kahn bill; to the Committee on Military Affairs.

Also, petition of sundry citizens of New York State, urging the passage of bill to give soldiers and sailors six months' pay; to the Committee on Military Affairs.

Also, petition of the National Liberty Insurance Co. of America, protesting against the Cummins bill unless amended; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Lithuanian Societies' League of Greater New York, to recognize the complete independence of the Lithuania Republic; to the Committee on Foreign Affairs.

By Mr. KELLY of Pennsylvania: Petition of citizens of Braddock, Pa., opposing the passage of the Smith-Towner bill for Federal department of education; to the Committee on Education.

By Mr. KENNEDY of Rhode Island: Petitions of Providence Lodge 66, Brotherhood of Railway Trainmen; Machinists' Union, Newport; Local 99, International Brotherhood of Electrical Workers, Providence; Central Labor Union, Woonsocket; Central Federated Union, Providence; Central Labor Union, Newport; and Local 776, International Brotherhood of Electrical Workers, Providence, all in the State of Rhode Island, protesting against antistrike clause and other features of Cummins and Esch-Pomerene bills; to the Committee on Interstate and Foreign Commerce.

By Mr. KENNEDY of Iowa: Petition of Burlington Shippers' Association, Burlington, Iowa, and the Iowa Railroad Commission, of Des Moines, Iowa, requesting the support of the Sweet amendment to the Esch railroad bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of Division No. 391, Brotherhood of Locomotive Engineers, Fort Madison, Iowa, protesting against the passage of the Cummins labor bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of Fort Madison Lodge, No. 172, Brotherhood of Railway Clerks, protesting against the Cummins bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of Burlington Post, International Molders' Union of North America, protesting against the passage of the Cummins labor bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Machinists' Union, assembled at West Burlington, Iowa, urging the adoption of the two-year extension bill for the operation of railroads and protesting against any legislation prohibiting workers to strike; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Boiler Makers' Helpers and Apprentices of Local No. 62, of Fort Madison, Iowa, protesting against the Esch-Cummins railroad bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of sundry citizens of Fairfield, Iowa, urging the adoption of the two-year extension of Government control bill and protesting against any antistrike legislation; to the Committee on Interstate and Foreign Commerce.

Also, petition of shop crafts of Fort Madison, Iowa, protesting against the Esch bill; to the Committee on Interstate and Foreign Commerce.

By Mr. LINTHICUM: Petition of the International Brotherhood of Electrical Workers of Baltimore, Md., urging the two-year extension bill and protesting the passage against any antistrike legislation; to the Committee on Interstate and Foreign Commerce.

Also, petition of J. F. Considine, of Baltimore, Md., protesting against the Cummins bill and the Esch-Pomerene bill and for the adoption of the two-year extension Government-control bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of the United Garment Workers of America of Baltimore, Md., protesting against the Cummins railroad bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Baltimore, Md., for the adoption of the Sims railroad bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Maryland section of the American Chemical Society, protesting against Senate bill 2715; to the Committee on Military Affairs.

Also, petition of the Baltimore Federation of Labor for the passage of bill for soldiers and sailors; to the Committee on Military Affairs.

Also, petition of the Baltimore Federation of Labor, protesting against the passage of the Cummins railroad bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of Bert W. Caldwell, of Chicago, Ill., urging the enactment of the Stiness Army and Navy salary bill; to the Committee on Military Affairs.

By Mr. McKINLEY: Petition of Frank Reed, of the Breeze Printing Co., Taylorville, Ill., favoring the cutting to the core the amount of franked trash sent out to become waste paper all over the United States; to the Committee on the Post Office and Post Roads.

By Mr. MICHENER: Petition of the Friends Church of Adrian, Mich., protesting against the enactment of legislation for compulsory military training; to the Committee on Military Affairs.

By Mr. O'CONNELL: Petition of Grand Lodge of the Benevolent and Protective Order of Elks, indorsing the enlargement of Yellowstone National Park; to the Committee on the Public Lands.

Also, petition of the Public Vehicle Chauffeurs' Union, of the District of Columbia, for the adoption of House resolution 334; to the Committee on Rules.

By Mr. RAKER: Petition of Plumb Plan Council; Southern Pacific Board of Adjustment; Brotherhood of Railway Clerks, Local No. 854; California Bay Council of Railway Clerks, all of San Francisco, Calif., protesting against House bill 10453, known as the Esch bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of Hattie E. Brockway, postmaster at Vallicita, Calif., urging that fourth-class postmasters be pensioned after 25 years of service; to the Committee on Post Office and Post Roads.

Also, petition of Railroad Train Dispatchers' Association of America, urging that proper legislation be enacted for the protection of the subordinate officials on the railroads; to the Committee on Interstate and Foreign Commerce.

Also, petition of Gen. J. J. Borree, from the State committee on adjustment, of California, urging the passage of the Sweet

bill amending the war-risk insurance act; to the Committee on Interstate and Foreign Commerce.

Also, petition of the adjutant general of the State of California, urging the passage of House bill 9694; to the Committee on Naval Affairs.

Also, petition of Charles E. Jacobs, of Oakland, Calif., urging the consideration of the bill providing for the cooperation of the States in the teaching of home economics and to provide appropriations therefor, and asking that it be amended; to the Committee on Education.

By Mr. HENRY T. RAINEY: Petition for the withdrawal of protection for persons engaged in the liquor business in foreign countries; to the Committee on Foreign Affairs.

By Mr. ROWAN: Petition of Walter Luttgen, of New York, N. Y., opposing such legislation as would limit the amount of return upon capital to the owners of railroad securities; to the Committee on Interstate and Foreign Commerce.

Also, petition of Luthuanian Societies League of Greater New York, favoring the independence of the Luthuanian Republic; to the Committee on Foreign Affairs.

Also, petition of Samuel L. Sargent, favoring House bill 10045; to the Committee on Military Affairs.

Also, petition of Foster Milburn Co., manufacturing chemists, favoring the Calder bill, Senate bill 3011; to the Committee on Agriculture.

Also, petition of National Equal Rights League, favoring the abolition of the obnoxious Jim Crow law; to the Committee on Interstate and Foreign Commerce.

Also, petition of Minnie E. Smith and Nellie W. Heilmauer, of Morningside Drive, New York City, urging certain legislation in the return of the railroads to private ownership; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Grand Lodge of the Benevolent and Protective Order of Elks of America, urging the enactment of House bill 1412, known as the Mondell bill; to the Committee on the Public Lands.

Also, petition of Thomas E. Rush, for the enactment of House bill 6577; to the Committee on Ways and Means.

Also, petition of Thomas E. Rush, favoring the LaGuardia bill, H. R. 6577; to the Committee on Ways and Means.

Also, petition of the Railroad Yardmasters of America, the Roadmasters and Supervisors' Association, the Railway Traveling Auditors' Association, and the National Order of Railroad Claim Men, for certain legislation for the return of the railroads to private ownership; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Public Vehicle Chauffeurs' Union, No. 625, of Washington, D. C., presenting their grievances; to the Committee on Rules.

By Mr. SIEGEL: Petition of Chamber of Commerce of the State of New York, favoring the protection of American citizens' investments abroad; to the Committee on Foreign Affairs.

By Mr. SINCLAIR: Petition of Queen City Lodge, No. 385, Brotherhood of Railway Clerks, Dickinson, N. Dak., protesting against the Esch railroad bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of Local No. 1049, Brotherhood of Railway Clerks, Williston, N. Dak., urging every effort to defeat the Esch bill returning railroads to private operation and protesting especially against the labor organizations liability clauses of said bill; to the Committee on Interstate and Foreign Commerce.

## SENATE.

TUESDAY, *November 18, 1919.*

(*Legislative day of Monday, November 17, 1919.*)

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

### TREATY OF PEACE WITH GERMANY.

The Senate, as in Committee of the Whole and in open executive session, resumed the consideration of the treaty of peace with Germany.

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

The VICE PRESIDENT. The Secretary will call the roll.

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

| | | | |
|---|---|---|---|
| Ball | Colt | Fernald | Gronna |
| Bankhead | Cummins | Fletcher | Hale |
| Brandegee | Curtis | Frelinghuysen | Harding |
| Calder | Dial | Gay | Harris |
| Capper | Dillingham | Gerry | Harrison |
| Chamberlain | Edge | Gore | Henderson |
| Hitchcock | McCormick | Phelan | Stanley |
| Johnson, Calif. | McCumber | Phipps | Sterling |
| Johnson, S. Dak. | McKellar | Pittman | Sutherland |
| Jones, N. Mex. | McLean | Poindexter | Swanson |
| Jones, Wash. | McNary | Pomerene | Thomas |
| Kellogg | Moses | Ransdell | Townsend |
| Kendrick | Myers | Reed | Trammell |
| Kenyon | Nelson | Robinson | Underwood |
| Keyes | New | Sheppard | Wadsworth |
| King | Newberry | Shields | Walsh, Mass. |
| Kirby | Norris | Smith, Ga. | Walsh, Mont. |
| Knox | Nugent | Smith, Md. | Watson |
| La Follette | Overman | Smith, S. C. | Williams |
| Lenroot | Page | Smoot | Wolcott |
| Lodge | Penrose | Spencer | |

Mr. McKELLAR. The junior Senator from Arizona [Mr. ASHURST], the Senator from Kentucky [Mr. BECKHAM], the Senator from Montana [Mr. MYERS], the Senator from Oklahoma [Mr. OWEN], the Senator from North Carolina [Mr. SIMMONS], and the senior Senator from Arizona [Mr. SMITH] are detained from the Senate on official business.

The VICE PRESIDENT. Eighty-three Senators have answered to the roll call. There is a quorum present. The pending amendment is the amendment offered by the Senator from Utah [Mr. KING] to the amendment offered by the Senator from North Dakota [Mr. MCCUMBER]. The amendment and the amendment to the amendment will be read.

The SECRETARY. The Senator from North Dakota [Mr. MCCUMBER] proposes as an additional reservation the following:

The United States withholds its assent to Part XIII (articles 387 to 427, inclusive) of said treaty unless Congress, by act or joint resolution, shall hereafter make provision for representation in the organization established by said Part XIII, and in such event the participation of the United States will be governed and conditioned by the provisions of such act or joint resolution.

The Senator from Utah [Mr. KING] proposes as a substitute the following:

The United States withholds its assent to Part XIII, comprising articles 387 to 427, inclusive, of the said treaty of peace, and excepts and reserves the same from the act of ratification, and the United States declines to participate in any way in the said general conference, or to participate in the election of the governing body of the international labor office constituted by said articles, and declines in any way to contribute or be bound to contribute to the expenditures of said general conference or international labor office.

Mr. MCCUMBER. On that I ask for the yeas and nays.

Mr. THOMAS. Mr. President, I shall vote for the substitute offered by the Senator from Utah to the proposed reservation affecting Part XIII. If that is defeated, I shall vote for the reservation offered by the Senator from North Dakota. Whether that reservation is adopted or rejected, I am compelled to cast a negative vote upon the treaty if it retains some articles of the part to which that reservation is directed unless they shall be materially modified by specific reservations directed thereto.

My understanding of the effect of the substitute is that it excludes Part XIII from the treaty, the Senate withholding its assent therefrom. I am convinced, as I have heretofore declared during the consideration of the treaty, that the United States can not afford to accept this part of the treaty and at the same time do justice to its own people and preserve unimpaired the institutions of the Republic. My apprehensions regarding the subject may be unfounded or unduly exaggerated, and I hope they are, especially if this treaty is to become the supreme law of the land. But if an investigation, attended by a sincere desire to approve the treaty, and to which I have brought a mind entirely free from prejudice, means anything to the individual, I am carried to that conclusion.

I have heretofore analyzed some of the articles in Part XIII. Some Senators did me the honor to give attention to my remarks and others, I hope, have since read what I then had to say. However that may be, I shall not weary the Senate by repetition except in so far as it may be necessary to make my attitude clear.

I am unable, Mr. President, to support the provisions of the treaty which in effect confers sovereignty upon each and every organization of employers and employees throughout the world, clothing them with several authority to summon members of the league before a tribunal of its own creation to stand trial as an ordinary litigant, bearing, of course, the consequences which the tribunal may dictate as essential to the observance of its judgment. It is a fundamental principle of constitutional law that the sovereign can not be sued by the subject. No association however strong, no corporation however extended its activities, can summon a State of the Union or the United States to the bar of any tribunal. And that is as it should be.

Some years ago, before this generation, a constitutional amendment was deemed essential that the States might be forever exempt from judicial proceedings instituted against them in the courts of the United States. The arguments upon which the need for that amendment was based are infinitely