PETITIONS, ETC.

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

By Mr. ALEXANDER of Missouri: Papers to accompany bills for relief of John P. Sutton, John H. Poynter, and William Stubbins—to the Committee on Invalid Pensions.

By Mr. ASHBROOK: Petition of A. J. Allison and 10 other railroad engineers of Newark, Ohio, in favor of the boiler-inspection bills, House bill 22066 and Senate bill 6702—to the Committee on Interstate and Foreign Commerce.

By Mr. BARTHOLDT: Petition of Colonel Hassendaubel Post, No. 13, Department of Missouri, Grand Army of the Republic, of St. Louis, Mo., against retention of the Lee statue in the United States Capitol—to the Committee on the Library.

By Mr. BEALL of Texas: Paper to accompany bill for relief of Zachariah Leatherman—to the Committee on War Claims.

By Mr. BURLEIGH: Petition of Highland Grange, Patrons of Husbandry, North Penobscot, Me., in support of Senate bill 6931, providing an appropriation of $500,000 to extend the work of improving the public highways—to the Committee on Agriculture.

By Mr. BYRD: Paper to accompany bill for relief of Julia Quick, Belle O. Coward, and John Anderson—to the Committee on War Claims.

By Mr. CALDER: Petition of Erie Railway Company, for House bill 22237, promoting safety of employees and travelers on railways by limiting hours of service of employees—to the Committee on Interstate and Foreign Commerce.

By Mr. FLOYD of Arkansas: Papers to accompany House bill 20683, to abolish the Ozark National Forest—to the Committee on the Public Lands.

Also, paper to accompany bill for relief of Absalom C. Phillips and Josaphine C. Long—to the Committee on Invalid Pensions.

By Mr. FORNES: Petition of American Newspaper Publishers' Association, favoring the Mann bill, House bill 12314, to promote commerce between the United States and Canada—to the Committee on Interstate and Foreign Commerce.

Also, petition of mayor of Vicksburg, Miss., for an appropriation of $150,000 for an addition to the public building in Vicksburg—to the Committee on Public Buildings and Grounds.

By Mr. FULLER: Petition of Hon. J. J. Hayes, mayor of city of Vicksburg, Miss., in favor of appropriation in the sum of $150,000 for the Vicksburg public building—to the Committee on Public Buildings and Grounds.

By Mr. GALLAGHER: Memorial of Local Union No. 61, United Garment Workers of America, of Chicago, Ill., relating to postal rates and cost of transportation of mails—to the Committee on the Post-Office and Post-Roads.

By Mr. GRAHAM of Illinois: Petition of 55 citizens of Springfield, Ill., and vicinity, for Senate bill 6702 and House bill 22066, the boiler-inspection bills—to the Committee on Interstate and Foreign Commerce.

By Mr. GRAHAM of Pennsylvania: Petition of E. V. Babcock & Co. and Kaufmann Brothers, of Pittsburg, Pa., against House bill 3075, relative to corner cards on stamped envelopes—to the Committee on the Post-Office and Post-Roads.

Also, petition of the Automobile Club of Pittsburg, Pa., favoring the federal registration bill for automobiles—to the Committee on Interstate and Foreign Commerce.

Also, petition of Teachers' Art Club of Pittsburg, Pa., for an appropriation to give the United States adequate representation at the Rome and Turin exposition—to the Committee on Industrial Arts and Expositions.

By Mr. HAMILTON: Petition of citizens of Barry County, Mich., against repeal of the oleomargarine law—to the Committee on Agriculture.

By Mr. HAMMOND: Protests of Lyng and Johnson and 3 other citizens of Bricelyn; G. Oehler and 10 others, of Wells; and H. C. Eder Company, of Blue Earth, all in the State of Minnesota, against parcels-post legislation—to the Committee on the Post-Office and Post-Roads.

By Mr. HOWELL of New Jersey: Paper to accompany bill for relief of Matthew M. Finch—to the Committee on Invalid Pensions.

Also, petition of citizens of Red Bank, N. J., for Senate bill 6931, making appropriation of $500,000 for extension of the work of the Office of Public Roads in the United States Department of Agriculture—to the Committee on Agriculture.

By Mr. KELIHER: Petition of Massachusetts State Board of Trade, for a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. KENDALL: Petition of citizens of Bloomfield, Floris, Pulaski, Drakesville, and Mount Sterling, all in the State of Iowa, for a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. KÜSTERMANN: Petition of Ladies of the Maccabees of the World, of Marinette, Wis., for amendment to House bill 21321, relating to fraternal publications in the mails—to the Committee on the Post-Office and Post-Roads.

By Mr. LIVINGSTON: Paper to accompany House bill 20529, for relief of Georgia Railroad and Banking Company—to the Committee on Claims.

By Mr. MADISON: Petition of the Ladies of the Maccabees of the World, of Newton, Kans., for an amendment to the post-office bill, House bill 21321—to the Committee on the Post-Office and Post-Roads.

By Mr. MAGUIRE of Nebraska: Petition of citizens of Nebraska, favoring the passage of Senate bill 6702 and House bill 22066, relating to federal supervision of locomotive boilers—to the Committee on Interstate and Foreign Commerce.

By Mr. ROBERTS: Petition of Boston Chamber of Commerce, against amendment of the fourth section of the interstate-commerce law by eliminating the words "under substantially similar circumstances and conditions"—to the Committee on Interstate and Foreign Commerce.

By Mr. SCOTT: Petition of sundry citizens of the State of Kansas, for Senate bill 6931, for an appropriation of $500,000 for extension of work of the Office of Public Roads—to the Committee on Agriculture.

By Mr. SHARP: Petition of county commissioners, township trustees, and road commissioners of Ashland County, Ohio, for a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. SHEFFIELD: Paper to accompany bill for relief of John B. Mason—to the Committee on Invalid Pensions.

By Mr. SMITH of Iowa: Petition of Daughters of the American Revolution, of Indianapolis, Ind., against repeal of section 40 of immigration law as provided in the Hayes immigration bill—to the Committee on Immigration and Naturalization.

By Mr. SPIGHT: Paper to accompany bill for relief of Maria A. Reinhardt—to the Committee on War Claims.

By Mr. SULZER: Petition of mayor of the city of Vicksburg, favoring an appropriation of $150,000 for a public building in Vicksburg—to the Committee on Public Buildings and Grounds.

Also, petition of W. P. Parr and others of the Grand Army of the Republic posts of Wichita, Kans., and Southern Indiana Association of ex-Commissioned Officers of the Civil War, favoring the Warner-Townsend bill for retired list of the volunteer officers of the civil war—to the Committee on Military Affairs.

Also, petition of East Washington Citizens' Association, against House bill 9280—to the Committee on the District of Columbia.

By Mr. TILSON: Petition of Bakery and Confectionery Workers' Union, No. 11, of Connecticut, against federal interference with the city of San Francisco in obtaining a water supply—to the Committee on the Public Lands.

SENATE.

TUESDAY, *May 10, 1910.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The VICE-PRESIDENT resumed the chair.

The Journal of yesterday's proceedings was read and approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by W. J. Browning, its Chief Clerk, announced that the House had passed the bill (S. 2781) to provide for the extension of Nineteenth street from Belmont road to Biltmore street, in the District of Columbia, with a uniform width of 50 feet, and for other purposes.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 24463. An act to require the Commissioners of the District of Columbia to return all persons to the District of Columbia who are released from the workhouse or reformatory of the District of Columbia; and

H. R. 25646. An act for the relief of earthquake sufferers in Costa Rica.

PETITIONS AND MEMORIALS.

Mr. FRYE presented petitions of Highland Grange, Patrons of Husbandry, of Penobscot, and of sundry citizens of Gorham and Greene, all in the State of Maine, praying that an appropriation be made for the extension of the work of the Office of Public Roads, Department of Agriculture, which were referred to the Committee on Agriculture and Forestry.

He also presented a memorial of Riverside Grange, No. 93, Patrons of Husbandry, of Raymond, Me., remonstrating against

the repeal of the present oleomargarine law, which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of Local Council No. 673, Knights of Columbus, of Eastport, Me., praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mails as second-class matter, which was referred to the Committee on Post-Offices and Post-Roads.

Mr. KEAN presented a petition of Local Grange No. 150, Patrons of Husbandry, of Burlington, N. J., and a petition of Local Grange No. 179, Patrons of Husbandry, of Clayton, N. J., praying that an appropriation be made for the extension of the work of the Office of Public Roads, Department of Agriculture, which were referred to the Committee on Agriculture and Forestry.

He also presented a petition of the Practitioners' Society of the Oranges, of Essex County, N. J., praying for the enactment of legislation to establish a national bureau of health, which was referred to the Committee on Public Health and National Quarantine.

He also presented a petition of the Board of Trade of Hoboken, N. J., praying for the passage of the so-called "ship-subsidy bill," which was ordered to lie on the table.

He also presented a petition of the Young Friends' Association of Morristown, N. J., praying for the enactment of legislation to prohibit the importation of slave-made cocoa, which was referred to the Committee on Finance.

Mr. BROWN presented petitions of sundry citizens of McCook and Chadron, in the State of Nebraska, praying for the passage of the so-called boiler-inspection bill, which were referred to the Committee on Interstate Commerce.

He also presented a petition of sundry members of the Ladies of the Maccabees of the World, of Lexington, Nebr., praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mails as second-class matter, which was referred to the Committee on Post-Offices and Post-Roads.

He also presented sundry affidavits to accompany the bill (S. 7702) granting an increase of pension to Eber W. Fosbury, which were referred to the Committee on Pensions.

Mr. CURTIS presented a petition of Colonel King Camp, No. 2, United Spanish War Veterans, of Leavenworth, Kans., praying for the enactment of legislation for the relief of all soldiers who served in the Philippine Islands beyond the period of their enlistment, which was referred to the Committee on Military Affairs.

He also presented a petition of sundry citizens of Topeka, Kans., praying for the enactment of legislation to prohibit the interstate transportation of intoxicating liquors into prohibition districts, which was referred to the Committee on the Judiciary.

Mr. SIMMONS presented the petition of Joel Powers and sundry other citizens of Goldsboro, N. C., praying for the passage of the so-called "eight-hour bill," which was referred to the Committee on Education and Labor.

Mr. PAGE presented a petition of sundry citizens of Weston, Vt., praying that an appropriation be made for the extension of the work of the Office of Public Roads, Department of Agriculture, which was referred to the Committee on Agriculture and Forestry.

Mr. PERKINS presented a memorial of the Chamber of Commerce of San Francisco, Cal., remonstrating against the adoption of a certain amendment to the bill to create a court of commerce and to amend the act entitled "An act to regulate commerce," etc., which was ordered to lie on the table.

Mr. WETMORE presented a petition of Local Grange, No. 85, Patrons of Husbandry, of Fiskeville, R. I., praying that increased appropriations be made for the support of agricultural colleges, which was referred to the Committee on Agriculture and Forestry.

Mr. FLINT presented a petition of sundry members of the Ladies of the Maccabees of the World, of San Diego, Cal., praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mails as second-class matter, which was referred to the Committee on Post-Offices and Post-Roads.

Mr. BRISTOW presented petitions of sundry citizens of Kansas, praying for the enactment of legislation to prohibit the interstate transportation of intoxicating liquors into prohibition districts, which were referred to the Committee on the Judiciary.

Mr. BURNHAM presented a petition of Local Grange, Patrons of Husbandry, of Groveton, N. H., praying that an appropriation be made for the extension of the work of the Office of Public Roads, Department of Agriculture, which was referred to the Committee on Agriculture and Forestry.

Mr. DU PONT presented a petition of Center Grange, No. 11, Patrons of Husbandry, of Delaware, praying that an appropriation be made for the extension of the work of the Office of Public Roads, Department of Agriculture, which was referred to the Committee on Agriculture and Forestry.

Mr. ROOT presented a memorial of sundry citizens of Buffalo, N. Y., remonstrating against the enactment of legislation to better regulate the traffic in intoxicating liquors in the District of Columbia, which was referred to the Committee on the District of Columbia.

He also presented petitions of sundry citizens of Brooklyn, N. Y., praying for the passage of the so-called "eight-hour bill," which were referred to the Committee on Education and Labor.

He also presented petitions of sundry citizens of New York, praying that an appropriation be made for the extension of the work of the Office of Public Roads, Department of Agriculture, which were referred to the Committee on Agriculture and Forestry.

He also presented petitions of sundry councils, Royal Arcanum, of New York City, Brooklyn, Colonial City, Corning, Watervliet, and Osceola; and of sundry members of the Ladies of the Maccabees of the World, of Watervliet, Hartwick, Watertown, Honeoye Falls, Hudson, Gasport, Philmont, Holland, Chipmonk, Oneida, Buffalo, Middletown, Little Valley, Syracuse, Lawton Station, Friendship, Dayton, Russell, Falconer, Gorham, Lodi, Albion, and Sodus Point, all in the State of New York, praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mails as second-class matter, which were referred to the Committee on Post-Offices and Post-Roads.

REPORTS OF COMMITTEES.

Mr. SCOTT, from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment and submitted reports thereon:

A bill (H. R. 24739) granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain widows and dependent relatives of such soldiers and sailors (Report No. 668); and

A bill (H. R. 24137) granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain widows and dependent relatives of such soldiers and sailors (Report No. 669).

Mr. ALDRICH, from the Committee on Finance, to whom was referred the bill (S. 6570) for the relief of the Stevens Institute of Technology, of Hoboken, N. J., asked to be discharged from its further consideration and that it be referred to the Committee on Claims, which was agreed to.

Mr. FLINT, from the Committee on Public Lands, to whom was referred the bill (H. R. 9304) granting certain lands in the Coconino National Forest, in Arizona, for observatory purposes, reported it without amendment and submitted a report (No. 670) thereon.

Mr. OLIVER, from the Committee on Claims, to whom was referred the bill (S. 4517) for the relief of the State of Rhode Island, reported it with an amendment and submitted a report (No. 671) thereon.

Mr. BAILEY, from the Committee on Finance, to whom was referred the bill (H. R. 15226) for the relief of the heirs of the estate of J. Calvin Kinney, deceased, reported it without amendment.

Mr. CRAWFORD, from the Committee on Claims, to whom was referred the bill (S. 6814) for the relief of William P. Ryan, submitted an adverse report (No. 672) thereon, which was agreed to, and the bill was postponed indefinitely.

Mr. PENROSE submitted a report (No. 673) to accompany the bill (S. 8159) authorizing a five-year period for certain contracts in the postal service, and for other purposes, heretofore reported by him.

Mr. SCOTT, from the Committee on the District of Columbia, to whom was referred the bill (H. R. 19039) authorizing the extension of Massachusetts avenue NW. from Wisconsin avenue to the District line, reported it without amendment and submitted a report (No. 674) thereon.

BILLS INTRODUCED.

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

By Mr. JONES:

A bill (S. 8166) authorizing the Postmaster-General to establish an experimental parcels post on rural routes, and for other purposes; to the Committee on Post-Offices and Post-Roads.

By Mr. FRYE:

A bill (S. 8167) granting an increase of pension to Frederick E. Partridge (with an accompanying paper); to the Committee on Pensions.

By Mr. PAGE:

A bill (S. 8168) requiring the net quantity of the contents to be marked on the outside of certain package goods; to the Committee on Standards, Weights, and Measures.

By Mr. DEPEW:

A bill (S. 8169) granting an increase of pension to Catherine E. Stamp (with an accompanying paper); to the Committee on Pensions.

By Mr. GORE:

A bill (S. 8170) granting an increase of pension to Henry S. Wilkinson (with an accompanying paper); to the Committee on Pensions.

By Mr. CRANE:

A bill (S. 8171) granting an increase of pension to Benjamin Clow; to the Committee on Pensions.

By Mr. STONE:

A bill (S. 8172) to provide for the erection of an extension to the federal building at Springfield, Mo., and to appropriate money for the same; to the Committee on Public Buildings and Grounds.

PANAMA-PACIFIC INTERNATIONAL EXPOSITION.

Mr. PERKINS introduced a joint resolution (S. J. Res. 98) authorizing the President to invite foreign countries to participate in the Panama-Pacific International Exposition, in 1915, at San Francisco, Cal., which was read the first time by its title.

Mr. PERKINS. I ask that the joint resolution be read and referred to the Committee on Industrial Expositions.

The joint resolution was read the second time at length and referred to the Committee on Industrial Expositions, as follows:

Senate joint resolution 98.

Resolved, etc., That whenever it shall be shown to the satisfaction of the President of the United States that a suitable site has been selected and that there is an actual bona fide subscription in the sum not less than $5,000,000 to the capital stock of the Panama-Pacific International Exposition Company, a corporation organized and existing under and by virtue of the laws of the State of California, for the purpose of inaugurating, carrying forward, and holding an exposition at the city and county of San Francisco, Cal., on or about the 1st day of January, 1915, to celebrate the completion and opening of the Panama Canal and also the four hundredth anniversary of the discovery of the Pacific Ocean, the President of the United States be, and he hereby is, authorized and respectfully requested by proclamation or in such manner as he may deem proper, to invite all foreign countries and nations to such proposed exposition, with a request that they participate therein.

AMENDMENTS TO SUNDRY CIVIL APPROPRIATION BILL.

Mr. PILES submitted an amendment proposing to appropriate $25,000 for additional work upon the wagon road at the Mount Rainier National Park, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. GUGGENHEIM submitted an amendment proposing to increase the limit of cost of the post-office and court-house at Colorado Springs, Colo., $20,000, intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

WAGES AND PRICES.

Mr. LODGE. I send to the desk a speech by Hon. Mackenzie King, minister of labor, House of Commons, Canada, discussing trusts and mergers, and also the prices and cost of living. I think it will be of great value in the inquiry which is now being conducted, and I move that it be printed as a document and referred to the Select Committee on Wages and Prices of Commodities. (S. Doc. No. 537.)

The motion was agreed to.

HOUSE BILL REFERRED.

H. R. 24463. An act to require the Commissioners of the District of Columbia to return all persons to the District of Columbia who are released from the workhouse or reformatory of the District of Columbia, was read twice by its title and referred to the Committee on the District of Columbia.

COURT OF COMMERCE, ETC.

The VICE-PRESIDENT. The morning business is closed, and the calendar under Rule VIII is in order.

Mr. ALDRICH. I ask that the unfinished business, Senate bill 6737, be taken up for consideration.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 6737) to create a court of commerce and to amend the act entitled "An act to regulate commerce," approved February 4, 1887, as heretofore amended, and for other purposes.

[Mr. PILES resumed and concluded the speech begun by him yesterday. The entire speech is printed below.]

Monday, May 9, 1910.

Mr. PILES. Mr. President, it is not my purpose to take any considerable time in discussing the objections which I have to the amendment proposed by the Senator from Montana [Mr. DIXON]. It seems to me after all that there are but a few salient points in respect to this question. A great deal has been said in behalf of the adoption of the amendment proposed by the Senator from Montana, and nothing has been said in opposition thereto except in running debate. While I have no idea that I shall be able to illuminate this subject more than any other Senator might, yet, living in a section of the country which will be peculiarly affected by the adoption of this proposed amendment, I feel it my duty to state the reasons which impel me to vote against it.

There is, Mr. President, in my opinion, a great deal of misunderstanding in respect to the long-and-short-haul clause. I think there can be little doubt that if the question as to whether it is fair or reasonable to charge a greater sum for a shorter haul than for a longer haul were submitted to one who has not given it consideration, the average individual would answer that it is not. I believe it would appear upon the face of the statement to one, I say, who has not investigated the subject that it is unfair to make a less charge for a longer than for a shorter haul. But when the subject is considered in respect to water competition the objections, I think, must largely disappear.

Mr. President, it may not be out of place to say here and now that it is not my purpose to discuss the numerous interior rates that have been referred to by the Senators who have discussed this subject. I intend to confine my remarks very largely, if not entirely, to the competition between water and rail routes. I hope to demonstrate that there is every reason why this amendment should not be adopted in so far at least as it relates to competition between rail and water.

In the first place, it has been, I think, assumed, or at least one would so conclude from the discussions which have taken place, that the cities of the coast have entered into some sort of a conspiracy with the railroads by which the interior cities are discriminated against to the advantage of the coast cities.

This, Mr. President, is a mistake, as the early history of railroad construction and development in this country will show. When the railroad companies began to build their lines, they found water competition everywhere they went, and they had to meet that competition in order to get any business at water points. We will take, for instance, the first railway connection between New York and Baltimore. When the railway reached Baltimore it found water competition between New York and that city. If it was to do any business at Baltimore or on the reverse route to New York, it was compelled to make a rate which would give it at least a part of the business which had theretofore gone entirely by water. So, when the first railroad was built from St. Louis to Memphis and New Orleans it came into competition with the river lines, and the same competition was encountered from Cincinnati to Memphis and New Orleans.

So the system we are discussing grew up not as a matter of choice on the part of the railway companies, but out of the necessities of the situation; and to make the coast country the yardstick by which the rate to interior points shall be arbitrarily measured, irrespective of the reasonableness of the rate to such points, would revolutionize our commerce and work irreparable injury to almost every section of the country.

Mr. BRISTOW. Mr. President——

The PRESIDING OFFICER (Mr. SMOOT in the chair). Will the Senator from Washington yield to the Senator from Kansas?

Mr. PILES. Certainly.

Mr. BRISTOW. I do not understand just what the Senator means. The proposition that is before the Senate does not arbitrarily fix the rates to the interior cities. The amendment offered by the Senator from Montana does not do so.

Mr. PILES. No; but the Senator's proposed amendment submits a proposition that will make the rate to the coast cities the yardstick by which the rates to interior cities are arbitrarily measured, irrespective of the reasonableness of the rate.

Mr. BRISTOW. Oh, no.

Mr. PILES. Certainly.

Mr. BRISTOW. I fear the Senator has not read the amendment.

Mr. PILES. I have read it very carefully. It provides, of course, that the short-haul rate shall not exceed the long-haul rate. Is not that what it provides?

Mr. BRISTOW. It provides that the short-haul rate shall not exceed the long-haul rate, except it is authorized by the commission.

Mr. PILES. Yes; but that is the recent amendment of the Senator from Montana, is it not?

Mr. BRISTOW. That is the one which is before the Senate.

Mr. PILES. Has the Senator from Montana abandoned his original amendment?

Mr. BRISTOW. The original amendment to which the Senator refers was an amendment offered by the Senator from Idaho [Mr. HEYBURN], and now the Senator from Montana has offered a substitute for the amendment of the Senator from Idaho, and this substitute provides that there shall not be a higher charge for the shorter than the longer haul.

Mr. PILES. Yes; I am familiar with that; also with the original amendment, proposed by the Senator from Montana.

Mr. BRISTOW (reading):

Provided, however, That upon application to the Interstate Commerce Commission such common carrier may in special cases, after investigation, be authorized by the commission to charge less for longer than for shorter distances for the transportation of passengers or property; and the commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section.

Then it further provides—

That the rates for the shorter distances involved in the application are just and reasonable rates.

So the commission is not authorized to fix the long rate, the seaport rate, at anything less than a just and reasonable rate.

Mr. PILES. I understand that amendment, but the amendment originally submitted by the Senator from Montana provided that the rate for the short haul should not exceed the rate for the long haul, and therefore it made us the yardstick by which that rate was to be measured.

Mr. DIXON. Mr. President——

Mr. PILES. The Senator may have abandoned his original amendment, but I did not understand that he had. I knew that he proposed a substitute for the amendment of the Senator from Idaho, and I supposed that he was thereby endeavoring to catch us both going and coming.

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Montana?

Mr. PILES. I yield to the Senator.

Mr. DIXON. The Senator from Washington is hardly correct in his supposition. I did submit a proposed amendment, which was never offered, absolutely providing that the short haul should never exceed the long in price. But that amendment has never been offered. It was submitted as intended to be proposed.

The amendment now pending, and to which I really wish the Senator from Washington would address his remarks, because it is the only one pending, simply shifts the burden of proof on the railroad company to show cause why it should charge more for the short haul than the long, instead of letting it rest on the shipper, as it is under the present interstate-commerce act.

Mr. PILES. I think, Mr. President——

Mr. DIXON. Can the Senator from Washington or any other Senator show me why that is not a reasonable proposition? In the event there is real water competition, let the railroads show it. They have the facts and figures, and the shipper does not have them. That is the contention that I think most of us at this time stand for.

Mr. PILES. I think, Mr. President, the Senator will find that instead of shifting the burden to the railway companies he will transfer it to the seaport cities. They will have to assume that burden, not the railway companies. The railway companies could very easily shift the burden to us by raising our rates, thereby forcing us to go to the expense of demonstrating to the Interstate Commerce Commission that we are entitled to continue in the enjoyment of our present rates.

I do not think it fair to ignore the natural advantages of the seacoast country which have been recognized not only in the United States, but throughout Europe, since the railway system had its inception, and to change by law the long-existing rule and to require us to make application to the Interstate Commerce Commission and take our chances before that body, however wise it may be, of having the existing status reestablished, even though it be conceded that Congress may rightfully confer such extraordinary power upon the commission.

Mr. SMOOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Utah?

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

Mr. SMOOT. If the Senator were sure, and the fact could be made plain to him, that the rates already established to the coast cities from eastern points are remunerative, then would he say that the rates to the coast cities would have to be advanced? We are not asking for that at all. All we are contending for is that the rates to the coast cities shall be remunerative, and that the rates to intermediate points shall be no higher. We are not asking for an advance of rates to the coast cities, but we are asking for the reduction of rates to the intermediate points.

Mr. PILES. I understand that thoroughly; but unfortunately the Senator has founded his argument upon false premises.

It has been assumed in the course of the debate that railroad rates to the coast are so remunerative that the same level might be imposed the entire length of the railway system. Such is the assumption of the Senator from Utah. He says he does not ask for any increase in coast rates, and I know he does not, but such will be the inevitable result.

Mr. SMOOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Utah?

Mr. PILES. I yield.

Mr. SMOOT. If the Senator will take the time to examine the testimony, not only of the officials of the Union Pacific and Central Pacific railroads in the Salt Lake case, but all the testimony in the Spokane case, he will find that the rates to-day to the coast cities are remunerative, and every statement made by them goes to prove it beyond question. If all the intermediate rates were upon the basis of coast rates to-day, the whole amount if taken from the earnings of the roads would be but a small portion of their earnings and not in any way affect the dividends or the maintenance of the roads as they exist to-day.

Mr. PILES. I will answer that, at least to my own satisfaction. It is true that the rate to the coast cities is profitable. If it were not, it could not be sustained.

The law recognizes, Mr. President, the right of discrimination in rates between water and rail and at intermediate competitive railway points; but while the law recognizes that there may be, and must be in many instances, a discrimination in favor of one place as against another, it does not permit an unjust or an unreasonable discrimination. If, therefore, the railroad companies were hauling freight to coast points at a loss, the courts would, in my opinion, hold that to be an unjust discrimination.

Mr. DIXON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Montana?

Mr. PILES. I yield.

Mr. DIXON. I am glad to hear the Senator admit that. I hold in my hand a report filed with the Interstate Commerce Commission by the Northern Pacific Railroad last year. If the Senator's present contention is now true, that the railroads should not be permitted to make a rate through to the coast lower than it costs to carry the freight, and then make up the loss from interior points—he now says that, in his opinion, that is an unjust proposition——

Mr. PILES. I do.

Mr. DIXON. All right. I want to read to the Senator the present actual conditions which the showing of the Northern Pacific Railroad itself made under the law to the Interstate Commerce Commission.

Mr. PILES. You mean about the amount of freight that makes that rate?

Mr. DIXON. No.

Mr. PILES. Go ahead.

Mr. DIXON. The average cost per mile last year to the Northern Pacific to move 1 ton 1 mile was 4.97 mills; on the 40-cent rate from Chicago to Seattle it cost 3.6 mills to move it—in other words, 1.37 mills less than the actual cost of doing the work. That had to be made up from some other source, and necessarily from the interior points. Does the Senator argue that that is a fair and reasonable rate?

Mr. PILES. I do not change my conclusion at all. If the Northern Pacific Railroad is delivering freight at coast points at less than cost, I have no doubt that the Interstate Commerce Commission would force them to change that rate when it is called to their attention.

Mr. DIXON. Then, why should the Senator object to the pending amendment, which puts the burden of proof on the railroads before they are permitted to make the rates under that kind of a condition?

Mr. PILES. The Senator thinks it puts it on the road, but I think it puts it on the community. Now, let me proceed, Mr. President.

Mr. NIXON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Nevada?

Mr. PILES. I yield to the Senator.

Mr. NIXON. I presume the Senator will admit that the rate is higher to Spokane than it is to Seattle?

Mr. PILES. Yes; in some instances.

Mr. NIXON. That difference in rate accrues to the terminal company instead of being distributed to the different companies, we will say, from New York through?

Mr. PILES. I think not.

Mr. NIXON. Now, I will ask the Senator whether he thinks or whether he knows——

Mr. PILES. I have no knowledge on the subject.

Mr. NIXON. I will simply state that I know——

Mr. PILES. I am not an expert.

Mr. NIXON. I know that that difference accrues to the terminal company and it is not distributed pro rata to the several companies between New York and Spokane or Seattle.

Mr. PILES. Now, Mr. President, let me make myself plain just for one moment, if I may.

In the first place, the rate at competitive water points must of necessity be lower than the rates to intermediate competitive points. There is, of course, a reason for this. If the railroad companies are to do any business at coast points where water competition actually exists they must meet, in a measure, that rate.

In considering the rate charged by the regular lines of water carriers we must not overlook the fact that the regular lines are not altogether free in fixing their rates. If they were, they would, I believe, determine upon a rate approximating more closely the railway rate. The rate of the regular steamship lines is influenced by the low rate charged by tramp vessels and steam schooners. Water rates are therefore made so low that the railway companies can not afford to haul their entire traffic to and from the numerous stations along their lines at the rate forced upon them by water competition.

I believe that every railroad company ought to apportion its rates over the entire line of its system so as to work absolute justice, if it can, to every community along the line of its road; but it does not follow because it ought to do that that this amendment should be adopted.

Mr. SMOOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Utah?

Mr. PILES. I yield to the Senator.

Mr. SMOOT. Under the amendment offered by the Senator from Montana, the Interstate Commerce Commission has a right to take into consideration even the tramp steamers or any other rate that may be made.

Mr. PILES. So it has now; and there is no use——

Mr. SMOOT. The present law. I have heard that said so many time that it seems to me it is begging the question.

Mr. PILES. Why?

Mr. SMOOT. For the very reason that the law says that it shall be under substantially similar circumstances and conditions. That in effect makes the whole law void, and the Interstate Commerce Commission can not do justice under the law itself. All we want is to strike those words out, and give the commission power in special cases, such as the Senator has cited, to say that there may be a lower charge for a longer haul.

Mr. PILES. The Senator is certainly arguing in a circle, for the commission under the proposed amendment would be required to investigate the conditions which would justify the charging of a lower rate at water points or interior competitive points.

Mr. SMOOT. Upon the initiation of the railroad rather than the shipper. That is all we are asking to do.

Mr. PILES. What is the difference whether the railway company be made plaintiff or defendant? May not the expense be just as great to the community, the delay equally long?

Mr. DIXON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Montana?

Mr. PILES. I yield to the Senator.

Mr. DIXON. I will answer that in a very few words. It is because the railroad company is the only one that has accurate information as to the cost of transportation, the maintenance of the road, stock, and bonds. It imposes a burden upon the poor plaintiff, the individual shipper, that simply denies justice.

Mr. PILES. I do not agree with the Senator at all.

Mr. DIXON. You can not bring before the Interstate Commerce Commission a case affecting rates to any point presented in due form and with understanding short of $75,000 or $100,000. The pending amendment shifts that burden on the railroad company, which has the facts, instead of putting it on the individual shipper or the little community, which simply has to grope around in the dark to get what facts it can.

Mr. PILES. I think the Senator is entirely mistaken, for, as I said a few moments ago, the railroad company would simply elevate its rates at coast points and let the coast cities look after the readjustment of rates. Those in the interior who oppose the present rates would have to go to the same expense then that they do now, and the same labor and delay would be imposed upon them that there is now. I see no substantial difference in the two propositions.

Mr. BRISTOW. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Kansas?

Mr. PILES. Certainly.

Mr. BRISTOW. These through rates are now fixed by the railroads?

Mr. PILES. Yes.

Mr. BRISTOW. They are fixed in order to meet competition?

Mr. PILES. Yes.

Mr. BRISTOW. They are reasonable and remunerative rates.

Mr. PILES. What?

Mr. BRISTOW. The through rates?

Mr. PILES. They are slightly profitable at coast points.

Mr. BRISTOW. Yes; they are reasonably profitable. If not, they would be unlawful.

Mr. PILES. If they were not slightly profitable, in my judgment, they would be unlawful.

Mr. BRISTOW. The railroads make those rates lower in order to get business?

Mr. PILES. Certainly.

Mr. BRISTOW. It is not for the benefit of the towns that they make them, but in order to get business which otherwise they think they would lose?

Mr. PILES. I imagine that is the reason.

Mr. BRISTOW. Then this burden is not put on the towns instead of the railroads. The railroad wants to make the rate because it is a profitable rate. Does the Senator think that the railroad is going to make the city defend its rates which it is making money on?

Mr. PILES. I do.

Mr. BRISTOW. Why do they not defend themselves if it is profitable?

Mr. PILES. It seems perfectly clear to me.

Mr. BRISTOW. Why would not the railroads defend it, then?

Mr. PILES. Because the railroad would say, "Who is to be more seriously affected by this proposition, you or I?" The Senator must not lose sight of the proposition that it is a mistake to assume that the great bulk of the traffic is to coast points.

The testimony shows in the Spokane case that only 2.2 per cent of the total tonnage of the Northern Pacific Railway Company for the year 1906 was carried to coast points. It would not be difficult for a railroad company to abandon a traffic that pays a naked profit and throw the burden upon the community to establish the justness of its claim to the old rate, irrespective of the smallness of the profit.

Mr. BRISTOW. If the railroad abandoned that business or if the railroad increased the rates, would not the city still hold that business for itself, not as rail business, but as water business?

Mr. PILES. Does the Senator mean if the railroad company should leave the terminal points entirely?

Mr. BRISTOW. I mean if the rates were higher to Seattle there would then be more commerce from Seattle by water than by rail.

Mr. PILES. Yes.

Mr. BRISTOW. So the city would not lose anything.

Mr. PILES. Would it not?

Mr. BRISTOW. Because the tonnage that now comes by rail would then go by water.

Mr. PILES. That is the trouble with the Senator. He lives in the interior of the country and does not understand from personal observation the conditions in the coast country. Does not the Senator understand that in order to get back into the interior of the country and to prosecute our business we must have railway facilities? Does not the Senator understand that in order to compete in the Orient for the trade which has been the hope of our people for many years we must have railroad facilities? However, I shall reach that point later on.

Mr. President, if the railroads should raise the rates to the coast cities how could we hope to get back into the interior of the country and compete with the eastern or central western manufacturer or producer?

Mr. SMOOT. Mr. President——

Mr. PILES. I hope the Senator will pardon me just a moment. I can not for the life of me understand how any

Senator who voted to put lumber on the free list can vote for this amendment. The rate on lumber, for instance, to central western points from Puget Sound is 40 cents per hundred. The railroads claim that this is an extremely low rate, and that they make that rate in order to save themselves the expense of hauling back empty cars across the continent.

The East and the Central West are the beneficiaries with us of that rate—Kansas, Nebraska, and other States are benefited thereby.

If the railway companies should limit their traffic to high-class commodities to coast points, a very large number of cars which are there unloaded and utilized for the carrying of our products to the East would be cut off, as it is not reasonable to suppose that the railroads would carry empty cars to seaboard points for the sole purpose of transporting our commodities to the East without extra charge; and the result would be that we should have little, if any, market to points between the two coasts, and that at an increased rate.

If, therefore, the coast country should be deprived of railway facilities or have them greatly curtailed, then the lumber which we are now shipping across the continent at the rate mentioned, which, of course, benefits the consumer as well as the producer, we would be unable to ship from the coast for lack of railway facilities, in consequence of which the East and the Central West would be deprived of the privilege of having our lumber compete with other lumber in their markets; if not altogether, then certainly from competing as freely as it does now. To maintain our present markets for lumber we would be forced to pay a higher freight rate on this commodity, which would be paid by the consumer, because the railroads would increase their rate on lumber from coast points in order to reimburse them for hauling empty cars there solely for the purpose of carrying our lumber.

But, Mr. President, we do not stop here. We can not afford to lose the railroad facilities necessary to enable us to develop our trade in the interior of the country. That is of vast importance to us.

We must not overlook the fact that our great cities are dependent upon railway facilities which have been developed by the competitive forces which have made our domestic commerce the wonder of the world. The annual loss to the railway companies, referred to by the Senator from Montana, of $600,000 to the Great Northern and something over $1,000,000 to the Northern Pacific by reducing interior rates to the level of coast rates would be insignificant in comparison with the injury that would result to the coast cities were they deprived of adequate railway facilities.

Mr. SMOOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Utah?

Mr. PILES. Certainly.

Mr. SMOOT. From the Senator's remarks, I now see his attitude is that he never would be content with any railroad rate to a point in the intermountain country unless it is the through rate plus the local rate back, in order that coast merchants may do business with the intermountain country. In other words, he does not want interests upon the coast to suffer. He does not want to have the high rates apply there. He does not want to interfere with that great business prosperity; but he wants the intermountain country to pay for it.

Mr. PILES. Mr. President, I yield for a question, but not for an argument.

Mr. SMOOT. Is not that true?

Mr. PILES. The Senator misunderstands me entirely. He is absolutely incorrect.

Mr. President, I do not advocate any system of railway charges that imposes upon the people of the interior of the country a through rate plus the local rate back.

Mr. SMOOT. Mr. President, how will the——

The PRESIDENT pro tempore. Does the Senator from Washington yield further?

Mr. PILES. Yes; I yield.

Mr. SMOOT. How will the merchants of Seattle do business in the intermountain country if the local rate back is not charged?

Mr. PILES. The merchants of Seattle do not, in my opinion, need any such rate to do business in the interior.

Mr. SMOOT. I am very glad to hear it.

Mr. PILES. The rate from the interior to the West is cheaper now than it is from the coast toward the East and the South.

Mr. SMOOT. Mr. President, just let me ask the Senator——

The PRESIDENT pro tempore. Does the Senator from Washington yield further?

Mr. PILES. Yes.

Mr. SMOOT. In regard to the lumber rates, does Chicago pay more than New York does on lumber?

Mr. PILES. No; and it should not.

Mr. SMOOT. That is exactly the rule applied to us. Intermediate points should not pay more than coast points.

Mr. PILES. But the Senator from Utah loses sight of water competition even at Chicago.

Mr. SMOOT. Then, Mr. President, I can go right along where there is no water competition. If the freight going from the East to the West was treated the same as the freight going from the West to the East, we would not object; but I have here and can show it to the Senator a list of nearly all the rates, from which he will find that Chicago does not pay more from coast points than New York, but that they pay the same.

Mr. PILES. I know that.

Mr. SMOOT. And St. Louis pays the same.

Mr. PILES. Yes; and I know the reason why.

Mr. SMOOT. The Senator from Washington says he knows the reason why. The only reason that I can give for it is that they are strong enough in the railroad world to say, "We will not pay more."

Mr. PILES. No; in my judgment the Senator does not understand that phase of the question, if he will pardon me.

Mr. President, I said that the rate from Chicago to the coast was the same as it is from New York, and I am glad, indeed, that it is; but that rate is not founded upon any mileage basis.

Mr. SMOOT. I have not said anything like that.

Mr. PILES. No; I know the Senator did not; but that is what I claim these amendments will eventually lead us to. If Chicago did not take the New York rate to the coast points, the West and the South would be greatly handicapped in the conduct of their business. Are we not benefited by being able to buy in Chicago, a competing market with New York and St. Louis? Are we not benefited by having Chicago compete with New York and St. Louis for the purchase of our products?

The influence of water transportation is not and should not be limited to traffic consigned to or shipped from water points. If it were, Chicago could not compete with New York for the trade of New Orleans or South Atlantic ports or that of the Pacific coast. It was therefore a wise policy which extended such influence so as to include the cities of the Central West, because it made all those cities competitors of the cities of the North Atlantic for the trade of the South and the West. Any other policy would have been disastrous to the whole country.

Mr. DIXON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Montana?

Mr. PILES. I yield to the Senator.

Mr. DIXON. That sounds like good doctrine; but suppose the railroads charged the shipper in St. Paul the same for shipping to the Pacific coast that they do the merchant in New York, would the Senator contend that that was a reasonable and logical situation?

Mr. PILES. I am not familiar with that situation.

Mr. DIXON. But suppose that was the case—the Senator is talking about the western distribution of merchandise—suppose they charged Chicago and St. Paul more than they did New York.

Mr. PILES. I would not think that was fair.

Mr. DIXON. That is exactly what they are undertaking now to do to interior points.

Mr. PILES. That is, I suppose, because St. Paul is situated on the upper Mississippi.

Mr. DIXON. Where, in the name of conscience, is there water competition from St. Paul going to Seattle?

Mr. PILES. The Senator from Montana must know that in the decision of the Spokane case the commission found that the influence of water competition extended as far west as Milwaukee.

Mr. DIXON. Where would competition at St. Paul come in for goods moving toward the Pacific coast?

Mr. PILES. I am only speaking with reference to the river. Of course it would be a roundabout way.

Mr. DIXON. Is there any steamboat on the river to carry merchandise?

Mr. PILES. I hope the Senator will pardon me, for I do not propose to be diverted off to individual cases. I know that hardships exist; I think many rates are too high and should be changed. I am not contending that they ought not to be changed, and I believe that they will be. My only contention is that you must not, unless you want to destroy the business interests of the country, make the long haul the yardstick by which you measure the short haul. Now, let me proceed just a moment on the Chicago proposition.

Mr. BRISTOW. Mr. President, before the Senator from Washington proceeds—be referred to lumber coming to Kansas, and I should like to ask him a question.

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Kansas?

Mr. PILES. I yield.

Mr. BRISTOW. The Senator from Washington was speaking about rates on lumber from the Pacific coast to the central part of the United States—to Chicago, Kansas City, and so forth—and he made the remark that it was to the interest of the consumers of lumber in Kansas and other States. Now, there is a low rate, as he says, from the Pacific coast to Kansas City, but there is not a low rate from the Pacific coast to the towns and communities of Kansas and Nebraska, where the lumber is consumed. They pay the rate to Kansas City plus the local rate, which makes their rate high, so that the lumber consumers in that section of country are not benefited, but it is only the lumber distributers in a few centers who are favored by the railroads, while the men who buy the lumber and use it are taxed for the long-and-short haul. So injustice is imposed upon them and other communities that consume the lumber and who have to pay the high rate.

Mr. PILES. Mr. President, I am not responsible for that, and I shall not discuss individual cases, because I am not familiar with them; but the Senator must understand the proposition that, although he is laboring, according to his statement, under a great hardship at the present time, if the rate be raised from the coast cities on our lumber, which is a mere sample of what it would be on other things, then the burden under which he rests to-day must thereby be increased, and, instead of aiding his people in getting lumber at a reduced rate, his vote will elevate the rate to the people of that section of the country.

Mr. BRISTOW. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Kansas?

Mr. PILES. I yield.

Mr. BRISTOW. I should like to inquire of the Senator how the rate would be increased?

Mr. PILES. By raising the rate, of course.

Mr. BRISTOW. Raising the rate to where?

Mr. PILES. To St. Paul, to Omaha, and all through that section of the country—the distributing centers.

Mr. BRISTOW. But does the Senator infer because the rate is raised to the distributing centers that there will be an additional raise to interior points—that is, to points where it is already high?

Mr. PILES. I mean by that to say that those who buy that lumber will have to pay that additional freight. That is what I mean.

Mr. BRISTOW. I should like to suggest to the Senator that the purpose of this amendment is to prevent him from being excessively taxed for that rate.

Mr. PILES. I understand that, Mr. President, but I assume that the railway companies will not accept this proposition, but that they will raise rates at all coast terminals, and those cities will be forced to wage a contest for present rates.

Mr. BRISTOW. This amendment provides that the terminal rates shall be reasonable.

Mr. PILES. I understand that.

Mr. BRISTOW. Now, if the railroads raise the interior rates above a reasonable point, according to the provisions of this amendment they must show the reason why.

Mr. PILES. I grant that.

Mr. BRISTOW. That is all that this amendment provides. Then, why does the Senator oppose the amendment?

Mr. PILES. How does that in any way change the result? The Senator says now that he wants this arbitrary standard fixed.

Mr. BRISTOW. Mr. President——

Mr. PILES. I should probably not attribute that to the Senator from Kansas, but someone has said here—I am speaking now, of course, in general terms and not in exact language—but anyway, the contention was first made that this arbitrary standard ought to be fixed, because it was said that that would, of course, give the interior points the exact rates which the coast points received. The senior Senator from Idaho [Mr. HEYBURN] went so far as to argue that, inasmuch as the railways had fixed the rates at the terminal points lower than at intermediate points, that was evidence showing that the railways could afford to grant similar rates to all interior points.

Mr. BRISTOW. The argument of the Senator from Idaho——

The PRESIDENT pro tempore. Senators must not interrupt a Senator who has the floor without permission obtained through the Chair.

Mr. PILES. I yield to the Senator from Kansas.

The PRESIDENT pro tempore. The Senator from Washington yields to the Senator from Kansas.

Mr. PILES. Yes, Mr. President; I yield to the Senator.

Mr. BRISTOW. There is a great deal of weight in the argument of the Senator from Idaho [Mr. HEYBURN], but the amendment which is pending, on which the Senator from Washington is to vote, makes no such provision.

Mr. PILES. I know this amendment simply shifts the situation. It takes from the coast cities their present rates.

Mr. HEYBURN. Mr. President——

Mr. PILES. If the Senator will pardon me for a moment, until I express this thought, I shall be glad to yield. It takes from the coast cities their present rate and it transfers to them, nowithstanding the idea in the mind of the Senator from Montana, the burden of showing that the present rate is a fair and reasonable rate under all the circumstances.

Mr. President, just one step further. The Senator from Kansas, in the argument which he made some days ago, assumed that the adoption of the amendment of the Senator from Montana would immediately and without litigation give the interior of the country lower rates than it has to-day, and I imagine, from what the Senator has just said, that he still has that thought in his mind. But suppose the railroad companies do raise the rate. It is true, as the Senator says, that it must be a reasonable rate, but the Senator must not overlook the fact that all the time the litigation is pending—lasting, as he said, in one case from three to five years—the cities on the Atlantic, Gulf, and Pacific coasts will be paying the increased rate.

Mr. BRISTOW. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Kansas?

Mr. PILES. I yield to the Senator.

Mr. BRISTOW. I beg to invite the Senator's attention to the fact that he does not understand the amendment that is pending. The amendment provides that the railroads may be permitted to charge a lower rate for the longer haul, but that that rate must be reasonable, and they may be permitted to charge higher rates for the interior haul. There is nothing in this amendment that in any way raises the terminal rates at all. The terminal rates are now reasonable and just, it is presumed, otherwise they would be unlawful, and if the interior rates are unreasonable and unjust it is upon the railroads to show that they are not. The amendment does not change the terminal rates a particle.

Mr. PILES. We have gone over that, Mr. President, a number of times, and of course the Senator and I can not agree on that proposition, because we view it from entirely different standpoints.

But suppose this amendment were adopted and enacted into law, and that the day after it was enacted into law the railway companies should elevate the rates to coast points to the same point as the rates now fixed to interior competitive points, or indeed, they might not stop there; they might take the higher rates or the very highest interior noncompetitive rates on the entire line of the respective railroads. This would be a great injury to us and of no possible benefit to the interior of the country. Indeed, as I view it, it would be a positive injury to all.

Mr. SUTHERLAND. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Utah?

Mr. PILES. Certainly; I yield to the Senator.

Mr. SUTHERLAND. I understood the Senator from Washington to say a little while ago that the reason the railroad companies made the low rate to the coast cities was in order to meet water competition.

Mr. PILES. Exactly.

Mr. SUTHERLAND. In other words, that unless they put their rates at a point lower than they were charging the interior points the business would go to the carriers by water.

Mr. PILES. That is correct.

Mr. SUTHERLAND. Now, the Senator states that if the amendment proposed by the Senator from Montana were to be adopted, the effect would be that the railroad companies would raise their rates to the coast cities.

Mr. PILES. Exactly.

Mr. SUTHERLAND. Let me ask the Senator how he reconciles those two statements? In other words, if it is necessary

for the railroad companies to put their rates at the present low point in order to get the business, how could they get the business by increasing the rates?

Mr. PILES. I do not pretend to say that they will get the business. That is where the Senator missed the point of my argument. I am maintaining that by deserting us and abandoning this 2.2 per cent of coast business they destroy us. That is what I am contending. I do not pretend to say that the railroad companies will continue to do business at an elevated rate at coast points, except in a limited sense—not at all.

Mr. SUTHERLAND. Then, if the railroads raise their rates, as the Senator predicts they will, they will lose the business, will they not?

Mr. PILES. Certainly; to a large extent.

Mr. SUTHERLAND. The railroads will lose the business?

Mr. PILES. Not absolutely, but largely.

Mr. SUTHERLAND. Does the Senator think that the railroad companies would raise their rates if the effect of raising them would be to lose their business?

Mr. PILES. I certainly do. Does the Senator think that if 2.2 per cent of a man's business is at one point and is transacted at a rate that pays a bare profit and 98 per cent of that business is at interior points and transacted at a higher profit he will abandon the 98 per cent and hold on to the 2 per cent? Certainly that is not the logic usually employed by the Senator from Utah.

Mr. SUTHERLAND. My information about it does not agree with the Senator's. My understanding is——

Mr. PILES. That nevertheless is the fact that stares the three coasts of this country squarely in the face.

Mr. SUTHERLAND. My understanding of it is that the great bulk of the business of the railroads is coast to coast.

Mr. PILES. But the Senator is entirely mistaken. The testimony in the Spokane case showed that only 2.2 per cent of the total tonnage of the Northern Pacific Railway was to coast points.

Mr. DIXON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Montana?

Mr. PILES. I yield to the Senator from Montana.

Mr. DIXON. Did the Senator find that in the figures of the Interstate Commerce Commission?

Mr. PILES. No; I did not.

Mr. DIXON. Where did the Senator get the figures?

Mr. PILES. I got this information from Mr. W. A. Mears, manager of the bureau of transportation of the Seattle Chamber of Commerce, who cited me to the testimony of witnesses who testified to the effect that the Northern Pacific's tonnage, at coast terminal points, was only 2.2 per cent of its total.

Mr. DIXON. That is, taking into the comparison all the immense local traffic through eight or ten States; but that is no fair method of comparison. All that we contend is that on a shipment over the same line in the same direction on the same railroad, the railroads must not charge more for the short than they do for the longer haul. The Senator's statement as to 2.2 per cent is no fair criterion of the amount of through western freight shipped. That estimate takes in all the local traffic, which is many times in volume of what the through traffic is from eastern points westward to the coast.

Mr. SMOOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Utah?

Mr. PILES. Yes; I yield.

Mr. SMOOT. I have no figures or knowledge as to what the percentage of through freight of the Northern Pacific is, but I do know that of the traffic of the Central Pacific 90 per cent is transcontinental business.

Mr. PILES. Yes; the Central Pacific begins in Ogden, in the intermountain country, and terminates at San Francisco, and, of course, 90 per cent of its business would be through business, because it must take it up from some connecting carrier. That has no application to the great transcontinental railroads traversing from coast to coast.

But, Mr. President, there is another mistake about this matter. It is not true that the charge to interior points is always the same as the charge to the coast points plus the local rate back. The Interstate Commerce Commission in the Spokane case found that 70 per cent of the items of traffic passing across the continent to Spokane and Seattle carried a higher freight rate to Spokane than to Seattle or Tacoma or Portland, but lower than the through rate plus the local rate back; that 14 per cent only of the traffic carried across the continent bears the through rate to the coast plus the local rate back, while 16 per cent of the traffic carries exactly the same rate as the through-coast traffic. So you can understand that these rates are based upon water competition, and we are not getting the low rates, except in cases where we are entitled to receive it. I will give you as an instance——

Mr. DIXON rose.

Mr. PILES. Just a moment, if the Senator pleases. There are no ships that I know of that are equipped to carry meat or fruit from coast to coast, and we can not get any lower rate to Puget Sound than any intermediate city can get on meats or fruits from the East. So the railroad companies have guarded their interests in that respect by seeing that the cities, as a rule, situated upon the coast, do not get the benefit of a discriminatory rate upon commodities which can not be transported by water.

Mr. DIXON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Montana?

Mr. PILES. I yield to the Senator.

Mr. DIXON. Are there any steamers from Seattle south, around Cape Horn, to the eastern Atlantic seacoast?

Mr. PILES. Yes; there are steamers to all ports in the world from that city.

Mr. DIXON. Any regular line of steamers?

Mr. PILES. Around Cape Horn; no.

Mr. DIXON. Is there a single one?

Mr. PILES. Oh, tramp steamers, of course.

Mr. DIXON. But a regular line of steamers?

Mr. PILES. I do not think so; I do not know of any.

Mr. DIXON. Is there any steamer from California points that can transport lemons and oranges around Cape Horn, so as to get to an eastern port?

Mr. PILES. I do not know whether there is or not. I am not familiar with that situation. I am confining my remarks to the northern country. The Senators from California can answer all those questions. I am not familiar with them.

Mr. DIXON. The Senator is aware of the fact, though, that there are no steamers fitted up for carrying fruits from southern California ports?

Mr. PILES. I do not know that there are any; but I would not say positively.

Mr. DIXON. Then, on what basis does the railroad company charge the interior country twice as much for carrying that California fruit and unloading it at Denver or at Salt Lake or at Helena, Missoula, or at Butte as it does to carry it across the continent and unload it at New York?

Mr. PILES. I do not know. I do not undertake to explain it, defend it, or condemn it, because I know nothing about it. I do not know why it is that the railway company should charge 55 cents per hundred for sugar from San Francisco to Salt Lake City and 95 cents a hundred from Salt Lake City to San Francisco, a fact to which the Senator from Utah called attention the other day. I can not understand that proposition except, possibly, upon one theory: I remember once hearing Doctor Talmage deliver a lecture, in the course of which he said that he had in his lifetime met all manner of men—the peculiar, the eccentric, the ordinary; in fact, every class of men. He said that one day a brother minister came into his study and borrowed $50 from him on thirty days' time.

I heard him tell this story five years after the loan had been made, and he said: "Strange as it might seem, out of sheer politeness that minister has never mentioned that $50 loan from that day until this." [Laughter.] I imagine that it must be out of sheer politeness that the people of Utah did not make complaint against the rate which I have just mentioned. There may be some sound reason for it, but I see none.

Mr. President, I had hoped to conclude my remarks long before this.

Mr. SMOOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Utah?

Mr. PILES. Certainly.

Mr. SMOOT. I want to say that the people of Utah for thirty years have been begging and pleading and asking and demanding a change, and they have not secured it yet.

Mr. PILES. They have not, I imagine, litigated it in the court, because if they had the court would, in my opinion, have promptly lowered the rate.

Mr. DIXON. Mr. President, will the Senator yield to me for just a moment?

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from Montana?

Mr. PILES. Certainly.

Mr. DIXON. When Spokane went before the Interstate Commerce Commission four years ago to get relief from exorbitant rates, the first thing that happened was that Seattle and Tacoma went in and joined hands with the railroad companies to prevent Spokane receiving just treatment.

Mr. PILES. I am sorry they did.

Mr. DIXON. It is easy to talk about justice and equity and going into court to get your deserts, but the Senator's own home city and the second city in Washington immediately joined hands with the railroad companies to hold up and prevent equity and justice being done.

Mr. PILES. I regret that.

Mr. President, I had explained a moment ago the difference in rates between Spokane and the coast points, and I wish in this connection to print a table, which shows the different rates which I referred to.

The PRESIDENT pro tempore. In the absence of objection permission is granted.

The table referred to is as follows:

INTERSTATE COMMERCE COMMISSION,
BUREAU OF TARIFFS,
Washington, May 6, 1910.

Statement showing instances where the through published rates on the following commodities (carloads) to Spokane, Wash., equals the through rates to Seattle, Wash., plus the local rate back, Seattle to Spokane.

RATES IN FORCE AT PRESENT TIME.

[In cents per 100 pounds.]

From—	Commodities (carloads).	Rate to Spokane.	Rates.		
			To Seattle.	Seattle to Spokane.	Total.
Chicago, Ill.	Food, poultry: i. e., ground meat and bone, alfalfa meal, blood meal, clover meal, gluten feed and meal, millet seed, etc. (minimum weight, 30,000 pounds).	90	60	30	90
St. Paul, Minn.	do	90	60	30	90
Do	Furniture, chairs, as follows: Cane-seated; carpet-seated; leather board, padded leather, or spring seated (not further upholstered); perforated wood or wooden seated; not consisting of (wholly or partially) mahogany, rosewood, ebony, black walnut, or cherry; not reed, willow, or rattan; not upholstered; knocked down, flat, and compact (minimum weight, 16,000 pounds).	185	125	60	185
New York, N. Y.; Chicago, Ill.	Glass, window, common, boxed (minimum weight, 30,000 pounds).	155	90	65	155

Statement showing instances where the through rates on the following commodities to Spokane, Wash., are the same as to Seattle, Wash.

RATES IN FORCE AT PRESENT TIME.

[In cents per 100 pounds.]

From—	Commodities (carloads).	Rates.	
		To Spokane.	To Seattle.
Chicago, Ill.	Blacksmiths' blowers, forges, and drills (minimum weight, 24,000 pounds).	150	150
St. Paul, Minn.	do	150	150
Do	Brick, common, pressed or fire; tile, hollow; and fire clay (minimum weight, 50,000 pounds).	50	50
Do	Cereals, viz: Chopped or cracked corn, corn meal, hominy, brewers' meal, and grits (minimum weight to Spokane, 30,000 pounds; to Seattle, 50,000 pounds).	55	55
Do	Corn, whole, including kaffir corn, but not including popcorn (minimum weight, 50,000 pounds).	50	50
Chicago, Ill.	Creamery and cheese-factory machinery, as described in tariffs (minimum weight, 24,000 pounds).	150	150
Do	Electrical machinery, appliances, and supplies, viz: Controllers, dynamos, combined engine and dynamos, gear cases, electric locomotives, electric motors, and boxes, transformers, etc. (minimum weight, 24,000 pounds).	150	150
St. Paul, Minn.	do	150	150
Do	Furniture, new, all kinds, except as specified in tariffs (minimum weight, 12,000 pounds).	220	220
Chicago, Ill.	Sideboards, buffets, combination buffets and sideboards, net cost of each piece not to exceed $20 and $18 (minimum weight, 16,000 pounds).	160	160
St. Paul, Minn.	do	160	160
Chicago, Ill.	Ginger ale, root beer, and carbonated beverages (not alcoholic); also mineral water in glass and stone, boxed or in barrels (minimum weight, 30,000 pounds).	75	75
St. Paul, Minn.	do	75	75

Statement showing instances where the rates on the following commodities to Spokane, Wash., are higher than to Seattle, Wash., but less than the Seattle combination.

RATES IN FORCE AT PRESENT TIME.

[In cents per 100 pounds.]

From—	Commodities (carloads).	Rate to Spokane.	Rates.		
			To Seattle.	Seattle to Spokane.	Total.
New York, N. Y.	Agricultural implements (except hand) and extra parts of same; windmills and attachments, as described in Western Classification, etc. (minimum weight, 24,000 pounds).	175	135	65	200
Chicago, Ill.	do	153	135	65	200
St. Paul, Minn.	do	145	125	65	190
New York, N. Y.; Chicago, Ill.; St. Paul, Minn.	Belting, rubber, cotton, or leather (minimum weight, 30,000 pounds).	205	120	95	215
Chicago, Ill.	Bicycles, complete or stripped, with or without the stripped parts, boxed or crated (minimum weight, 10,000 pounds).	370	250	135	385
St. Paul, Minn.	do	335	250	135	385
Chicago, Ill.	Strawboard, chip, or paper stock, in crates or bundles (minimum weight, 50,000 pounds).	109	55	55	110
St. Paul, Minn.	do	105	55	55	110
New York, N. Y.	Bottles, siphon, confectionery, and druggists' and museum bottles or jars, of capacity 1 gallon or less, in boxes or casks (minimum weight, 24,000 pounds).	203	125	80	205
Chicago, Ill.	do	203	125	80	205
St. Paul, Minn.	do	190	125	80	205
Chicago, Ill.	Cans, tin, including tin boxes, tin lard pails, and milk cans, in packages or in bulk (minimum weight, 20,000 pounds).	146	85	80	165
St. Paul, Minn.	do	141	85	80	165
Chicago, Ill.	Cement, building or paving, not otherwise specified (minimum weight, 40,000 pounds).	60	45	25	70
St. Paul, Minn.	do	55	40	25	65
Chicago, Ill.	Creosote oil or tar oil, in barrels or tin cans (minimum weight, 30,000 pounds).	109	55	65	120
St. Paul, Minn.	do	109	55	65	120
New York, N. Y.	Earthenware, stoneware, and crockery, in boxes, barrels, casks, tierces, crates, or hogsheads (minimum weight, 24,000 pounds).	154	95	65	160
Chicago, Ill.	do	154	90	65	155
St. Paul, Minn.	do	144	85	65	150
New York, N. Y.; Chicago, Ill.; St. Paul, Minn.	Extract of root beer, boxed (minimum weight, 30,000 pounds).	235	150	95	245

Mr. PILES. Mr. President, every commercial body with which I am acquainted on the Pacific coast has protested against this new idea of making rates. It is true that my State is divided upon this proposition, and if I believed that Spokane herself would not be injured as well as we on the Pacific coast, then I might well perceive a divided duty. But, Mr. President, I must defer further discussion of this subject until to-morrow, as I promised to yield the floor at 3 o'clock.

[At this point Mr. PILES yielded the floor for the day.]

Tuesday, May 10, 1910.

Mr. PILES. Mr. President, when the Senate adjourned yesterday I had started to discuss the proposition that in my judgment the adoption of the proposed amendment would be greatly injurious not only to the western portion of the State which I have the honor in part to represent, but to the eastern part of the State as well. In fact, this is a question that may not be localized. It has application to no single State of the Union.

The city of Spokane, situated in the eastern part of the State of Washington, seems to be strongly in favor of the amendment proposed by the Senator from Montana. But, as I view the situation, if the amendment should be adopted, almost as great an injuiry would be done to that section of the country as to the western section of the State. Spokane is a competitive point. It now has a rate which, while not satisfactory, nevertheless enables it to do a large jobbing business throughout the country tributary to it. If this amendment should be adopted, in my opinion Spokane might be injured in two ways. First, it might have its rate raised to interior points, and, in the second place, it might be deprived of the competition in a large measure which it now enjoys.

It is a mistake to assume that because the railroad companies do not in all instances seriously compete in rates their competition in facilities is not of advantage, and of great advantage,

to every city in the country. Spokane has two short lines of railway from the east to the west, and one longer line from Chicago by way of Omaha and from Omaha proper into Spokane. These lines of railway tap different sections of the country, in which Spokane may purchase and sell.

If this amendment should be adopted, the long-line road might go out of business at Spokane, or it might be forced to limit its business to such traffic commodities originating on its line as Spokane wants and which can not be advantageously purchased in any other market.

We purchase from the State of Nebraska annually something over $6,000,000 worth of the products of that State. A large portion of those products originate in and about Omaha. If the long-haul road should be unable to meet the rate that the short-line road can make, then it must cease to compete for Spokane business, and in that event Spokane would be limited to the territory reached by the short-line route.

It should be borne in mind that there is a vast difference between competition at water points and competition at interior competitive points. It is admitted, I believe, by those well informed on the subject that the haulage of freight is five times greater by rail than by water.

I know of no section of the country that would be more seriously injured than the West by the adoption of this amendment unless it be the South.

There is another point to be considered in regard to the coast sections of the country. If this amendment should go into effect, what incentive would there be for railroads to build to the coast line? They would, of course, stop in the interior of the country, because they could not compete with water—they could not meet a water rate. Yet, vast and extensive as is that new section of our country, we are asked to enact into law a provision that will handicap the railroads in developing the coast country and in competing with water carriers.

Mr. DIXON. Mr. President——

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

Mr. PILES. Certainly; I yield.

Mr. DIXON. Does the Senator from Washington argue in good faith that if this plan of putting the burden of proof on the railroads to show when water competition actually exists went into effect the railroads would build into the interior of the country and not to the Pacific coast? Would it tend to discourage the building of transcontinental roads?

Mr. PILES. The Senator from Montana misrepresents—not intentionally, of course—my statement. I have combated the the idea of the Senator that the burden of proof will be shifted to the railroads. I insist that the railway companies will turn to us and say: "Who has the greater interest in this proposition, you or we?" Naturally the coast cities have the greater interest. The railroad companies will say, therefore, "The burden rests upon you, and not upon us, to show that you are entitled to the privilege which you seek."

Mr. DIXON. The Senator is aware that the Interstate Commerce Commission itself, in making their findings of fact in the Spokane case, stated that only 5 per cent of the tonnage at Seattle was water tonnage and that 95 per cent of it came over the transcontinental railroads. Does the Senator believe that, even if the 5 per cent were stricken out, the railroad companies would not build in order to get the 95 per cent of tonnage from that country?

Mr. PILES. Mr. President, I think I argued that with the Senator yesterday. Does not the Senator understand that by elevating railway rates at coast points—which the railroads will undoubtedly do rather than lower their intermediate rates—the water carriers will do by far the greater portion of the business?

In the case of the Kentucky Wagon Manufacturing Company *v.* The Illinois Central Railway Company et al., decided by the Interstate Commerce Commission May 2, 1910, the commission used the following language:

> Defendants urge that, even conceding that wagons are not now water borne, the previously existing water competition did have the effect of establishing the rate on a low commodity basis; that this Pacific coast terminal rate is still influenced and controlled by such water competition, and that even though the low all-rail rate may have caused a discontinuance of shipments by water, that fact would not prevent a revival of shipments by water if the rail rates were advanced.
>
> In many cases the commission has expressed the opinion that Pacific coast terminal rates are compelled by water competition. In Bulte Milling Company *v.* Chicago and Alton Railroad Company (15 I. C. C. Rep., 351) the question was presented whether the rail carriers must wait until actual water competition becomes formidable before they may safely adjust their rates to meet it, and it was held that there is no such rule of law. The suggestion that carriers may not anticipate such competition did not appeal to the commission as logical from any point of view. Must the carriers maintain the increased rate until an important volume of traffic has been actually diverted to the water lines in order to prove the effect of such competition or to justify the previously existing lower basis? We think not. It appears that immediately upon the rail rate being increased a shipment was made by water at 10 cents per 100 pounds less than the advanced rate of the rail carriers. It is hardly consistent to demonstrate the feasibility and availability of a water route and then prove that such competition is imaginary. The rate having been forced down from $1.35 to $1.25 by the controlling effect of water competition, we can not find that the $1.35 rate was unreasonable, and it follows that the prayers for reparation must be denied, and it will be so ordered.

Mr. DIXON. Is it not a matter of fact that the railway rates now at terminal points are fixed at 30 per cent higher than the water rates?

Mr. PILES. It is.

Mr. DIXON. And that water only gets 5 per cent of it?

Mr. PILES. I do not remember just what per cent the water carriers get, but that is not the point that is in my mind. The testimony in the Spokane case shows that only 2.2 per cent of the total tonnage of the Northern Pacific Railway was carried to coast points.

Mr. DIXON. I am glad the Senator again makes that statement as to 2.2 per cent of the tonnage. As a matter of fact, the receipts at terminal points, Seattle and Portland, last year were $13,000,000, and a total of $86,000,000 on the Great Northern and the Northern Pacific, which was 16 per cent of the freight receipts of those two roads.

Mr. PILES. Yes; but that also included over-sea business.

Mr. DIXON. No; that was freight.

Mr. PILES. Certainly; but it included over-sea business, which the Senator's amendment would destroy.

Mr. DIXON. Not in the least.

Mr. PILES. I think I can demonstrate that, if the Senator will permit me. I ask the Senator this question: If the railroad companies are prohibited from meeting water rates, what inducement is there for them to build to the water line?

Mr. DIXON. Nobody on earth would even for a moment prohibit a railway company from meeting water rates. I want to ask the Senator this question——

Mr. PILES. But does not the Senator's original amendment prohibit the railroad company from meeting the water rate?

Mr. DIXON. Not in the least; not even the original amendment.

Mr. PILES. Then the Senator assumes, of course, that this water rate as it exists to-day must be leveled back over the entire length of the railway line, which the Senator knows could not be done as a business proposition. If he does not know that, let me ask the Senator why did he abandon his original amendment, and why does he now move a substitute to the amendment of the Senator from Idaho providing that this question shall be litigated before the Interstate Commerce Commission?

Mr. DIXON. I am very glad the Senator has asked me the question, and I want to answer him now.

Mr. PILES. Very well.

Mr. DIXON. It was because we thought, when introducing the new amendment to the pending amendment giving the Interstate Commerce Commission the right to say whenever a railroad company under any circumstances showed these competing conditions, that the Interstate Commerce Commission, by order, could permit them to do it; that there was no man in this Chamber under those conditions who could oppose that kind of a proposition, giving the railroad companies the right, wherever they have to meet water competition, to go before the Interstate Commerce Commission and let the commission, by order, permit them to do it. Certainly no reasonable man would oppose that kind of a proposition. That was the reason why we did it.

Now, I want to ask the Senator a question. When Mr. Hill testified before the Interstate Commerce Commission in the Spokane case at Portland, did he not give it as his testimony that 70 per cent of the west-bound freight on the Great Northern and the Northern Pacific in no case came in competition with water carriers?

Mr. PILES. I do not know; I am not familiar with Mr. Hill's testimony.

Mr. DIXON. Well, I now make the statement that the Senator will find in the testimony taken in the hearing at Portland that Mr. Hill did make the statement that 70 per cent of the total tonnage of both those transcontinental lines did not come in competition with water carriers. Now, as to that 70 per cent of west-bound traffic, does the Senator argue that that 70 per cent should still have this mysterious water-competition tariff applied to it?

Mr. PILES. No; and we do not get it.

Mr. DIXON. The coast cities do get it.

Mr. PILES. That is where the Senator is mistaken. I said yesterday that the decision in the Spokane case showed that only 14 per cent of the items carried the full through rate to the coast, plus the local rate back, and 16 per cent of the items

carried exactly the same rate; that is to say, the rate to interior points is exactly the same as it is to coast points, while 70 per cent of the rates to interior points are higher than the through rate to coast points. Why is that?

Mr. DIXON. Will the Senator incorporate that? He is mistaken, for that is not the case.

Mr. PILES. That is the finding of the Interstate Commerce Commission.

Mr. DIXON. Will the Senator read now for the Senate the finding of the Interstate Commerce Commission as to the comparative rates? Take the case I cited the other day on cotton goods——

Mr. PILES. Wait a moment before we drift from that.

Mr. DIXON. Shipped from New York to Seattle for 75 cents a hundred and to interior points for $3.31 a hundred.

Mr. PILES. I am not going to discuss any individual case. I am basing my argument upon a principle and not upon what is done by a railroad company in respect to one rate or in respect to a number of rates, because no one can reach a correct conclusion in respect to a principle by discussing individual cases.

Mr. DIXON. That is very true; but will the Senator read the whole list of sample rates that the Interstate Commerce Commission put into their findings of fact?

Mr. PILES. I did not catch the Senator's suggestion.

Mr. DIXON. Will the Senator just read the whole list cited by the Interstate Commerce Commission, showing the discrimination in rates?

Mr. PILES. I do not want to take up the time of the Senate in reading them all, but here is what the commission says:

> The complainant states in its complaint that these commodity rates to Spokane are made by adding to the Seattle rate the full local rate from Seattle to Spokane. This is not correct. In some instances the Spokane rate is constructed in that manner, and it was said in testimony that these items embrace 14 per cent of the whole in number. In other instances the Spokane commodity rate is the same as the Seattle rate, and the testimony shows that this is true of about 16 per cent of the different items in number. With the great bulk of commodities the Spokane rate exceeds materially the Seattle rate, but not by the full local back. It was said that the Spokane rate was higher than that to Seattle by about 70 per cent of the local from Seattle to Spokane in the majority of cases.

That is the language of the Interstate Commerce Commission on this subject, and I think it thoroughly covers it.

In respect to the question of tonnage, this is the information which Mr. Mears, manager of the bureau of transportation of the Seattle Chamber of Commerce, gave me. In regard to the statement I made, which the Senator challenged the other day, in respect to the Northern Pacific tonnage to the coast being 2.2 per cent of its total business, he says:

> You can get desired information from Johnson exhibits in Spokane case, same being auditor's statements of Northern Pacific tonnage and earnings on different kinds of business. These statements show tonnage carried to Pacific coast terminals is 2.2 per cent of total tonnage, which total represents everything, including short-haul tonnage. Statements in Spokane case cover business year 1906, since which time business to intermediate points affected has shown much greater relative increase, now being greater than Pacific coast terminal tonnage; therefore, if not permitted to make abnormally low rates to terminals for purpose of meeting water competition without involving intermediate rates, railroads would naturally take what they could get under normal rates to terminals rather than disturb rate adjustment at intermediate points.

That is the view of a man who has studied the situation; that is the view of every man who ships over those railroads to coast points, of every commercial body along the Pacific coast, and of every manufacturer on the Pacific coast.

Mr. DIXON. I want to ask the Senator this question: If all that he contends for is that the coast cities should have only the natural advantages which should come to them on account of water competition, why was it that in the Spokane case, when Spokane was fighting for its commercial life, the cities of Seattle and Tacoma appeared in the case on their own behalf, protesting against Spokane receiving a reduction? If they only wanted to have the natural advantages that their seacoast location gave them, why did they go in and become parties defendant in that case on their own motion——

Mr. PILES. I can not explain that——

Mr. DIXON. And protest against Spokane receiving the reduction?

Mr. PILES. I was not a party to that.

Mr. DIXON. Why is it that in every case where an interior town files a complaint before the Interstate Commerce Commission asking for lower rates the coast cities immediately protest against the interior points receiving the same rate that they do for the longer haul?

Mr. PILES. Mr. President, whatever the cities of Seattle and Tacoma and Portland may have done in that regard does not touch the point at issue.

Mr. DIXON. It does touch the point at issue; it shows that the spirit behind this is not to give them their natural advantages, but to prohibit the interior country from having theirs.

Mr. PILES. Well, if they want that, I can not help it. I am not advocating it. I am not here advocating that any railroad company should charge the through rate to Seattle and the local rate back to Spokane. I am not arguing that on behalf of the cities of the Pacific coast; I care not what the bodies the Senator refers to may have done.

Mr. DIXON. Is it not a matter of fact that Seattle and Tacoma did take the action which I have just instanced?

Mr. PILES. I think they did, and I think they justified their action upon the ground—although I am not certain about that—that they intervened in that case for the purpose of having their rates to the East and to the South adjusted. They undertook to show in the Spokane case that the rate from Spokane, a distributing center, east and south was less than the rate from the coast, and they claimed that that was an injustice against them and that that condition ought to be readjusted in that case; but the commission decided that that question was not properly before them in that case, and therefore dismissed the contention from further consideration, as the Senator will recall.

Mr. DIXON. And they also protested against the commission allowing the interior country lower rates.

Mr. PILES. They probably did; I am not familiar with that; I did not follow that point. But their protest has nothing to do with the principle which I am discussing.

Now, Mr. President, I come to another point, and then I shall quit this subject. The Puget Sound country is now served by five transcontinental railroads. Two of those roads were important factors in the upbuilding and developing of our section of country. They are, with the exception of the Canadian Pacific, the channels through which we transport our freight into the interior of the country, and it is important to us to have those railways serve us to their highest possible capacity.

I do not mean to say that the railway companies would absolutely abandon the coast if the amendment as originally proposed by the Senator from Montana should be adopted. That is not my contention; but I do mean to say that by elevating their rates at the coast they would in a very large measure abandon the coast business. They would, of course, transport to us such traffic as would pay the highest freight rate and such as of necessity demanded quick transportation across the continent. That traffic, of course, they would carry, but they would not carry sufficient quantities of that character of traffic to furnish the west coast the number of empty cars that are necessary to transport our lumber and other products into the eastern part of this country.

Mr. HEYBURN. Mr. President——

The PRESIDING OFFICER (Mr. DEPEW in the chair). Does the Senator from Washington yield to the Senator from Idaho?

Mr. PILES. I yield to the Senator.

Mr. HEYBURN. Does the Senator from Washington contend that the railroad company is ever unable to furnish sufficient cars for the eastern traffic?

Mr. PILES. I remember a time when our people would have paid a premium to get cars, but they were not to be had.

Mr. HEYBURN. How does the Senator sustain his statement, made a few moments ago, that there would not be enough cars in the West to transport the lumber, in the face of the fact that the merchandise moving to the coast to-day does furnish cars enough to transport the lumber?

Mr. PILES. It is very clear to me. It is because the rule that I have referred to is now in force. I will tell the Senator why in one moment. The elevation of the rate at coast points would deprive the railroads of many shipments that now go to those points—the greater portion would then go by water. We would not, therefore, have sufficient cars to take our lumber into the interior unless we paid the railways an extra charge for carrying empty cars to our ports. We buy from the South many tons of rice. Mr. Hill adopted the policy of going into the South and bringing cotton to the ports of Puget Sound for transshipment to the Orient. He made a low rate on cotton and a low rate on rice—a water railway rate on both commodities.

Mr. HEYBURN. Was it not a rate that was apportioned between the Pacific Ocean transportation and the railroad, in which the railroad could make arbitrary figures and charge just as much or just as little as it saw fit to the ocean traffic or the railway traffic?

Mr. PILES. No; I think not. Mr. Hill built two mammoth steamships for the oriental trade, to be run in connection with the Great Northern Railway.

Mr. HEYBURN. From the South?

Mr. PILES. He undertook to aid the Northwest in building up an over-seas trade, which the Senator's amendment would destroy. He did that by hauling cotton from the South to Puget Sound and transshipping it to the Orient; he did that by bringing rice from the South; and yet the Senator asks the South to eliminate her products from our markets.

Mr. HEYBURN. No; I do not.

Mr. PILES. The rice would come from China if it did not come from the South by way of rail, for the Senator knows that there will never in all probability be any water line from the Gulf ports to Puget Sound; certainly not until the Panama Canal shall be opened.

But let me proceed now, Mr. President, just for a moment. The adoption of this amendment means that the water rate must be elevated at the coast. I can not concur in the contrary view.

Mr. DIXON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Montana?

Mr. PILES. Yes.

Mr. DIXON. The Senator says that the adoption of this rule giving the Interstate Commerce Commission the right to say when the railroads have made a showing of actual water competition would ruin the coast towns. The Senator makes that statement in view of the positive statement of the Interstate Commerce Commission that in 1907, on the showing by the Northern Pacific and the Great Northern roads as to the amount which would have been actually lost in freight traffic if the absolute rule had been applied, it would have affected the Northern Pacific to the extent of only a little over a million dollars, if it had given terminal rates to all interior points and made no exceptions.

Mr. PILES. I answered that yesterday——

Mr. DIXON. Just one moment. In that year the Northern Pacific paid interest on its bonds, 7 per cent on all of its stock, and put over $12,000,000 into surplus. If it had cost them the full million dollars, they would still have had $11,000,000 of surplus that year. Last year, under the depression—for the year ending July 31, 1909—the Northern Pacific, after paying interest on its bonds, 7 per cent on all of its stock, had over $7,000,000 that went to surplus. They would have still had six millions to go into surplus if the absolute rule had been applied. Then how in the name of conscience would applying the absolute rule destroy the coast towns?

Mr. PILES. The Senator takes into consideration in his statement no one but the railroads, while I am considering its effect upon the whole country, and especially upon the coast country.

Mr. DIXON. Do you take into consideration the interior country?

Mr. PILES. Yes. I do not know what the loss to the railroads might be, but it would be insignificant as compared with the country's loss. This question is not to be determined by the amount the railroads might lose.

Mr. DIXON. Then, how does it affect you?

Mr. PILES. It would affect us, as I said yesterday, by limiting the construction of railroads to the coast; by restricting our markets. That is what it would do.

Mr. DIXON. No; you would have the same right to ship east and the same rates as the interior points?

Mr. PILES. The trouble with the Senator is that he erroneously assumes we would have as good an opportunity to get into the interior markets under his amendment as we have now.

Mr. DIXON. You would have.

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Utah?

Mr. PILES. Yes.

Mr. SMOOT. I can not agree with the Senator on the question of railroads not building to the coast, from the very fact that under these low rates to-day the Western Pacific Railroad is building from Salt Lake City to San Francisco. I should say that of the freight they are to haul, 85 per cent will be transcontinental business; and if there was no profit in it at all, why is the Western Pacific building to San Francisco?

Mr. PILES. To where?

Mr. SMOOT. From Salt Lake City to San Francisco.

Mr. PILES. Its through business is furnished by some other railroad.

Mr. SMOOT. The Rio Grande connects with the Central Pacific, and if there was no profit in carrying that freight through to the coast, if there is not a dollar to be made in it, if they were losing money by it, why are they now building a railroad to the coast?

Mr. PILES. That is the Senator's view of the question; but it impresses me this way, Mr. President, that no man of ordinary sense and business sagacity would undertake to build across this continent to tide water when he could not meet water competition.

Mr. SMOOT. I will say to the Senator that if the Central Pacific Railroad had assumed every dollar resulting from the back rates from San Francisco to interior points, and they had eliminated the amount from the profits of the road last year or the year before, it would not have affected their profits 10 per cent.

Mr. PILES. It will not do for the Senator to talk about interior railroads that get their through traffic from roads originating in the East. That has no application to the principle I am discussing.

Mr. SMOOT. Mr. President——

Mr. PILES. If the Senator will pardon me, I will quit in a very few moments.

Mr. SMOOT. It certainly has application thus far, that all of their rates are what the Senator claims low rates. They are rates that have driven out water competition in the past. They are rates that will keep water competition out in the future. They have been profitable for the last ten years——

Mr. PILES. Let me put this to the Senator: There is a line of railroad running between Puget Sound and San Francisco. Suppose that line of railroad should want to build a branch line to some coast city that might spring up between San Francisco and Seattle—say a line 200 miles long from the interior to the coast—does the Senator think that that branch line of railroad would be built when it could not compete with water carriers?

Mr. SMOOT rose.

Mr. PILES. Just a moment. Does he not know that unless that railroad could compete under conditions as they exist to-day, it would not be built to tide water, because it might be forced to lower its intermediate rates to the level of a water rate.

Mr. SMOOT. In answer to that, all I have to say is that the amendment offered by the Senator from Montana does not intend that.

Mr. PILES. No.

Mr. SMOOT. And the result will never be that.

Mr. PILES. The original amendment did.

Mr. SMOOT. We are not talking about the original amendment.

Mr. PILES. They have shifted their position——

Mr. SMOOT. No, Mr. President, I have not shifted my position one whit.

Mr. PILES. The Senator is not now in favor of the amendment as originally introduced by the Senator from Montana, is he?

Mr. SMOOT. I never was in favor of it. I have always been in favor of the proposition that wherever there is water competition and it can be shown on the part of the railroad that there is competition and real competition, the Interstate Commerce Commission shall have authority and power to say that the rates may be less.

Mr. PILES. The difference between the original amendment and the proposed substitute for the amendment of the senior Senator from Idaho is simply this: You wish to force us to go before the Interstate Commerce Commission and show that we are entitled to our present rate.

Mr. SMOOT. If the Senator will insist that the "railroads" and "us" are the same, then I say "us" must go, but we insist that the railroads must go; and when the railroads can show that they are entitled to a lower rate on the longer haul, we do not object to the Interstate Commerce Commission giving it that right.

Mr. PILES. And I insist that the railroads will not go; that they will say "you go."

Mr. SMOOT. The railroads are going to do the business of this country. They have now run out in all parts of the country water competition, and they always will do it.

Mr. PILES. The Senator is mistaken about that. The railroad rate between Portland, Oreg., and San Francisco, governed by water, a distance of 750 miles between the two cities, is less than the freight rate between Chicago and St. Paul, a distance of 400 miles. Why does the Senator talk about the railroads running out water competition? The water rate from New York is from 20 to 60 per cent less to the ports of Puget Sound than is the railroad rate.

Mr. SMOOT. The Senator need not bring up an example of that kind. I can take him into my State and show him a local rail rate for 10 miles which is a great deal higher than for 750 miles by water.

Mr. PILES. I have no doubt about that, but I was simply illustrating a water rate. I was not talking about interior rates. But the Senator's doctrine would apply not only to water rates, but to the distributing points in the interior of the country. Does the Senator think that any city in the interior of this country wants to abandon the blanket rate it now enjoys?

Mr. SMOOT. So far as we in the interior of the country are concerned, we certainly want abandoned all the rates we have, because they are excessive. They are imposed upon us, and we can not help ourselves.

Mr. PILES. Does not Salt Lake City have a blanket rate?

Mr. SMOOT. No more than Ogden or Provo.

Mr. PILES. I do not know about that. Let us take Spokane, for instance, which has a blanket rate, the commission says, one of the best in the United States, and gives the reason for it. If I could turn to it at the moment, I would read to the Senator—I may not be able to find it just at the moment—what the commission says on that point.

Mr. SMOOT. The Senator was speaking of individual cases, and yet he says he does not want to consider individual cases. I have a whole book of such cases.

Mr. PILES. Yes; I do not want to do that.

Mr. SMOOT. So far as Salt Lake City or Utah common points are concerned, I will say that nearly every rate is on the same basis.

Mr. PILES. Listen to this, if the Senator pleases: The Senator from Montana some days ago called attention to some statements which Mr. Hill, of the Great Northern Railroad Company, had made at the time he was about to enter the city of Spokane and which came into the litigation of this case—the Spokane case—the commission, on page 390, says:

> The alleged failure of Mr. Hill to keep his promises and the inability of Spokane to procure in any way what jobbers conceived to be fair rates finally led, in 1904, to the organization of a boycott by the jobbers of Spokane against the Great Northern and Northern Pacific lines. These shippers by concerted action diverted their entire shipments to the Union Pacific line, of which the Oregon Railway and Navigation Company is the delivering carrier. The result was a conference between the railways and the jobbing interests of Spokane, at which coast jobbers were also represented, the outcome being an understanding that Spokane was to be accorded a certain defined territory.
>
> It was said upon this hearing that this territory was turned over to the Spokane jobbers by reducing the distributing rates from Spokane, which were declared to be very much lower than the corresponding distributing rates from coast towns.
>
> Whether those rates are or are not more favorable to Spokane we have not considered, but it seems certain that no change was made in these rates at this time. The purpose was effected by according to Spokane certain carload commodity rates from eastern points of supply. The railways inquired where the various jobbers obtained their supplies, and put into effect such rates from those points as would, in comparison with rates to terminal points, enable Spokane to undersell the terminal jobber. Previous to this time the commodity rates accorded to Spokane had been few in number. They were now very much increased. Previous to this they had seldom extended farther east than St. Paul, and never beyond Chicago. Now, many of them were applied as far as the Buffalo-Pittsburg line, and some were extended even to the Atlantic seaboard. The conceded effect was to pass over to the jobber of Spokane a territory about 100 miles in extent to the east and to the south, including the Palouse country upon the north of the Snake River.
>
> While, therefore, Spokane rests under the rate disabilities and discriminations stated in the opening of this report—

That is, the long-and-short haul—

> it enjoys, in so far as it can under that scheme of rate making, exceptional freight rates. Spokane is probably more favored in this respect than any other interior jobbing point.

That same principle—the blanketing of rates to distributing centers—applies all over the United States.

Mr. SMOOT. No.

Mr. PILES. And I do not think that any community which enjoys that blanket rate at a distributing center would want to give it up.

Mr. SMOOT. The Senator makes a statement there that is not correct, because he says that all of these blanket rates apply to all the distributing centers of this country. I say they do not. I say that a man who lives in San Francisco, or a merchant who lives in Los Angeles in many cases has an advantage in doing business in the State of Utah over a man living in the State of Utah enjoys. Why did Spokane receive the advantage? It was simply because the people there took it within their own power, and the location of the city was such that they could demand it, and they had other roads there; and through the demand it received the concession.

Mr. PILES. I am not at variance with the Senator's idea in some respects. It is true there is a better rate to San Francisco and Los Angeles, but that is due to water competition.

Mr. SMOOT. Oh!

Mr. PILES. This interior better rate to a jobbing center is due to the fact that it is a distributing point, and in many instances it is a competitive point by other railways in the country.

Mr. SMOOT. I want to say right here to the Senator that it is not a question of water rates at all. Let me tell him why.

Mr. PILES. The Senator lives in the interior country.

Mr. SMOOT. It is a question of giving an advantage to a man at Los Angeles over a man in Salt Lake City. Let me tell you why.

Mr. PILES. Advantage? There is no advantage in it.

Mr. SMOOT. Let me tell you why.

Mr. PILES. Very well.

Mr. SMOOT. We will take the question of wool rates which I cited the other day. The rate from Salt Lake City to Los Angeles is 80 cents a hundred. From Los Angeles to Boston it is $1.10 a hundred, making $1.90 a hundred. That is the rate which the merchant at Los Angeles receives.

Now, if a man living in Salt Lake City wants to ship wool from Salt Lake to Boston, he pays $2.13 a hundred for it. There the Los Angeles man has the advantage of 23 cents a hundred. Coming into our own locality, buying our wool side by side with a Utah man, he has an advantage of 23 cents a hundred. If the railroads do not wish to give Los Angeles an advantage, why do they not charge $1.03 from Salt Lake to Los Angeles and $1.10 from Los Angeles to Boston, making $2.13, and then the rates would be equal? And the Senator can not come in here and say it is water rates, because there are no water rates from Salt Lake to Los Angeles.

Mr. PILES. The Senator will permit me. I said yesterday that I was satisfied that there were inequalities and injustices in the rate making of this country. I am not denying that. I am not controverting that proposition with the Senator. I have not done so so far, and I shall not do so. The injustices should be remedied; but the proposed amendment, as I view it, would not remedy the evils complained of, but would result in greater injury than that now suffered by many interior points.

Mr. SMITH of Michigan. Mr. President——

Mr. PILES. In just a moment, if the Senator will permit me. But I am endeavoring to show that there is no unreasonable or unjust discrimination at a water point, strictly speaking.

It has been said here by some of the Senators—the Senator from Montana said so a day or two ago and the Senator from Kansas quickly acquiesced in it—that the giving of a lower rate on account of water competition was nothing more than a rebate, which was prohibited to the individual, but which was allowed to communities.

Mr. SMOOT. I subscribe to that.

Mr. PILES. There is no element of a rebate in it, notwithstanding the fact that the Senator from Utah says he subscribes to that doctrine. A rebate is that which is given to an individual against another individual operating under similar circumstances. No such thing can be said to be done here. If a rate were given to A from Chicago to ports on the Pacific lower than one given to B, shipping from and to the same ports that would be a rebate.

But when the rate is lower from Chicago to a coast point than to an intermediate point, that bears no element of rebate. It is simply meeting a natural condition—a condition recognized since the railways of both this country and Europe had their inception. That is what I am protesting against.

I am not protesting against any law which will give to the people of the interior of the country a reasonable rate. I maintain that they are entitled to a reasonable rate. But I insist that it is not fair to discriminate against natural conditions.

Mr. SMITH of Michigan. Mr. President——

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Michigan?

Mr. PILES. I yield to the Senator.

Mr. SMITH of Michigan. I have listened to the Senator from Washington with a great deal of interest. I was very much surprised when he made the statement that the earnings of the Northern Pacific Railroad on through business amounted to but 2.2 per cent.

Mr. PILES. The tonnage.

Mr. SMITH of Michigan. The tonnage, not the earnings. What was the percentage of earnings?

Mr. PILES. I did not investigate that. I think it is said that it is 16 per cent.

Mr. SMITH of Michigan. The Senator from Utah has again and again asserted that 90 per cent of the business of the Central Pacific was through business. Does the Senator from Washington believe that that is possible?

Mr. PILES. Yes; for this reason: That road originates at Ogden, Utah, and terminates in San Francisco. That of course is an interior road, and it is fed by the Union Pacific. But the Senator must see that the business of such a road can not be compared with the business of a transcontinental railway. It

could not apply to the Union Pacific, the Santa Fe, the Southern Pacific, the Northern Pacific, the Great Northern, the Milwaukee, or the Canadian Pacific.

Mr. SMOOT. If the Central Pacific Railroad was losing money, then we could not apply it to the Central Pacific. Ninety per cent of all their traffic is transcontinental freight, and with the low rates that the coast has to-day, they are making to-day handsome profits, even more than they could make——

Mr. SMITH of Michigan. Has the Senator from Utah any figures?

Mr. SMOOT. I have the figures to the very cent.

Mr. PILES. I hope the Senator will pardon me. I thought when I began this discussion yesterday that I would conclude in about thirty minutes. All I wanted to do was to explain my view of the situation and the view of the people of the coast in respect to this question. I have been at it about two hours, including yesterday and to-day, and I should like to conclude and allow the Senator from Massachusetts [Mr. LODGE] to proceed.

Mr. SMITH of Michigan. Will the Senator from Washington permit me to ask him a question?

Mr. PILES. With great pleasure.

Mr. SMITH of Michigan. Has he any figures as to the through business of the Atchison, Topeka and Santa Fe?

Mr. PILES. No; I have not.

Mr. SMITH of Michigan. And do they correspond with the figures of the Northern Pacific?

Mr. SMOOT. I have them, I will say to the Senator from Michigan.

Mr. PILES. The Northern Pacific is, I think, the greatest carrier across the continent. I may be mistaken. The Southern Pacific may be a greater carrier, but the Northern Pacific is the greatest transcontinental carrier in the northern country.

Mr. SMITH of Michigan. The Senator from Washington argues, as the result of his premise, that anything which tended to reduce the rate on shipments between coast points would be more important to the carrier than all the through business it had.

Mr. PILES. Exactly. That is the point.

Mr. SMITH of Michigan. Then, if that is true, the carrier would be apt to insist upon his local rate, even if it necessitated increasing the rate on the through haul.

Mr. PILES. Certainly.

Mr. SMITH of Michigan. They will forego their through business quicker than give up the local business.

Mr. PILES. That is just the point I am endeavoring to make.

Mr. SMITH of Michigan. Exactly; and I do not see that the Senator from Utah has answered that proposition in any respect.

Mr. PILES. He has not answered it and nobody can answer it. It is unanswerable.

Mr. DIXON. If the Senator will permit me——

Mr. PILES. Certainly; if the Senator can answer it.

Mr. DIXON. All this amendment proposes is that where there is a legitimate competitive water rate and the railroad can make the proper showing to the Interstate Commerce Commission, they shall be given authority to establish it. This proposed amendment does prohibit the railroad companies from charging interior points prohibitive freight rates on freight that has no earthly connection with water competition.

Mr. SMITH of Michigan. Does the Senator from Montana contend that water transportation on the Pacific coast is fictitious?

Mr. DIXON. The Interstate Commerce Commission says that about 5 per cent of it is water competition, and 95 per cent is carried by the railroads.

Mr. SMITH of Michigan. Would that be legitimate competition?

Mr. DIXON. Certainly, it would be legitimate competition. The pending amendment in no case prohibits the west coast cities from getting the water rate on freight that really carries water competition. It does not disturb the situation at all. The Senator from Washington has been arguing in a circle. Under this amendment the Interstate Commerce Commission can give them every legitimate right that they are entitled to on account of favorable conditions. Does the Senator object to that? Can any reasonable man in the Senate Chamber object to that kind of a rule, especially when everyone of the Interstate Commerce Commissioners, except one, has recommended the very amendment that is now pending?

Mr. ELKINS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Washington yield to the Senator from West Virginia?

Mr. PILES. I yield to the Senator.

Mr. ELKINS. I should like to ask the Senator from Montana one question. I understand very differently about the 5 per cent and the 95 per cent. Will the Senator tell me when and where the commissioners said that? I would be very glad to hear it. Under what rule is it?

Mr. DIXON. I say it was decided in the Spokane case.

Mr. ELKINS. I thought the Senator said that the commission never decided that case.

Mr. DIXON. They decided it, and immediately the railroad company took it into court.

Mr. ELKINS. I said that for four years they had it, and I knew they decided it in 1909.

Mr. DIXON. Certainly; but that does not prohibit the railroad company from going into court and holding it up two or three years longer.

Mr. ELKINS. I thought the Senator said the commission had decided it.

Mr. DIXON. As long as this debate has drifted over to this side of the Chamber, I wish to ask the chairman of the committee while he is on the witness stand if the pending amendment does not fully protect every coast point that has actual water competition?

Mr. ELKINS. The Senator's amendment?

Mr. DIXON. Yes; the pending amendment, which is the provision which the House has overwhelmingly voted into the bill.

Mr. ELKINS. That it protects the coast?

Mr. DIXON. That it protects every coast town where there is water competition and relieves the inland country from excessive charges where there is no water competition. Would the Senator object to that kind of an amendment?

Mr. ELKINS. I have told the Senator over and over again that the existing law has been for twenty years interpreted by the Supreme Court, and it satisfies the business men of the country and all the towns and cities on the Atlantic coast, the Gulf of Mexico, the Pacific coast, and the lakes and rivers, and I believe it is wise legislation in the interest of the whole country.

Mr. DIXON. The Senator has not attempted to answer my question.

Mr. ELKINS. That is the answer, and now I want the Senator to show me——

Mr. DIXON. Whenever the Senator answers my question I would be glad to answer anything.

Mr. ELKINS. I ask this question: Show me where the commission states that 95 per cent is through traffic.

Mr. DIXON. I will get it later. Will the chairman of the committee answer my question?

Mr. ELKINS. I have already answered the Senator.

Mr. DIXON. The Senator has not.

Mr. ELKINS. The pending amendment destroys and tears down the business of the country at all the coast points.

Mr. PILES. And the interior as well.

Mr. ELKINS. It destroys the intermediate points, too, by raising freight rates.

Mr. DIXON. Then, the chairman of the committee is wholly in opposition to the overwhelming recommendation of the Interstate Commerce Commission.

Mr. ELKINS. I am not in opposition to it. I am for the existing law.

Mr. DIXON. The Interstate Commerce Commission is for the pending amendment.

Mr. ELKINS. Where is that recommendation found?

Mr. DIXON. I will get the House hearing.

Mr. ELKINS. Let the Senator remember that it would not convince me. I desire to state to the Senator in advance that it will not convince me.

Mr. DIXON. I do not doubt the Senator's condition of mind. The recommendation of the Interstate Commerce Commission probably would not affect him.

Mr. ALDRICH. Will the Senator from Washington permit me?

Mr. PILES. I yield to the Senator from Rhode Island.

Mr. ALDRICH. The Senator from Montana says that the pending amendment protects all the coast points. How does it protect them?

Mr. DIXON. In this way: That if there is real water competition, the transportation company can go before the Interstate Commerce Commission and having made a legitimate showing, the Interstate Commerce Commission by order permits them to charge more.

Mr. ALDRICH. The Senator says that it takes care of them; but how? In the discretion of the Interstate Commerce Commission?

Mr. DIXON. In the long-and-short haul.

Mr. ALDRICH. But in special cases?

Mr. DIXON. Yes.

Mr. ALDRICH. Who is to determine whether there is a special case?

Mr. DIXON. The Interstate Commerce Commission.

Mr. ALDRICH. What rule are they to adopt with reference to special cases?

Mr. DIXON. Is the Senator——

Mr. ALDRICH. It is left entirely to the discretion of the Interstate Commerce Commission. There is no rule established at all. It simply says that the Interstate Commerce Commission may in special cases——

Mr. SMOOT. I would say that this——

Mr. ALDRICH. But there is no special rule to establish special cases.

The VICE-PRESIDENT. The Chair proposes from now on not to recognize any Senator to speak until the Senator occupying the floor has yielded to him.

Mr. PILES. I yield.

The VICE-PRESIDENT. To whom?

Mr. PILES. I will let the colloquy proceed for the present. I hope the Senators will not prolong the discussion, because I want to give way to the Senator from Massachusetts.

The VICE-PRESIDENT. The Senator from Washington has yielded to the Senator from Rhode Island?

Mr. PILES. I yield to the Senator.

Mr. ALDRICH. What I say about the Senator's amendment is that it gives to the Interstate Commerce Commission a right to abrogate the provisions of the law, to suspend the law, without any limitation of any kind or any rule which is to be applied to their action in special cases. They are the only people who are to decide what are special cases.

Mr. PILES. It is very doubtful whether that power can be exercised.

Mr. ALDRICH. They can establish any rule they please with reference to these long-and-short-haul provisions. In other words, it undertakes to delegate to the Interstate Commerce Commission a power without limit to legislate upon this subject, to adopt any rules which they see fit as to special cases. I represent one small section of the United States that has coast ports. I do not consider it a protection to submit to any tribunal to decide what special cases shall be within the law and what special cases shall be without the law.

The Senator says the Interstate Commerce Commission want this power. It is natural that they should want this power. They would undoubtedly like to have the whole business of the United States in all its ramifications submitted to them for decision. But that is not what we are here for. We have some responsibility about this matter. If we are to change the rule upon which this law has been administered, we should adopt a new rule and not leave it to the discretion of the Interstate Commerce Commission to say what are special cases, without any rule whatever. That is the whole point in this controversy.

Mr. SMOOT. Mr. President——

Mr. ALDRICH. It is whether we are to have a rule which has been interpreted by the courts and by the Interstate Commerce Commission, as at present, or whether we shall go out upon a sea without any compass and allow the Interstate Commerce Commission to decide in any case which they consider special what rule shall apply.

Mr. DIXON. Now, Mr. President——

The VICE-PRESIDENT. One moment. Does the Senator from Washington yield, and to whom?

Mr. PILES. I yield to the Senator from Montana just briefly, if you please.

Mr. DIXON. Thank you. The Senator from Rhode Island addressed his remarks to me, and I want to answer.

In the first place, we have fixed the rule in the pending amendment. The Senator from Rhode Island asked me questions. Now, listen to what I say in reply to him.

We have fixed the rule. The rule is this:

> That the rates for the shorter distances involved in the application are just and reasonable rates.

If that is not a good rule, let the great Interstate Commerce Committee help us fix a just and reasonable rule.

Mr. ALDRICH. But the next provision of the Senator's amendment is that in special cases all these rules are to be ignored. What are special cases, and who is to decide what are special cases, and what rule shall be applied in special cases? There is no rule whatever in those special cases. Those are exceptions. The Senator undertakes to lay down certain rules, and then by one sweeping provision he says the Interstate Commerce Commission can ignore all these rules, and in special cases may adopt some other plan. What is that other plan? Where is it defined?

Mr. DIXON. Mr. President——

The VICE-PRESIDENT. Does the Senator from Washington further yield?

Mr. PILES. I further yield; just briefly.

Mr. DIXON. I hope the Senator from Rhode Island will listen to me. He has challenged the amendment. At the present time the tribunal that fixes the rates without any appeal, without any rule, are the railroads. We propose that it shall be left to an impartial tribunal like the Interstate Commerce Commission to declare when water competition actually exists. At the present time there is no rule, except the arbitrary rule of the traffic managers of the railroads. At this time there is no practical appeal from their decision. All we want to do is to turn this over to an impartial commission, and whenever they find from the facts presented by the transportation companies that real water competition exists, they may permit them to charge more for a short haul than for a long haul in special cases; but we do not want to be left absolutely to the mercy of the traffic managers of the railroad companies with no rule in existence except their own sweet will.

Mr. ALDRICH. The rule at present as interpreted by the courts is distinct and plain. The rates must be reasonable. The provision in regard to the longer and shorter haul goes into effect whenever there are conditions which the Senator says do not exist, but——

Mr. DIXON. Which the Senator knows never can exist in the future.

Mr. ALDRICH. Mr. President, I suppose there are a hundred thousand cases at this time.

Mr. DIXON. Where similar circumstances exist?

Mr. ALDRICH. Undoubtedly, as interpreted by the courts and by the commission. There is no question about that at all. The Senator says he objects to giving somebody the absolute power, and in the next breath he proposes to give to the Interstate Commerce Commission absolute power, without any rule whatever; they are simply to say "This is a special case, and therefore we go to work and fix this rule, without any reference as to whether it is longer or shorter." The whole thing is submitted to the Interstate Commerce Commission without any rule at all.

If we are going to depart from existing conditions under which the business of the entire country has grown up, the Senate is bound, the Senator himself is bound, if he desires to change these conditions, to furnish some reasonable rule as to the future in order that we may know where we are to land. If we are to destroy the great business centers that are in existence and try to make Missoula or Salina the metropolis of the western world; if we are to write in capital letters upon the map those great centers of industry and of business; if that is our purpose, if we are to wipe out Chicago and St. Paul and Seattle and create a great metropolis in one of the two towns the Senator is interested in, in one case of 2,500 people, perhaps, and in the other case of 4,000—if the business of this country is to be revolutionized in order that these great centers may be established, then let us try to find some reasonable rule under which this work of destruction and of reconstruction is to be carried on.

Mr. DIXON. Now, I beg the Senator from Washington to yield to me for a moment.

The PRESIDING OFFICER (Mr. GALLINGER in the chair). Does the Senator from Washington yield further to the Senator from Montana?

Mr. PILES. I yield.

Mr. CLAPP. With the consent of the Senator from Washington——

The PRESIDING OFFICER. To whom does the Senator from Washington yield?

Mr. PILES. I have yielded to the Senator from Montana, and I am willing to yield also to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Montana is entitled to the floor.

Mr. CLAPP. I simply want to say this——

The PRESIDING OFFICER. But the Senator from Minnesota is not recognized.

Mr. CLAPP. But the Senator from Montana has yielded to me.

The PRESIDING OFFICER. The Senator from Washington has yielded to the Senator from Montana.

Mr. CLAPP. The Senator from Montana yielded to me.

The PRESIDING OFFICER. The Senator from Montana has not that right.

Mr. DIXON. I will not claim the floor for a few minutes.

Mr. PILES. I yield to the Senator from Minnesota.

Mr. CLAPP. All I want to say is that it appears from the inquiry of the Senator from Michigan, and from other inquiries,

that the amendment of the Senator from Montana has not been read and has not been presented to the Senate in a manner in which it is understood.

I believe while the Senator from Montana has recognition to the floor, under the graciousness of the Senator from Washington, he should make once for all a concrete statement that this is not involved in his original proposition, but that under this proposed amendment not only water competition, but any other circumstances will be considered, and it would clear to a great extent the atmosphere of this discussion.

Mr. DIXON. I would be very glad to do that. I want first to answer the Senator from Rhode Island.

Mr. ALDRICH. I will say——

The PRESIDING OFFICER. The Senator from Rhode Island is not recognized.

Mr. ALDRICH. Will the Senator from Washington yield to me?

Mr. PILES. I yield to the Senator from Rhode Island.

Mr. ALDRICH. I simply wanted to re-enforce the suggestion of the Senator from Minnesota that if we are to have these kaleidoscopic changes in the amendment from day to day, and if these provisions are to be insisted upon——

Mr. DIXON. Mr. President, I insist if the rule is enforced as to one Senator it shall be enforced as to all.

The PRESIDING OFFICER. The Chair will endeavor to enforce the rule; but if Senators persistently violate it, it is impossible for the Chair to enforce it. The Senator from Montana is entitled to the floor.

Mr. DIXON. I do not want the Senator from Rhode Island to leave the Chamber until I finish. The Senator from Rhode Island has referred sarcastically to the towns of Salina, Kans., *and Missoula, Mont.* The chairman of the committee the other day, in discussing this same measure, invited us to move out from the Western States if we did not like our present condition.

Mr. ELKINS. No; Mr. President——

Mr. DIXON. The Senator from Rhode Island now carries the same intimation. I ask the Senator from Rhode Island if anybody has insinuated that these two western towns should be made the great metropolis of the country? I resent that kind of an insinuation on the floor of the Senate Chamber. I resent the insinuation to vacate the mountain States. As I said the other day to the Senator from West Virginia, if that invitation was carried out, you would have an awful vacuum in the Republican majority in this Senate.

I want to say further to the Senator from Rhode Island that single counties in my State are ten times larger in area than is the State he represents. [Laughter.] I want to say to the Senator from Rhode Island that this year more than 100,000 settlers will make their homes in my State. I want to say to the Senator from Rhode Island that in the ten weeks preceding the month of April, 13,000 homestead entrymen made homestead entries in that State. I appreciate the fact that some people inhabiting some favored parts of this country, that I shall not be discourteous enough to refer to, have got it into their heads that their portion of the country constitutes the whole American Republic.

If there is no rule fixed in this amendment, will not the Senator from Rhode Island, with his great, fertile brain, give us a rule of action and let the Interstate Commerce Commission rightfully and righteously and with equity determine these cases? If, as the Senator from Rhode Island says, we leave it to the Interstate Commerce Commission without any kind of a rule, would even that be a worse condition than to leave it to the traffic managers of railroads without rule, let, or hindrance, to make such charges as they please with no appeal and no remedy? Which would be the worse condition, Mr. President, to allow this thing to be handled exclusively by the men who are interested as partisans in the case, the traffic managers, or leave it to a great, impartial commission like the Interstate Commerce Commission, which has the full confidence of 99 per cent of the great Amercian people.

Some one said the pending amendment had not been explained. I should like to have it read at this time and put in the RECORD, so as to show to the Senate and to show to the country that the men who intend to vote against this amendment are voting against the recommendations of the Interstate Commerce Commission and are voting against a proposition which gives the coast towns and favored points the benefit of the natural conditions that they now enjoy.

Mr. PILES. Now, Mr. President, I shall have to intervene.

Mr. DIXON. It merely strips the traffic managers of the power to apply this universal rule to the great interior sections of this country, without regard to water transportation or anything else.

I saw quoted in the newspapers the other day a statement of the Senator from Massachusetts——

Mr. PILES. I hope the Senator——

Mr. DIXON. Just one moment, and I will then yield. It was stated in the newspapers that the Senator from Massachusetts had 56 votes against this amendment—that one individual Senator holds 56 votes in the Senate. It may be true; it may be that you have got the votes to defeat this amendment, notwithstanding no man has successfully attacked the justice of the proposition; but I warn you now that while you may in this case dam up, stop, and prevent equity being done, that some day you will dam up public opinion in this country until——

Mr. BAILEY. Until the Republican party will be damned. [Laughter.]

Mr. DIXON. They say they have got more than half of the Democratic Senators against the amendment. I want to say that some day public opinion, dammed up and insulted, will sweep with a flood tide the foundations of the combination that you now deem so secure.

It is openly boasted on this side of the Chamber that they have enough Democratic votes in their pockets to beat the pending amendment. They say they have 15, and they will tell you who they are.

Mr. PILES. Mr. President——

Mr. DIXON. Is there any politics in this?

Mr. BAILEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Washington yield further, and to whom?

Mr. BAILEY. I think when the Senator says "they" that he ought to say who they are who have said this. Then possibly we might learn just whose votes these are that some Senator is alleged to carry in his vest pocket.

Mr. DIXON. If the Senator from Texas will read the inspired interviews given out every morning in the Washington Post and other great metropolitan papers that emanate from this Capitol he can read the list without my going into details.

Mr. BAILEY. Mr. President, I am not able to distinguish between an inspired and an uninspired interview. [Laughter.]

Mr. ALDRICH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Rhode Island?

Mr. PILES. I yield to the Senator from Rhode Island.

Mr. ALDRICH. Just a single sentence in answer to the suggestions of the Senator from Montana [Mr. DIXON]. As to what he says of the State I represent in this body——

Mr. DIXON. I only said that in answer to the Senator's own reflection on the little western city that I am proud to claim as my home.

Mr. ALDRICH. That remark needs no comment from me. I want, however, to say a word in answer to the last suggestion of the Senator from Montana, who bases his entire argument against existing conditions on the statement that to-day the traffic managers of the United States fix these rates and conditions without reference to anybody. If that were true, there would be some force in the Senator's argument, but it is not true in any sense. The traffic managers of the railroad companies file rates, which are subject at all times to the supervision and control of the Interstate Commerce Commission, first, as to their reasonableness, and second, as to whether they conform to the provisions of the law in other respects. No traffic manager, no railroad company has any right to fix rates either under the long-and-short-haul provision or any other provision of the interstate-commerce law. They are at all times under the control of the Interstate Commerce Commission, so far as their reasonableness and their applicability to the other provisions of the law are concerned. The Senator admits tacitly that in breaking away from the law as now interpreted he establishes no rule of conduct for the Interstate Commerce Commission, but leaves the whole matter to their discretion as to whether the cases are special or not.

Mr. PILES. Mr. President, I have read the amendment of the Senator from Montana [Mr. DIXON] very carefully. His original amendment fixed an arbitrary rule for the measuring of interior rates by the coast rates. He has shifted his position to a certain extent. By his present amendment he proposes that the rate for the short haul shall not exceed the rate for the long haul, with a proviso that, upon application and investigation by the commission, the commission may, if it thinks proper in special cases, make a lower rate for a longer than for a shorter haul. These are the important provisions of the Senator's new amendment. We have now what we consider at the coast points reasonable rates, except that in some instances we think them too high.

Mr. CLARKE of Arkansas. Mr. President——

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Arkansas?

Mr. PILES. Certainly.

Mr. CLARKE of Arkansas. If the Senator from Washington regards the amendment offered by the Senator from Montana as such a revolutionary provision, why does it not have that effect attributed to it in the present law, of which it is, word for word, a part?

Mr. PILES. The words "under substantially similar circumstances and conditions" are stricken out of the amendment, which makes it very different. That is the point at issue here.

Mr. CLARKE of Arkansas. But if application to the commission in a special case will permit the commission to allow one railroad and to deny to another one the privilege of charging a smaller sum for a longer haul than for a shorter haul, why would the provision have so much effect in the form of the amendment as offered by the Senator from Montana and have no effect in the present law?

Mr. PILES. Because the present law is altogether different from this proposed amendment.

Mr. CLARKE of Arkansas. The present law is not different from the proposed amendment, because the proposed amendment is, word for word, the provision of the law at this time.

Mr. PILES. The words "under substantially similar circumstances and conditions" are left out of the amendment.

Mr. CLARKE of Arkansas. There is in the amendment an independent clause in the form of a proviso to the effect that the charge for a long haul may be less than the charge for a short haul.

Mr. PILES. But the words to which I have referred are omitted in the amendment.

Mr. CLARKE of Arkansas. It is in the law.

Mr. PILES. I am talking about the present amendment. Can the Senator find anything in the present amendment covering the point to which I have just referred?

Mr. CLARKE of Arkansas. I am covering the active part of the amendment of the Senator from Montana, against which the Senator from Washington seems to be addressing himself with more or less energy.

Mr. PILES. But the meat of the existing law is omitted from this amendment, and the commission is given certain power under certain conditions, the delegation of which may be well questioned.

Mr. CLARKE of Arkansas. May I make myself clearer by another suggestion?

The PRESIDING OFFICER. Does the Senator from Washington yield further to the Senator from Arkansas?

Mr. PILES. Certainly.

Mr. CLARKE of Arkansas. The unqualified power granted to the commission to permit a railroad to charge more for a short haul than for a long haul implies the right to deny it in a case if investigation makes it proper to do it. Now, wherein is that different from the present law? That is all that is pretended to be done by the amendment of the Senator from Montana.

By what I have said I do not mean to indicate that I am in favor of that amendment, and I may later have something to say in regard to it. I am not in favor of it for the reason that I believe it is absolutely illegal and unconstitutional to delegate to the Interstate Commerce Commission any such power.

Mr. PILES. That is the very point. If Congress could not rightfully delegate such power to the commission, what would be our condition? The law would then provide that the rate for the short haul should not exceed the rate for the long haul. That, of course, would be the end of our rates based upon water competition.

Five transcontinental lines of railway terminate at the ports of Puget Sound. One of those roads runs from the eastern to the western coast of Canada. That road is in direct competition with all of the American roads. It is seeking to build up a great commercial seaport in the Province of British Columbia, at the city of Vancouver. At that port there is a line of steamships, subsidized by Canada and by Great Britain, running to the ports of the Orient in competition with those from the ports of Puget Sound.

It is a well-known fact that we pay in the coastwise trade of the Pacific $40 per month and board for seamen, and $30 and board in the over-sea or deep-sea trade, as we call it. British seamen receive from $15 to $18 per month in the same business. Chinese and Japanese, who are largely employed on these ships, receive from $8 to $10 a month and board themselves.

If this amendment should be adopted and the railroad companies should raise their rates to the coast line in order to maintain their interior rates, what is to become of the ports of the Pacific? Does anyone doubt that the great bulk of the trade across this continent would be diverted to the Canadian Pacific Railroad, and by that railroad transported to the city of Vancouver for transshipment to the Orient?

We have long thought that the opening of the Panama Canal would be beneficial to our section of the country. Some have predicted, however, that it would be of little benefit to us, because it was thought that the shipments would be direct to and from the North and South Atlantic ports, and that there would not be sufficient through overland business to justify a large over-seas trade from and to our ports. I have not shared this view, because I have believed that the continued and extraordinary increase in our population and the development of our resources would induce a very large trade between the ports of the North Pacific and those of the Orient.

But if the rates to the coast are to be raised and practicable competition between our roads and the Canadian Pacific eliminated, how can we hope to compete for the trade of the Orient?

Yet we are told that this amendment can not injuriously affect the seaboard country.

The fact that some places in the interior are paying more than they think they ought to pay and more in justice than they should pay in many instances will not justify the radical change in rate making proposed by this amendment.

Mr. LODGE obtained the floor.

Mr. BRISTOW. Mr. President, if the Senator from Massachusetts will yield, I should like to ask a few questions of the Senator from Washington in regard to the matter he has been discussing.

Mr. LODGE. Mr. President, I yield, of course, if the Senator from Washington wants to go on and answer the questions now.

Mr. PILES. I will say to the Senator from Kansas that I am very tired, and if the Senator will wait until some other day, I shall be glad. I am not feeling very well.

Mr. BRISTOW. I thought this would be the most appropriate time.

Mr. PILES. Besides, I am afraid we might get into a colloquy and throw the line of argument of the Senator from Massachusetts out of joint, as mine has been thrown out of joint.

Mr. BRISTOW. But the questions would come in before the line of argument of the Senator from Massachusetts began and they could not throw that argument out of joint.

Mr. PILES. I would prefer that the Senator should defer his questions until later on. When the Senator from Massachusetts gets through, I shall be very glad to again take this subject up and discuss it.

Mr. BRISTOW. I am sorry——

Mr. PILES. Of course, if the Senator insists, and it does not disturb the Senator from Massachusetts, I will consent.

Mr. BRISTOW. I do not insist, but statements have been made by the Senator from Washington and by the Senator from Rhode Island that are utterly unjustified by anything before the Senate or by anything that has been said. However, I will take my own time to answer them.

Mr. PILES. I want the Senator to understand now that, so far as I am concerned, I am perfectly willing to answer him now, if he really wants me to do so.

Mr. LODGE. Mr. President, I had not intended to speak at all upon this bill. Four years ago, when we had the other railroad bill before us, I addressed the Senate twice, and I did not wish to trespass again upon their indulgence by discussing the same question once more. I should not now depart from my intention were it not for the question raised by this attempt, as I consider it, to determine rates, in part at least, by law. That seems to me a proposition of such gravity that I do not wish to remain absolutely silent while it is under consideration. It is quite true that some of the proposed amendments do not go very far in the direction of establishing rates by law, but they make a beginning in that direction, and I think it is not amiss, therefore, to recall and to act upon the old motto of obsta principiis, because I think what is involved in the general proposition of establishing rates by law is one of the most serious in its possible, and, I believe, probable, effects which could be imposed upon this country.

Four years ago, when the last railroad bill was before Congress, I devoted many weeks—I might say many months—to the study of some of the questions involved. I very quickly discovered that they were questions of the greatest possible complexity. The next fact that was disclosed to me was my own ignorance in regard to them, but I found consolation and encouragement in the further fact, also disclosed to me, that in that ignorance I was not alone. It was shared by many others; even by some who were discussing the question with great apparent authority.

I am far from pretending that then or now I understood, or was able to learn, all that pertained to this subject of railroads, but there was one general proposition which came out very sharply and very clearly, and that was the immense danger of attempting to settle railroad rates by law. I took the experiences of other countries and examined them with great care to see what the results of such a policy had been elsewhere.

I now wish very briefly to review that experience in other countries, with a view to sustaining my proposition that the fixing of rates by law is an attempt to place a strait-jacket upon conditions which necessarily are ever shifting, to set up a rule for a given set of circumstances which may change to-morrow, and which, if persisted in or carried to any great extent, would revolutionize the entire industrial structure of the country in a way that, I believe, neither tariff legislation nor currency legislation, vital as they are, could possibly equal.

The senior Senator from Iowa the other day quoted with great approval, and I think justly, Mr. Acworth, formerly a member of Parliament, and a very distinguished writer upon railway economics. I read four years ago a great many books in regard to the subject of railway economics, and I came to the conclusion that no one expressed the fundamental principles in regard to railroads with greater clearness and force than Mr. Acworth.

I wish to read, simply as a text for what I am about to say, the general principles which he lays down in regard to what is known as the long haul in comparison with the short haul. In his book on The Elements of Railway Economies he says:

> The conveyance rate per mile, it will be observed, falls in both cases as the distance increases, and this is explicable on two grounds. In the first place, it costs a good deal less to carry 1 ton 100 miles than to carry 16 tons 6 miles, though in each case the process is expressed as the carriage of 110 ton-miles.

He then compares the charges on such articles as hats and coal. And then, in relation to water competition, he says:

> From London to Edinburgh the hat rate is fixed, not according to abstract considerations of justice and equality of sacrifice, but at a price just so much above the rate by steamer as the hatter will consent to pay for the superior safety, regularity, expedition, frequency, and convenience of the railway service.
>
> But water competition is not the only factor to disturb the symmetrical progression of the mileage scales. Between any two large towns in this country—

He is speaking of England—

> there are usually two or more competing railway routes of different lengths.

He then goes into a discussion of the difference in rates between competing points and noncompeting points, and a little later says:

> To call upon a railway company to give to an inland town rates on the same scale as those which it gives where there is sea competition, simply because it there gives them, is to call upon it, not to maintain equality, but to counteract an equality for which not the railway company but the Author of the Universe is responsible.

I call attention to these general principles of the greater cheapness of the longer conveyance and of the effect of water competition and of competing points where there is no water competition, because they are laid down by Mr. Acworth as among the fundamental principles to be observed in considering railroad-rate making.

Four years ago Mr. Acworth happened to be in this country, and he went before the committee at their request and there testified as to the questions then pending. He said in his testimony:

> As to rate making, I have no doubt that the interference of Parliament and courts and the executive have all tended to stereotype and keep rates at an unnecessarily high level. Speaking as an individual student, I have no doubt that leaving the power to make rates generally and primarily to the railroads and to the free play of the business forces is the process that will arrive at the best results for the community, with this exception: That I fully think it is necessary that the community in some way should interfere to protect all customers from unfair treatment.

The exception which he makes is covered by the rebates, which we have already dealt with by law, and of course has no relation to place discriminations to-day, which we are considering.

Mr. President, I come now to the experience of other countries. The limitations placed on railroad-rate making in England are very moderate indeed. The railroads are obliged only to submit their rates to the commission or the court in the case of raising the rate, and yet the result of that very slight general provision has been that English rates have not, as a rule, declined. I will quote from Mr. Acworth again on that point, because he states just what has happened in England:

> The legislation of the years from 1891 to 1894 has done much to prevent any natural and gradual lowering of rates. A railway company is still free to lower. It has ceased to be free to raise. A manager may desire to lower a rate, hoping thereby not only to benefit trade, but also, by increasing largely the volume of traffic, to increase his own net earnings. But it is only a hope. In the nature of the case certainty is not attainable in advance. A prudent manager, therefore, will not, unless his hope is closely allied with certainty, lower a rate when he must face a lawsuit before he can put it up again.

In France nearly all of the railroads are in private hands, and the regulation of rates by the Government is very stringent, indeed, amounting practically to government rate making. I am not going into the details, but it is enough to say that, as usually results in all countries where there has been practically government rate making, there has been a struggle between local influences to have the Government make rates beneficial to the different localities.

Some of the decisions made, and the policies adopted, under this system in France are very suggestive. As a rule, the council which controls the railroads does not allow a railroad to reduce rates to a point which it reaches by a longer haul than another and a rival railroad, and this, of course, does away with making higher rates to intervening than to competing points, but is accomplished by destroying competition to the point where it would otherwise exist. The remedy has proved worse than the disease.

The council has also decided, and this practice now has the power of the law, that railroads must not reduce rates below 20 per cent above the rates on competing waterways. The result of that has been to drive business to the waterways, and there has been an immense increase in the expenditure on waterways in France.

In France, at the time I made up this table—and I have been unable to get any more recent figures—the railroad rate was 1⅛ cents per ton-mile, as compared with three-fourths of a cent—seventy-six hundredths of a cent—at that period, in the United States.

There is no country where such an effort has been made as in Germany to establish a scientific system of rates, which should be absolutely fair to everybody and proceed as nearly as possible on the mileage basis. They adopted a system which, roughly speaking, is a tapering distance rate; that is, the rate is fixed according to the mileage and tapers according to the distance. It is composed of a dispatch fee, increasing up to 62 miles, and a mileage charge decreasing with the increase of distance.

That system, if practical and successful, would solve all these questions of the long and short haul. Theoretically, nothing fairer than that could possibly be devised, as it stands in the original proposition.

I ask the Senate now to consider what has practically happened in actual dealing with the rates. There are various classes of rates established, called ordinary tariffs, which consist of—

1. The less than one carload rate;
2. The express rate—double the former;

A1. Shipments of not less than 5 metric tons;

B. Shipments of not less than 10 metric tons.

Then there are four special classes applicable to specified articles—

A2. Shipments of between 5 and 10 metric tons, and I, II, and III, shipments of not less than 10 metric tons; the articles being roughly classified as follows:

Class I includes high-priced articles, such as manufactures and grain, the latter for the benefit of the farmers.

Class II, semimanufactured articles.

Class III, low-priced goods or raw materials.

These classes all get reductions at special rates. But there is a further reduction by what is known as "preferential rates," which are "applicable to agricultural and industrial products intended to facilitate imports and exports and increase the traffic of the country."

The official British report on the Prussian railways states that not less than 63 per cent of the freight goes under preferential rates, about 17 on special rates, and only 20 per cent under the ordinary rates or regular tariff.

At that time I went very elaborately into the question, showing what effect the German system had had on the hauling of grain, and some of the results were very curious, as indicating how meddling with the rates and how stringency and inelasticity in the law would deflect commerce. Of the many instances I then brought forward, I will give only one to show how rigid rate making by law will sometimes work.

From the center of the Roumanian wheat and corn district it is 1,440 miles to Magdeburg, and the railways should be able to carry wheat and corn over that distance for $4.75 a gross ton. In the United States, as we all know, wheat is moved similar distances for much less, but owing to the railway rates of Germany and Austria the wheat of Roumania goes down the Danube 475 miles to the Black Sea, thence 4,765 miles by sea to

Hamburg, and thence 185 miles up the River Elbe to Magdeburg. The total charge for a shipment is $6.66 a long ton, or 50 cents a ton more than it costs to carry wheat from Duluth to Magdeburg, and yet it is much cheaper than the railway charge for carrying wheat 1,440 miles direct by rail from Roumania to the Elbe district of Germany.

That preposterous situation was brought about by undertaking to make rates by law. It was done by the Government working, as they believed, with the most scientific precision and with all that care which is characteristic of everything the Germans do. The German experience only shows by its results the enormous dangers which are incurred when you undertake to fix by inflexible law such a shifting thing as a railroad rate.

I could go on with the other countries, but I do not wish to detain the Senate too long with old material, though it is just as applicable to-day as it was when I brought it forward in 1906. Conditions have not changed. In Russia all the railroad rates are made by the Government, but, owing to many causes which it is not necessary to go into, they are at a great disadvantage in their railroad system, which is a small one, comparatively speaking, and which is badly laid out, so that many of the centers of trade are eccentric to the railroads. They carry freight for a lower price in Russia per ton-mile than anywhere else on the continent of Europe. They carry it, however, at a loss, which is paid by the taxpayer, and still it is 7 or 8 cents higher than the average rate in the United States. In Australia one of the leading causes of the economic condition so much deplored there, which has resulted in building up a series of great cities around the coast and leaving the entire interior destitute of towns of any size or importance, is their system of rate making, where they have adopted very largely the tapering-distance rate.

Mr. President, we have not been without a case of the same sort in our own country. The State of Kentucky put into its constitution in 1891 a long-and-short-haul clause, which the courts of that State construed as prohibiting absolutely a greater charge for the shorter than for the longer haul except where permitted by the state railroad commission in special cases after investigation. That seems almost parallel with what is proposed here. I will take the liberty of quoting the excellent statement in regard to it which was made by Mr. WASHBURN, a Member of the House from Massachusetts, in the course of the debate which has been going on there on the railroad law:

> The Kentucky law applied to perhaps one-fourth of the railroad business in the State. The mileage of railroads in Kentucky was about 1½ per cent of the total mileage of the United States. We may say, therefore, roughly speaking, that the business to which the Kentucky long-and-short-haul law applied was less than one-half of 1 per cent of the total business of the railroads in the United States. As soon as the courts established that the Kentucky law was similar to the one proposed in this bill—

Speaking of the House bill—

> the commercial and industrial interests throughout the State discovered that they were in a serious situation. The railroad companies, rather than reduce all their short-haul rates to the basis of the very low competitive rates for the long hauls, raised the rates for the competitive hauls. The result was that numerous industrial and commercial enterprises dependent upon those competitive rates were greatly disturbed. The coal operators in eastern and western Kentucky urged the commission to suspend the law so as to continue to permit Kentucky coal to compete at Ohio River points with coal brought down the river in barges and with coal brought from near-by mines in other States. The Board of Trade of Louisville petitioned the commission to suspend the law so as to permit Louisville business men to continue to sell goods at places which were nearer other points of distribution, such as Cincinnati, Ohio; Evansville, Ind.; and Nashville, Tenn. Similiar petitions were brought from time to time by other Kentucky cities whose commerce was threatened with restriction by the application of the rule. Little by little the commission felt compelled to grant these suspensions so as to permit long-haul rates to be made in the light of controlling competitive conditions and so as to avoid the destruction of commerce and industry, which would otherwise result.
>
> So numerous did the applications to the commission become that after several years the commission became convinced that practically every long and short haul adjustment which had existed was justified by legitimate and controlling competition, and therefore, in order to grant general relief and put an end to the constant importunity for special relief from places embarrassed by the prohibition, the commission finally issued a blanket order, which in effect authorized the making of less rates for longer hauls in all cases where legitimate and controlling competition justified such adjustment. Thus the situation was finally returned to what it was at the outset, the railroads charging only just and reasonable rates for the short hauls, but charging for the longer hauls such less rates as were necessitated by controlling competition.

Now, that example corresponds precisely with every foreign example. Wherever it has been attempted to put rates into the iron and unyielding grasp of a law, that condition has followed. Whether the rates were made by the Government, whether they were made by the railroads under the supervision of the Government, whatever method was adopted, just in so far as you took from the rates the possibility of elasticity you brought on industrial and business troubles.

Mr. President, Mr. Acworth lays it down that not only water competition, but competitive interior points are both reasons for making differences in the long and short haul. I believe that is economically sound. That is the view also of the Supreme Court, which has held that a competitive point constitutes a substantial dissimilarity of conditions. I do not want to be understood, Mr. President, as in the least minimizing or defending any injustices which have been described on this floor, if they are sustained by the facts. I have no doubt there are cases of injustice, and many of them. I think that they can be thoroughly met, and ought only to be met, either through the courts or through the Interstate Commerce Commission.

When the act of 1887 was passed, it included the famous fourth section, which prohibited discrimination between the short and the long haul; but Congress put in the well-known clause that, in order that this should apply, conditions must be substantially similar. I need not review all the cases, which are familiar to everybody. The courts have held that competing points, whether water competition existed or not, constituted a dissimilar condition. That decision gave the law the necessary flexibility and saved the country from panic, disaster, and industrial and commercial anarchy. It has always seemed to me that, under the law as interpreted and with the power now vested in the commission to decide whether a rate was reasonable and just, there was ample protection in any cases where an injustice was done. If a rate is unreasonable, it makes no difference whether the alleged cause for that rate is the difference between a competing and a noncompeting point or not, the Interstate Commerce Commission has full power to investigate it, to consider every possible cause, every possible excuse for the rate, every defense that can be made, and every objection that can be offered. It seems to me that we are entirely protected by the law as it stands against any unjust rate.

I repeat, I am not suggesting for one moment that there are not injustices such as have been described on this floor. My only proposition is that when we undertake, even in the smallest and mildest degree, to fix a rate or a system of rates rigidly by law, we are entering on a very perilous pathway; we are entering on a pathway which must inevitably lead to the distance rate, and which has led there in all other cases. It has been a failure in every case.

Take the result in our own country, looking at it in a large way, of the rate per ton-mile. I prepared with great care a table from the latest figures then obtainable when I spoke four years ago. In Europe and Australia the rate making has been largely government rate making. In this country, until very late years, the railroads have been allowed—and, I think, altogether too freely allowed—to make their own rates. In the early days, when we built up our great railroad systems, we gave them practically unrestricted scope to make any rates they chose. There is no doubt that the uncontrolled power of the railroads led to many abuses and to much hasty, ill-considered, and injurious legislation to correct the abuses.

And yet with all its defects, put our results in comparison with rate making by law and rate making by government, and you find that the average rate in Italy is 1.58 cents, in Hungary 1.24 cents, in Austria 1.26 cents, in Germany 1.22 cents, in France 1.33 cents, and in European Russia eighty-four one-hundredths cent, where, as I have said, the railroads are run at a loss and the deficit made up by the taxpayer. In the United States, according to these tables, made at that time, the rate was three-quarters of a cent lower than anywhere else in the world. I got the latest figures we had at the Interstate Commerce Commission the other day. They had no later foreign figures than those I have quoted, but they had the figures for 1908 for our own average rate, and it appears that it is seventy-five one-hundredths of a mill, a trifle, one-hundredth, lower than it was in the table I quoted.

Mr. President, this shows that, broadly speaking, we have not suffered in our freight rates from the system which has been adopted here. The time came when it was absolutely necessary to establish an effective supervision and control over the railroads of this country. I was in hearty sympathy with the legislation passed at the last session. I voted for the act which stopped rebates—the best law we have passed. I have sympathized entirely with every effort to improve the government control and regulation of the roads. But I also have the greatest possible fear of putting the clamps of a law on the shifting conditions of railroad rates. I think we can protect the public, protect the shipper completely by giving him recourse to the courts and to the Interstate Commerce Commission. But the important thing is to leave some flexibility, some elasticity somewhere and not make rates perfectly rigid in any direction.

We have all been speaking here in the course of this debate of the particular section of the country we severally represent. Let me take my own corner of New England. I admit with due humility that the area is very small, as has already been pointed out by the Senator from Montana. But there are some 7,000,000 people, I think, more or less, living in that little area, and they are not an insignificant fraction of the people of the United States. Their prosperity is as important to the country as the whole prosperity of each part of the country is to all the rest.

The railroads coming into New England make what is called a flat rate into the New England States on all the western products. Of course it is of enormous importance to us to receive the western product, for we are among the great customers and consumers of the western production. Our roads, I repeat, make a flat rate. They bring the western products for the same price to North Adams, which is near the Massachusetts western boundary, that they do to Manchester, N. H.; Waterville, in Maine; or Worcester, in the center of the State. It is practically the Boston rate. Boston is, of course, a competing point. They do not make the western rate to Worcester by charging the Boston rate and then adding the rate from Boston to Worcester back. It is a flat rate. None the less, tried by the only possible standard that we can try it by, the mileage standard, it is a higher charge for the short haul to Worcester than for the long haul to Boston.

Mr. DIXON. Will the Senator allow me?

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Montana?

Mr. LODGE. Certainly.

Mr. DIXON. I think all of us agree with the theory of the Senator from Massachusetts. Now, let me put a case to him concretely. Suppose the roads on shipments from the West charge the rate to Boston and the back haul back to Worcester and other points, will the Senator think that an equitable situation exists under those conditions?

Mr. LODGE. No; I do not. I am not defending the justice of that rate.

Mr. DIXON. That is what we complain of.

Mr. LODGE. Take the rate to Spokane as an illustration. I do not know whether that rate is a fair rate or not. I am taking the rate as it is made up. I do not think the way it is made up has anything to do with the merit of the rate. The only question is whether that is an unjust rate. My own impression is that it is unjust. I know very little about it, but that is my own impression.

Mr. CLAY. Will the Senator permit me?

Mr. LODGE. Certainly.

Mr. CLAY. The question which the Senator has raised is, I think, an important one. Take the speech made by the Senator from Montana and the speech made by the Senator from Kansas concerning existing conditions in their part of the country, and manifestly the rates are unjust. But now, under the law of 1906, could not a citizen in any of those towns where an injustice is practiced make complaint to the Interstate Commerce Commission and secure a reasonable and just rate?

Mr. LODGE. There is no question about that.

Mr. CLAY. That is the question——

Mr. LODGE. It is a question whether it is a reasonable rate.

Mr. CLAY. That is a question which has been bothering me.

Mr. LODGE. There is no question but that the shipper can make complaint. They made complaint in the Spokane case (and I take that merely as an illustration), and the Interstate Commerce Commission sustained the case of Spokane, as I understand it.

Now, what is the further complaint? That the railroads took an appeal to the courts? Are we going back to the old proposition that men are to be excluded from the courts? Even a corporation so odious as a railroad is held to be by some persons is entitled to its day in court.

Mr. CLAY. I must confess I was very much impressed with those arguments; but it was my idea that if any of those rates are unjust, the citizens living in those towns should apply to the Interstate Commerce Commission under existing law and set forth the facts and have the rates reduced.

Mr. LODGE. There is no question, Mr. President, but that they can do that; and they have done it.

Mr. DIXON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Montana.

Mr. LODGE. Certainly.

Mr. DIXON. I think the Senator from Massachusetts in his philosophic and scientific treatment of this case does an injustice unintentionally by the insinuation that anybody in this Chamber has intimated that there should be no appeal to the court. I have not heard a man even whisper or insinuate that kind of a proposition.

Mr. LODGE. I will say to the Senator that perhaps it is something I heard outside.

Mr. DIXON. It must have been heard outside. I want now to state to the Senator from Massachusetts and to the Senator from Georgia, what, robbed of all the paraphernalia of words, the pending amendment, offered by myself on the fifth day of the month, merely does. Of course, theoretically, there is an appeal to the Interstate Commerce Commission, but, as a matter of fact, to the little community and the individual shipper it means the denial of justice, on account of the tremendous litigation, and the great charge in the taking of testimony. In the taking of testimony in the Spokane case they spent $100,000. The machinery prohibits the small community and the individual shipper from ever obtaining justice.

This amendment, stripped of its verbiage, means that the burden of proof must rest on the railroad company to show why it does it, instead of on the shipper and the little community, to show why the railroad should not do it. The railroad has all the facts. It merely shifts the burden of proof. The railroad claims the right to charge more for a short than a long haul. All right, if conditions exist, let them show it, and let them take advantage of it. It shifts the burden of proof. That is all there is in the amendment. Can any reasonable objection be made to it?

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Utah?

Mr. LODGE. I do.

Mr. SMOOT. I should like to call attention to a case that I have given me by letter, and I am positive in my own mind that it is true. This is why we want the burden of proof shifted from the shipper to the railroad. There was a young man who decided to go into the manufacturing business in our State. On the raw product that he desired to manufacture into a finished product the rate from Chicago to Salt Lake City was $255 a car. He figured out that he could go to work, and he started the business. Looking at that rate he decided, of course, that he was on the basis of the California manufacturer from the fact that the rate was the same. But just as soon as the young man started operation the rate was raised to $594 a car. Well, what could the young man do? Certainly he could appeal to the Interstate Commerce Commission; there is no question about that; and after he got a decision by the Interstate Commerce Commission the railroad could have appealed. It simply meant financial ruin to him.

That is what we want to get from under. We want to be relieved of that burden. As soon as we are relieved from it a man can start manufacturing and know upon what basis he can do business. That is all we are asking in this amendment. I do not ask that the rate to Salt Lake City shall be less than it is to San Francisco. I want simply to be put upon the same basis. I have not even intimated here that if the rates to California are lower than to Salt Lake City, it is a discrimination, provided there is water competition, and the water competition means something.

Mr. LODGE. I have no doubt the case which the Senator describes is correctly described. It is a hard case. But I believe that there is no legislation so dangerous as legislation which is founded on hard cases, and specially hard cases of individuals. I think it is a very dangerous foundation for laws. The saying, "Hard cases make bad laws," is both old and true.

Mr. President, if I may digress for a moment, I think that one great objection to this proposition to fix rates by law or decide as to a system of rates by law is that it is a part of the tendency of the time, which perhaps it is useless to protest against, to bring in laws for everything, for everything that happens, to try and find a remedy by passing a statute, and to overlook the fact that laws are made by men and that laws do not make men. I think this constant invocation of the law is oftentimes perilous. It is the effort here at this moment to do by law something which I firmly believe it is impossible to do by law, and the attempt, if put into law, would bring many mischiefs in its train.

If I may return for a moment to the illustration I was giving from my own part of the country, where we have the flat rate and the back haul is not added, the short haul is still paying more than the long haul. If that system is suddenly destroyed, it would bring misfortunes and disasters to New England which I do not like to contemplate. Now, where precisely is the line to be drawn? It must of course be drawn by some tribunal. Nobody would propose to make the law absolutely rigid. But

if we were to go back and follow the proposed law up logically and undertake to make a tapering distance rate, you would convert all the eastern part of the country into an industrial desert. You can convulse the entire industrial system of this country by railroad rates. You can divert commerce and industry from one part of the country to another. You can move population. You can affect cities. Take the great cities of the Atlantic coast, Boston, New York, Baltimore, Philadelphia, Norfolk, and so on down the coast, and apply a mileage rate, a distance rate, from Chicago, and you put every city out of business on the straight mileage rate except Baltimore or perhaps Norfolk. Instead of all of these cities getting as they now do their share of the business under a system of differentials you would simply make their commerce impossible. The railroad rates lie at the very sources of our business life.

I am quite ready to take all the control of a railroad that the Government properly can take, to exercise the most rigid supervision, to give every possible engine for that supervision, but I think we must beware of two things: Attempting to do by law what law, in the nature of things, can not do, and, in the second place, conferring on any body of men a power too great to be trusted to anyone.

Mr. BRISTOW. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Kansas?

Mr. LODGE. Certainly.

Mr. BRISTOW. I should like to inquire of the Senator from Massachusetts who fixes all the railroad rates in the country now?

Mr. LODGE. I understand they are fixed by the railroads with an appeal to the supervision and regulation of the Interstate Commerce Commission.

Mr. BRISTOW. How do the railroads fix them?

Mr. LODGE. Roughly speaking, they fix them upon an elaborate computation of percentages based upon competitive points, which I can not undertake to explain.

Mr. BRISTOW. And who has control of the fixing of the rates? Who supervises that work?

Mr. LODGE. Does the Senator mean what officer of the railroads?

Mr. BRISTOW. Yes.

Mr. LODGE. I suppose the traffic managers do it.

Mr. BRISTOW. As a matter of fact, do not the traffic managers adjust the rates according to the interests of different roads and by an understanding?

Mr. LODGE. I suppose they do. If they are fit for their place, they must.

Mr. BRISTOW. Does the Senator think it is any more dangerous to the public welfare for the Interstate Commerce Commission to fix them than for this board of traffic managers to fix them?

Mr. LODGE. The fixing of a rate by the traffic managers is not final. There is an appeal. They can be overruled. Everything they do can be set aside.

Mr. BRISTOW. Is there not an appeal from the Interstate Commerce Commission?

Mr. LODGE. There is, to the highest court of the country.

Mr. BRISTOW. Wherein, then, could there be an injustice in permitting the Interstate Commerce Commission to fix the rates instead of a board of traffic managers?

Mr. LODGE. I did not say injustice. I think the present arrangement is very sound.

Mr. BRISTOW. The Senator has just remarked that we ought to avoid having a commission given arbitrary power to fix the rates.

Mr. LODGE. That was my objection; I said, to giving anyone that power; that it was too much power to trust to anyone.

Mr. BRISTOW. Well, some one has that power now.

Mr. LODGE. I do not think they have that power now.

Mr. BRISTOW. And it is the traffic managers of railroads.

Mr. LODGE. I do not think the traffic managers of railroads have it at all.

Mr. BRISTOW. That they have not the power of fixing the rates?

Mr. LODGE. No.

Mr. BRISTOW. Then, who has?

Mr. LODGE. The final power to fix rates lies in the Supreme Court of the United States.

Mr. BRISTOW. Would it not lie there if the Interstate Commerce Commission had the power that the traffic managers now exercise?

Mr. LODGE. Under this bill I suppose it would rest with the Interstate Commerce Commission and the court of commerce.

Mr. BRISTOW. But no rights are taken from the railroads by this bill that they now have of an appeal to the Supreme Court of the United States.

Mr. LODGE. I am not aware that I said that there were.

Mr. BRISTOW. But I understood the Senator had just said that——

Mr. LODGE. I said it was something to be avoided.

Mr. BRISTOW. The Senator had just remarked, as I understood it, that under this bill the court of commerce could fix the rates.

Mr. LODGE. I say I think they are the final court. Are they not, or is an appeal allowed from them?

Mr. BRISTOW. Is there not an appeal from the court of commerce to the Supreme Court of the United States?

Mr. LODGE. Very well; that is putting in the court of commerce; that is all.

Mr. BRISTOW. Instead of the circuit court. That is the only change.

Mr. LODGE. Yes.

Mr. BRISTOW. Now, the Senator is assuming that it would be dangerous to give this power to the Interstate Commerce Commission.

Mr. LODGE. Not in the least. I am not assuming anything of the kind.

Mr. BRISTOW. Why, then, does the Senator from Massachusetts object to the amendment of the Senator from Montana?

Mr. LODGE. Mr. President, I have tried in my feeble way to explain during the last half hour why I objected to it. I certainly do not want to repeat all I have said; but, briefly stated, my objection is that I do not believe in fixing rates partially or wholly by law. I do not like government rate making, but I had rather have the Government make the rates entirely than undertake to fix them by law. Let somebody make them who has some discretion.

Mr. BRISTOW. Is there any proposition to fix the rates by law specifically?

Mr. LODGE. Certainly. It is attempting to fix a rate by law when you put on an independent proposition that a short haul shall never pay more than a long haul and take out the modifying words of the act of 1887 relative to similar conditions.

Mr. BRISTOW. Does the Senator contend that the amendment of the Senator from Montana fixes an arbitrary rule that can not be deviated from?

Mr. LODGE. It seems to me to have that effect, to be a beginning of that process, and I said at the start, as the Senator would have learned if he had listened to me, that it went a very short way.

Mr. BRISTOW. A very short way?

Mr. LODGE. And that I thought it was a good rule to resist at the beginning what I think an extremely dangerous policy.

Mr. BRISTOW. Now, the law forbids the railroads to charge one man a less rate than another for hauling the same commodity to the same point.

Mr. LODGE. Precisely.

Mr. BRISTOW. That would be a rebate.

Mr. LODGE. Precisely.

Mr. BRISTOW. Why should not the law forbid a railroad to charge one city more than another for the same kind of services?

Mr. LODGE. Because a man is not a city. That is the principal reason.

Mr. BRISTOW. But a city is an aggregation of men, is it not?

Mr. LODGE. Yes; but an aggregation of men and one individual are two totally different things.

Mr. BRISTOW. They are totally different things, but in the application of this rule what is the difference?

Mr. LODGE. The difference is most obvious to anybody who has undertaken to study railway economics.

Mr. BRISTOW. It may be very obvious, and I suppose I am dull, but I do not see it.

Mr. LODGE. One individual is entitled to equal treatment with all other individuals in the same place who live under like conditions.

Mr. BRISTOW. Is not one——

Mr. LODGE. In regard to place discriminations, which, of course, are of a wholly different class from rebates, geographical and competitive conditions enter into the consideration which do not enter into the cases of an individual.

Mr. BRISTOW. Under the amendment of the Senator from Montana all of the distinctions that may enter into it are to be taken into consideration by the commission, and it then determines whether or not a rate is just and reasonable.

Mr. LODGE. I think the commission have that power to the full now, and, I think, removing the clause, which was added to section 4 after great consideration, about similar conditions is beginning to tighten the rigidity of the law by eliminating the shifting and varied conditions which affect railroad rates.

Mr. BRISTOW. Does not the Senator——

Mr. LODGE. And it is the purpose of this clause to modify the act of 1887.

Mr. BRISTOW. The Senator, I think, will concede that under the present law a great deal of injustice exists that it is not practicable to correct.

Mr. LODGE. I admit there are undoubtedly many cases of unjust rates. That it is not practicable to correct them I do not admit.

Mr. BRISTOW. Let me submit this illustration to the Senator: I referred, in the remarks I made on this question, to the sugar rate that existed at Salina, Kans., and stated that it costs a company there $5,000 to get a rate from San Francisco to Salina, the same as the rate from San Francisco to Kansas City, Salina being an intermediate point. That referred simply to one commodity. On handling 25 commodities under the present law it is necessary to bring 25 suits—a suit for each commodity. Will the Senator from Massachusetts not concede that it is not practicable to get relief for the average citizen under those circumstances?

Mr. LODGE. I do not see that that is particularly affected by this amendment.

Mr. BRISTOW. The Senator thinks it is not. When complaint is made that rates are more, and the railroad has to assume the burden of showing why they are more, does it not afford relief?

Mr. LODGE. The railroad would have to do that in any event.

Mr. BRISTOW. The Senator is entirely mistaken. The railroad does not do that. The complainant brings the complaint. The time is consumed in endeavoring to get evidence which is not available and which he has to get as best he can, and the expense and delay are so great that it is not practicable for him to avail himself of the statute.

Mr. LODGE. What more does he have to prove except the rate?

Mr. BRISTOW. He has to prove that the rate is not discriminatory or unreasonable.

Mr. LODGE. The railroad proves that.

Mr. BRISTOW. The railroad does not. The citizen has to prove that. It puts a burden upon the citizen that he can not bear.

Mr. LODGE. The citizen complains, as I understand, that the rate is discriminatory and unreasonable.

Mr. BRISTOW. He has got to prove it.

Mr. LODGE. I do not so understand it.

Mr. BRISTOW. I thought certainly the Senator did not understand it, or he would not take the position on the question that he has taken.

Mr. LODGE. I did not say I did not understand it in the sense that I do not understand the proposition; but I do not think that is the case.

Mr. BRISTOW. The Senator is entirely mistaken.

Mr. LODGE. I did not want to put it quite so bluntly. I think the Senator from Kansas is mistaken as to the ordinary processes before the Interstate Commerce Commission and the courts.

Mr. BRISTOW. The Senator is entirely mistaken when he says that the burden is on the railroad to make the case, for it is not. The railroad is the defendant.

Mr. LODGE. I did not say the burden was on the railroad to make the case. I said the burden is on the railroads as defendants, I think.

Mr. BRISTOW. As defendants to show that the complainants have not made a case.

Mr. LODGE. That the rate is not unjust, is not discriminatory, and is not unreasonable.

Mr. BRISTOW. The burden is on the complainant to show that it is, and then the railroad defends it.

Mr. LODGE. That is the ordinary rule of law.

Mr. BRISTOW. And under that rule, applied to the present law, it is not available to the people of the United States. Now, what objection has the Senator from Massachusetts to requiring a railroad to show, when it imposes a higher rate for a less service, that that is a just rate?

Mr. LODGE. Well, Mr. President, I will reiterate it. My objection to this legislation—although it goes a very slight distance, and although I freely admit that there are many cases of injustice in existence—my objection to it is that it is the beginning of an undertaking to determine railroad rates in advance by law; that that is done by striking out the only sentence in section 4 which gave any elasticity to the original act, and that, without elasticity, you are entering on a policy in regard to railroads which may affect with disaster whole areas of this country, great industries, great cities, and involve us in more injury than any man can estimate.

Mr. CLAPP. Mr. President——

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

Mr. LODGE. I am entirely through, Mr. President, and will yield the floor to the Senator from Minnesota.

Mr. CLAPP. No; I prefer to ask the Senator a question, and I do it with the utmost sincerity. The Senator seems to take as a conclusion that the Dixon amendment—and when I speak of the Dixon amendment, of course, I refer to the amendment of May 5—prevents any elasticity and is the making of rates by law. He then criticises that condition.

Mr. LODGE. I said I thought it tended in that direction.

Mr. CLAPP. Now, I want to call the Senator's attention to this, and I ask him what his conclusion as to it is. Section 4, as it now reads, first started out with an absolute prohibition against the carrying of passengers and freight a greater distance for a less price than for a lesser distance included in the same line.

Mr. LODGE. Yes; I know section 4.

Mr. CLAPP. Then it makes an exception to that in the words "under substantially similar circumstances and conditions." Some one must determine what the "substantially similar circumstances and conditions" are. The Dixon amendment strikes out that provision, but inserts, in my judgment, a broader exception; that is, it clothes the commission with power in any case where the commission may find occasion for it to grant this exception. In the one instance the commission must find that substantially similar conditions do not exist, while in the other case they must find that specific conditions exist which warrant the making of a rate which is an exception.

It does seem to me—and I certainly have given this a great deal of thought—that, instead of warranting the assumption of the Senator from Massachusetts and of the Senator from Washington that this is an advance in the direction of the making of rates by law, it is an extension of the exception, but transferring in the place of the exception so extended, of course, the previous regulating power of the commission.

Mr. LODGE. Mr. President, I think that the one protection we have against too great rigidity of laws is in the similar conditions clause of section 4. I think to take that away would be a very perilous thing to do. I disagree with the Senator from Minnesota. I think by eliminating those words you narrow very much the liberty of decision both of the courts and of the Interstate Commerce Commission.

Mr. CLAPP. I simply desired to call the Senator's attention to that point.

Mr. LODGE. That is the way I interpret it.

Mr. BRISTOW. Mr. President, the Senator from West Virginia [Mr. ELKINS] and the Senator from Rhode Island [Mr. ALDRICH] this morning have referred with some degree of sarcasm to the States west of the Mississippi River, mentioning the States of Montana and Kansas, and the Senator from West Virginia recently in this discussion suggested that if we were not satisfied with the conditions under which we were now permitted to live in our States we ought to move out and go to a better country.

Mr. ELKINS. No, I did not say that, nor will my language bear any such construction.

Mr. BRISTOW. The Senator might not have said "a better country," but he did say "move out."

Mr. ELKINS. Will the Senator allow me to read what I did say?

Mr. BRISTOW. Certainly.

Mr. ELKINS. My statement has been referred to so many times that I would like to have the matter settled by reading the RECORD. I do not want the Senator or anybody to leave his State, and I am not interested in having them leave or move. This question brings on a war between communities. This is shown in this debate. Communities and sections on water want certain rates, to which their advantages entitle them, and communities and sections in the interior want certain or better rates without these same advantages. Let me read this.

Mr. BRISTOW. I can not agree to the Senator's proposition.

Mr. ELKINS. Will the Senator allow me to read an extract from the RECORD for the information of the Senate, showing just what I did say? The Senator from Montana [Mr. DIXON] said:

> I want to say to the Senator from West Virginia that he advises the Senators to move out of those States——
>
> Mr. ELKINS. I did not advise them. I said they would have to do it if they want these advantages; that they could not get the advantages

of San Francisco, Los Angeles, Chicago, New Orleans, and New York without moving to those points.

The exact words I said about moving out were:

The only thing you can do to enjoy the advantages of competitive points on water, and I regret to say, is to move to those points, and when the Senator does he will favor the long-and-short-haul clause.

Mr. President, what I said was by way of argument, and I said it with regret. I said it in no offensive sense. The Senator does not love his State any more than I do. I knew Kansas long before he did. I passed all of my boyhood days on the borders of the Territory of Kansas, and knew it before it was a Territory and when it was only the home of Indians, buffalo, and wild beasts.

Mr. BRISTOW. Mr. President, the Senator suggested that the junior Senator from Kansas was asking that some "shoe store out in Kansas, 500 miles from nowhere," or a similar expression, should have the same privileges that San Francisco or some other seaport city has, which remark, of course, with due respect to the Senator's great ability, was ridiculous, as I think he will admit.

Now, I want to call the attention of the Senator from West Virginia to the people whom we are trying to represent here on this floor and for whom we are asking justice. The Senator represents here in part the State of West Virginia, and I represent in part the State of Kansas. The area of Kansas is 82,000 miles, in round numbers, that of West Virginia 24,000 miles. The population of Kansas is approximately now 1,850,000; that of West Virginia is about 1,200,000. The number of miles of railroad in Kansas is 8,941; the number of miles in West Virginia is 3,355.

The number of miles of railroad per 10,000 of the population of Kansas is 54; the number in West Virginia is 31. The value of farm property in Kansas is $864,000,000; in West Virginia, $203,000,000. The value of manufactured products in Kansas is $198,000,000; the value of manufactured products in West Virginia is $99,000,000. The value of mineral products in Kansas is $26,000,000; the value of mineral products in West Virginia is $77,000,000. That is the only product in which the State of West Virginia exceeds the State of Kansas. The total number of school children enrolled in Kansas is 381,000; in West Virginia, 253,000. The expenditures for public schools in Kansas are $5,829,000; in West Virginia, $3,360,000. The number of students in colleges in Kansas is 8,955; the number of students in colleges in West Virginia is 1,405. The amount of money expended on colleges in Kansas is $1,110,000 per annum; in West Virginia, $329,000. The value of field crops in Kansas is $163,000,000; the value in West Virginia is $16,000,000. The value of live stock in Kansas is $177,000,000; in West Virginia, $29,000,000. The value of dairy products in Kansas is $88,000,000, but there is no record made as to the value of dairy products in West Virginia. The dairy products of Kansas alone greatly exceed the mineral products, the greatest resource of West Virginia.

Kansas, in the assessed valuation of her property, stands fourth among the States of the Union. The assessed valuation of her property is $2,511,000,000, while that of West Virginia is $1,068,000,000. Yet, when a Senator representing this State asks that the laws be so made as to prevent this great Commonwealth, with its tremendous resources, from being made the prey of the selfish and greedy men who control the railroads we are invited to move out of and abandon that territory which by the brawn and intelligence of an industrious people has been developed within the last forty years into such a magnificent empire.

Mr. ELKINS. Will the Senator allow me to interrupt him?

The PRESIDING OFFICER. Does the Senator from Kansas yield to the Senator from West Virginia?

Mr. BRISTOW. Certainly.

Mr. ELKINS. What does all this have to do with the long and short haul? I do not see, from that magnificent showing, what you have to complain about. If the railroads have built the State of Kansas up in that way, you ought to be satisfied and not move out to get better advantages. I would stay right in Kansas.

Mr. BRISTOW. That is the character of statements made by men who do not care to meet arguments. They at once resort to some statement that anywhere else than upon this floor would be styled demagoguery, but I would not so style it here, because that would not be according to the rules of this body.

Mr. ELKINS. What I said is solid argument, and the Senator can not answer it. It is no use to become excited. The Senator has made a great showing for his State. I am proud of it and rejoice in it. In view of that showing I want to know where the unjust rates come in. This is not a war by railroads against sections or cities, but a war between communities and sections, in which the railroads take little or no part. I want to resist the idea that an administrative board should be given the power to determine rates between sections of this country. I do not want that power given to any administrative body. It would involve a war between communities that we never could arrest and would be disastrous. Let the railroads, in the light of business conditions, make the rates, and if they are unjust, let them. Railroads can make rates better than the Government.

Mr. BRISTOW. Mr. President, that power now exists in the hands of half a dozen railroad traffic managers, whose business it is to levy as great a tribute upon the communities they tax for transportation as they can in the interest of the men they serve, and the communities that are taxed have no recourse or protection that is available in a practical way.

Now, I want to ask the Senator a question. Here is Kansas City, Mo. [indicating on the map]. Here [indicating] is Galveston, Tex. It is approximately 945 miles over the Rock Island Railroad or the Santa Fe Railroad from Kansas City to Galveston; it is 725 miles from Wichita, Kans. Wichita is in a wheat-growing country. There is a very large product of wheat there. Galveston is the nearest port of export for that product. The rate on wheat from Wichita to Galveston for export is 25 cents per hundred pounds; the rate from Kansas City to Galveston is 18½ cents per hundred pounds. If wheat is shipped over the Santa Fe Railroad or the Rock Island Railroad to Galveston, it goes through Wichita en route; yet the people in Wichita are charged on the products of their farms 6½ cents per hundred pounds more for a haul which is 225 miles less than the people in Kansas City, and there is no water competition about it. Does the Senator from West Virginia think that is right?

Mr. ELKINS. I say the Missouri River does, in a slight way, furnish water transportation, and makes the rate down the Mississippi, but water does not control in this case. Kansas City has several lines of road by which grain can be sent to Galveston, while Wichita has only one or two. Kansas City can ship grain to Chicago or New York for export, besides reaching St. Louis by rail and then ship by water to Galveston. This makes the difference.

Mr. BRISTOW. The Senator knows that there never was a bushel of wheat exported out of Kansas or anywhere else over the Missouri River.

Wichita has four railroads over which wheat could be shipped to Galveston, two of them going direct, the other two indirect. Kansas City has five or six, three of them direct; but both cities have ample railroad competition.

Mr. ELKINS. I know that there is enough transportation by water there to fix a rate, but I have stated other reasons. If the rates of which you complain are not just, why do you not go to the Interstate Commerce Commission, the legislative agent of Congress, and have them set aside? The Senator wants a cast-iron rule; he wants Congress to fix rates between communities; but how can Congress do this? Congress would be bound to favor some sections, for instance, those having the most votes.

Mr. BRISTOW. The Senator knows, when he makes that statement, that he is stating a thing which is not the fact.

Mr. ELKINS. I know nothing of the kind. What I say is the fact and true.

Mr. BRISTOW. The amendment which is under discussion makes no such provision. The amendment does say that if the railroads charge a greater rate for wheat from Wichita to Galveston than from other points on the same lines farther away, they have to show the commission a reason why they should be allowed to make such greater charge.

Mr. ELKINS. That is just what I complain of. The Senator wants to place this power in the hands of the Interstate Commerce Commission instead of the railroads, where it belongs.

Mr. BRISTOW. Why should it not be in the hands of the commission to arbitrate between the people and the transportation companies, instead of leaving it in the hands of the transportation companies and giving the people no show? Was not the commission created for that purpose?

Mr. ELKINS. Mr. President, the Senator wants this power of making rates between sections put in the hands of the commission, but is not satisfied with the power now conferred on the commission to determine the reasonableness of rates. Why does he not have the rates of which he complains set aside?

Mr. BRISTOW. The Senator knows——

Mr. ELKINS. No; I do not know. I will tell you that before you speak—I do not know——

Mr. BRISTOW. The Senator ought to know, then——

Mr. ELKINS. It may be that I ought to know, but I do not know what you are going to say I know. Do not put words in my mouth.

Mr. BRISTOW. The Senator ought to know that the present law does not give relief. Does the Senator think if the present law were effective the Senators representing this vast territory [indicating on the map] would be contending, as they are, for equity and justice for their constituents?

Mr. ELKINS. The Senator is certainly mistaken. The law says that if any rate is unreasonable, discriminatory, or unjust, it can upon complaint be set aside. Why not go to the law as you find it, and to the Interstate Commerce Commission and get relief?

Mr. BRISTOW. It puts a burden upon the average citizen that he can not bear.

Mr. ELKINS. Well, the average citizen does not pay the expense of any litigation to set aside a rate. The commission is the agent of Congress; it acts for the shipper and protects him; the Government pays all the expenses, provides the lawyers, pays witnesses, and everything else.

Mr. BRISTOW. Does the Senator contend——

Mr. ELKINS. And that is sufficient, Mr. President. If the shipper can not get justice before such a body, where can he get it? What rule does the Senator lay down to regulate rates? Congress must make some rule.

Mr. BRISTOW. Does the Senator contend that it does not cost the citizen anything to bring a suit before the Interstate Commerce Commission to get rates adjusted?

Mr. ELKINS. No; it does not.

Mr. BRISTOW. It does not cost the citizen anything?

Mr. ELKINS. The expenses are borne by the Government.

Mr. BRISTOW. I am willing for that statement to go to the people of this country, the statement of the chairman of the Committee on Interstate Commerce, that it does not cost a citizen anything to go before the Interstate Commerce Commission to get abuses or unjust rates corrected. There is not a man who is suffering from unjust rates in the United States but knows that that statement does not accord with the facts. What does the Senator think that those of us who are contending for this provision in the law are making this contest for?

Mr. ELKINS. Mr. President, the Senator evidently is not satisfied with the present law; he wants it changed. Now, what rule, plan, or method does he want to substitute for the existing law? Does he want a mileage basis, a maximum and minimum rate, or what does he want?

Mr. BRISTOW. I want——

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kansas yield to the Senator from Idaho?

Mr. BRISTOW. Certainly.

Mr. BORAH. I want to ask the Senator from West Virginia a question in view of the statement which he has made. Would the Senator mind explaining a little further what he means by the statement that it does not cost a citizen anything to litigate rates which he deems to be unjust?

Mr. ELKINS. I will state that the Government pays the expenses, and I will read the statute to show I am accurate.

Mr. BORAH. What expenses?

Mr. ELKINS. The expenses of the litigation growing out of the complaint filed by the shipper——

Mr. BORAH. That is about 15 cents.

Mr. ELKINS. Suppose it is, the Government pays it.

Mr. BORAH. But to get the evidence before the commission may cost hundreds of dollars.

Mr. ELKINS. The Government pays the witnesses, the Government pays the attorney. I do not know what else the Government pays; hardly the traveling expenses and Pullman car charges. A shipper can send his complaint to the commission without coming to Washington; he need not do anything else; the commission does the balance.

Mr. BORAH. I know you can send the complaint here, but does the Senator mean to say that the expense of gathering evidence, and so forth, must be borne by the Government?

Mr. ELKINS. Yes; the expenses are borne by the Government. The fees of witnesses who appear before the commission, the attorney's fees—that is, the attorney of the United States—are paid by the Government; and all this is done in the interest of the shipper. It is the tribunal set up by Congress; it is the agent of Congress in behalf of the shipper. The power of the Government is behind the shipper under the present law.

If that be the case, all I say is let the shipper abide the judgment of the commission. If a rate is unreasonable, go to the commission, and if you want to change the law give a reason for it. You can not abolish one system, one method, or plan of adjusting rates without substituting something in its stead. You will have to confer upon the commission definite power and make a rule. With the railroads there is no rule. Each railroad serves a community, which is the rival of another community on another railroad. The railroads can maintain this equilibrium of rates. They can give and take. There is elasticity. But whenever you put it in the power of a commission you have to lay down the rule. There is the danger of this thing. Business conditions make rates from day to day, and not the railroads, but the commission can not be governed by business conditions. Congress must lay down some rule or basis. Doing this, you are going to get into trouble and have rigidity of rates. You must say, "Here is how the commission is to do this. It shall put it on a mileage basis for 100 miles so much, for 200 miles so much, for 500 miles so much, for 1,000 miles so much."

That is the only just way you can do it. You have to go to the mileage basis or leave it to the railroads, and the railroads are the only people who can adjust these rates fairly and maintain equilibrium, elasticity, and keep away from the rigidity. Strike out the long and short haul. Then the shipper 10 miles from market centers will object to paying the same rate as a shipper 100 miles, and on its face this seems as unjust as the long and short haul. All this would follow any definite rule laid down by Congress.

I can not get the Senator from Kansas to say what he does believe in. He makes legal arguments and good ones. He is patriotic; he is a good Republican. He may be astonished that I say that, and he may think other people are going to be astonished, but I think so and say so. If the present rule of making rates does not satisfy the Senator, then make a rule. The objection to the amendment pending is that it does not lay down any rule. It strikes down the present system, abolishes the present method, but it does not substitute anything in its stead.

Mr. BRISTOW. The rule proposed is that the railroad company shall not charge more for a short haul than for a long haul, the short haul being a part of the long haul. Did the Senator hear what I said? Did the Senator hear this rule that he has been inquiring for announced?

Mr. ELKINS. I did not hear the Senator, I am sorry to say.

Mr. BRISTOW. I will repeat it.

Mr. BAILEY. These amenities are getting interesting.

Mr. BRISTOW. The rule we ask is that the railroad company shall not charge more for the short haul——

Mr. ELKINS. That is no rule. That is negative.

Mr. BRISTOW. Wait until I get through, then the Senator——

Mr. ELKINS. That is nothing.

The PRESIDING OFFICER. Senators must address the Chair and get permission before interrupting the Senator having the floor. The Senator from Kansas has the floor.

Mr. BRISTOW. The rule is that railroad companies shall not charge more for a short haul than for a long haul, the short haul being a part of the long haul, unless they can show to the commission that there is just reason why the larger charge should be made for the short haul than for the long haul, but under no circumstances shall the rate for the long haul be more than a reasonable and a just rate. Is not that a good rule?

Mr. ELKINS. No, sir; that is no rule at all. It is altogether negative.

Mr. BRISTOW. If the Senator from West Virginia can not see a rule in that, then there is no use of trying to define what a rule is or ought to be.

Mr. ELKINS. No; there is no use for the Senator from Kansas to do it. He never can do it. He can not lay down any rule except the distance or mileage basis, and he is afraid to do this.

Mr. BRISTOW. That is true—not to the satisfaction of the Senator.

Mr. ELKINS started to leave the Chamber.

Mr. BRISTOW. I should like the Senator from West Virginia to remain, because the Senator from Idaho desires to ask him a question.

Mr. ELKINS. I will return in a few moments.

The PRESIDING OFFICER. The Senator from Kansas will proceed.

Mr. BRISTOW. I am sorry the Senator from West Virginia has deserted the Chamber, and I am sorry the Senator from Rhode Island is not here, and that the Senator from Massachusetts has also disappeared.

Mr. BAILEY. Will the Senator from Kansas permit me?

The PRESIDING OFFICER. Does the Senator from Kansas yield to the Senator from Texas?

Mr. BRISTOW. Yes.

Mr. BAILEY. The Senator from Kansas can safely proceed in their absence, because nothing he will say will influence

them. Those of us who are here might possibly be instructed, but if the Senator from Kansas imagines that anything he can say will influence those Senators he is wasting his time and breath.

Mr. BRISTOW. I am afraid the Senator from Texas is right. But, Mr. President, those of us here who are contending for this amendment are contending for what we believe to be just to the people we represent. We believe that the law as it now exists does not give the opportunity to the citizen to correct the abuses that exist. Notwithstanding what the Senator from West Virginia says, the expense is too great for the average citizen to bear.

Mr. HEYBURN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kansas yield to the Senator from Idaho?

Mr. BRISTOW. Certainly.

Mr. HEYBURN. Is the Senator from Kansas contending seriously for the portion of the amendment offered by the Senator from Montana to the amendment which I offered to this bill, found on page 2, commencing with line 19, which absolutely nullifies and suspends the operation of the first part of this amendment?

Let me call the Senator's attention to that now. After providing a very good rule in the language of the amendment which I offered, this amendment says, on line 19:

Provided further, That the rates for the shorter distances involved in the application are just and reasonable rates: *And provided further*, That no rates or charges lawfully existing at the time of the passage of this amendatory act shall be required to be changed by reason of the provisions of this section prior to the expiration of six months after the passage of this act, nor in any case where application shall have been filed before the commission, in accordance with the provisions of this section, until a determination of such application by the commission.

Is it not obvious that the railroads would suspend the provisions of this amendment immediately or within six months? For they are given six months to put themselves in a position where they can tie it up until it has passed through the court of last resort. Congress will have met and adjourned half a dozen times before that period arrives.

In introducing the amendment—which was once before submitted to the Senate, and only defeated by a very slight majority—it was intended to establish a rule that would keep parties out of court. This forces them into the court and compels them to stay there, and it suspends the operation of the amendment until they can get out of court.

I could not support an amendment to the amendment which I offered which would suspend the operation of that amendment should it be adopted.

I just call attention to that. I should like to know what the Senator has to say about it.

Mr. BRISTOW. My personal opinion is that what follows the word "act," in line 23, should be stricken out. I agree to that.

Mr. HEYBURN. Does the Senator mean all of that section——

Mr. BRISTOW. No; I would not strike out that part from lines 19 to 23, because there might be circumstances whereby six months would be required in order to adjust these conditions. But that part which gives them permission to file a blanket application I think is very questionable.

Mr. HEYBURN. Is there any doubt that every railroad would immediately file an application?

Mr. BRISTOW. That is what I am afraid of.

Mr. HEYBURN. And suspend the operation of this law just as long as ordinary or extraordinary proceedings could suspend it.

Mr. BRISTOW. This amendment is not what I would have drawn if I were drafting the law, nor do I feel that the last four lines after the word "act" should be retained. At the same time I think that even with those in it is much better than the law at the present time.

Mr. HEYBURN. I think it would leave the law about where it is at present, because this law would not become operative, and the other law would remain in force until, as I have said, recurring Congresses would have met and adjourned.

Mr. BRISTOW. I do not agree that that should have been incorporated in the amendment.

Mr. HEYBURN. I should like to ask the Senator about another provision here. What is intended, or what is meant, by the use of this language, "or to charge any greater compensation as a through route than the aggregate of the local rates?" Are you to take the local rates between towns and add them together in order to fix the basis of the through rate?

Mr. BRISTOW. Oh, no.

Mr. HEYBURN. What is meant by that?

Mr. BRISTOW. There are and have been cases where the through rate has been greater than the sum of the local rates. That occasionally occurs, and it is unjust. So wherever the sum of local rates is less than the through rate, the sum of the locals ought to prevail.

Mr. HEYBURN. Does not the Senator from Kansas think that we are confusing an attempt at useful and legitimate legislation by weaving in this attempt to regulate local rates between local points?

Mr. BRISTOW. I do not think that it is an attempt.

Mr. HEYBURN. It seems it would have that effect.

Mr. DIXON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kansas yield to the Senator from Montana?

Mr. BRISTOW. Certainly.

Mr. DIXON. I want to say to the Senator from Idaho that many of us would rather have a hard and fast prohibition, but it is a question of getting something.

Mr. HEYBURN. Then let us fight for what we think we ought to have.

Mr. DIXON. There is a wide difference between the man who walks up against a stone wall and gets a few butts and the man who steps around a little ways and accomplishes results.

Mr. HEYBURN. That is to be measured by the result and the character of the result.

Mr. DIXON. That is nice logic, of course, but we wanted to make this amendment so fair and so liberal that the most ardent and avowed and open railroad champion in Congress could not deny the justice of it and could not justify a vote against it.

It is true it may tie it up for awhile by the railroads filing a blanket provision before the end of the six months, but the Interstate Commerce Commission will reach it within a reasonable time, and in the end, constantly shifting the burden of proof from the shipper to the railroads, a constant pressure will in the course of a very few years straighten out and bring about the equitable conditions we all demand.

Mr. HEYBURN. The evil of which we complain to-day is one that we aim not to cure in years, but by the passage of this amendment.

Mr. DIXON. I want to say further to the Senator from Idaho, it is not a question of what we would like to have, but of framing this amendment on the broadest basis possible, not overlooking the main issue, so that no man looking at it from a fair, disinterested position, as between the people and the railroads, can find any legitimate argument to vote against it.

Mr. HEYBURN. If the Senator from Kansas will indulge me, there certainly is an objection to bringing into a measure of this kind the fixing of local rates between local points. It adds an element of embarrassment to what ought to be a clean-cut proposition.

The Senator speaks of the difficulty or impossibility of enacting it. When this matter was before the Senate on the 13th of May, 1908, the motion to lay on the table the amendment which I had offered was carried by only 7 votes. It seems to have had some friends in that day.

Never fear to meet the issue. I would rather wait for the adoption of a proper amendment, hoping for the educational process of experience, than to enact a bad law now. That is the way I feel about it. I would rather wait, if necessary. I do not believe you will have to wait. The very fact that you offer a compromise in the hour of controversy discredits the measure you contend for and the principle.

The broad principle that we start out to contend for is that the railroads shall not charge more for a short haul than for a long haul where the short haul is included in the long. Why embarrass that by bringing in proposed legislation to regulate the local haul between stations? Why embarrass that by bringing in any other question at all? You can not wrap up this and disguise it and win as easily as you can in an open fight for it. Senators all agree that the principle we are contending for is one of broad equity. It has no local application whatever. It does not involve the consideration of local rates. It does not involve any political question. It is a question of the widest and fairest economics in dealing with the people or, rather, with the agencies that are to serve the people.

I appeal to the Senators who have brought forward this amendment that it embarrasses the purposes in view, it embarrasses the situation by holding out inducements to all who are openly opposed to this legislation that we are willing to compromise it.

Mr. DIXON. Will the Senator yield to me for a moment?

Mr. HEYBURN. Certainly.

Mr. DIXON. It is a matter of accomplishing results. The House passed this same amendment by the overwhelming vote of 172 to 47. The Senator knows the legislative procedure. If the Senate adopts some amendment totally different from that of the House, it will go into conference and we will lose the whole thing.

Mr. HEYBURN. That is policy—policy against principle, and policy against principle will not do in this kind of a controversy.

Mr. DIXON. If it please the Senator from Idaho, I have heard the story of the gentleman from Erin's Isle who met the bovine on the bridge, and the result. We want to accomplish some results in this case, and I want to say to the Senator he is the only Senator, I think, favorable to the repeal of the qualification in the long-and-short-haul clause who has doubted the proposition that it is the part of wisdom, in order to get actual results, to take the House amendment, so that there would be no controversy in conference.

Mr. HEYBURN. The House on a former occasion when a similar bill was under consideration and section 4 of the Elkins Act was enacted, voted squarely for the amendment to which the Senator from Montana has offered an amendment, and they sent it to this body in that language—that it should be unlawful to charge more for a short haul than for a long one, when the short haul was included in the long. That was the wisdom of that House. That is the wisdom that I believe will be adopted and accepted by both Houses of Congress, when we stand up with our backs stiff enough to resist the attack, the sophistry, and what has been termed the reasoning of the opposition. Stand up and fight for the principle, clean, clear-cut.

Mr. DIXON. We are all ready to fight for the principle, but we want——

Mr. HEYBURN. If you get this amendment you will not get any more legislation on the subject for an indefinite time. They would say, "We gave you what you ask; what are you here for now?"

Mr. DIXON. That does not correspond with the attitude of the gentlemen who are using every effort on earth to defeat this one amendment. The Senator from Idaho knows that this is the one proposition which the men who are not really in favor of railroad-rate regulation are more bitterly opposed to than anything else in the bill. It is a question of getting votes and getting results, instead of arguing for a theoretical proposition that we know we have not the votes to put through.

Mr. HEYBURN. The Senator would have the votes if he would vote for the amendment as I offered it.

Mr. BAILEY. Will the Senator from Kansas permit me?

Mr. BRISTOW. Certainly.

Mr. BAILEY. The Senator from Montana [Mr. DIXON] has twice disparaged those who do not agree to his amendment, once as the champions of the railroads and again as those opposed to all railroad regulation. Of course I have no disposition to defend the other side, and if the Senator from Montana wants to stigmatize the majority of the Republican party in the Senate as champions of the railroads, I have no objection. If he wants to say that, notwithstanding their professions and their protestations, they are really opposed to regulating the railroads, I am perfectly willing.

But, Mr. President, I object to the suggestion that this is a contest between the railroads and the people; for it is, in fact, a contest between certain States and communities. I am not able to see why it can benefit the railroads to charge less for the long haul than they do for the short haul. My idea is that it is to the interest of the railroads to get all they can, whenever they can, and wherever they can; and I have always supposed that to be their practice.

Further, I do not think a railroad is serving its own interest by carrying freight, to borrow the illustration of the Senator from Kansas, from Kansas City to Galveston for 18 cents per hundred, instead of charging 25 cents, as it does for the 200-mile shorter run. The interest of the railroad would be to put the rate on wheat from Kansas City to Galveston up to 25 cents a hundred.

But the objection which I understand the Senator from Kansas makes—and that is an objection with which I sympathize—is that the railroads are making a discrimination between the shippers at one point and the shippers at another point——

Mr. DIXON. That is it.

Mr. BAILEY. And that, as I understand, is the real contest here. It is not a contest between the railroads and the people; and if I doubted that, the Senator from Utah, who separates from these Republican Senators who are now stigmatized as the champions of railroads, would convince me——

Mr. DIXON and Mr. SMOOT rose.

Mr. BAILEY. I thought that would bring them both to their feet. I will hear the Senator from Montana first.

Mr. DIXON. I do not think I would want to divide up the Senate as champions of railroads on grounds of partisanship or any other. I think we are all here to represent the best we know how——

Mr. BAILEY. As a matter of fact, does the Senator from Montana believe that any Senator here is trying to represent the railroads?

Mr. DIXON. Mr. President, I wish the Senator from Texas would withdraw that question or let somebody else——

The PRESIDING OFFICER. The Chair calls attention to the fact that the Senator from Kansas is entitled to the floor, and three other Senators are now occupying it. To whom does the Senator from Kansas yield?

Mr. BAILEY. The Senator from Kansas had already yielded to the Senator from Texas.

The PRESIDING OFFICER. Then the Senator from Texas will proceed.

Mr. BAILEY. And the Senator from Texas has now yielded to the Senator from Montana.

Mr. DIXON. I do want to say, in answer to the Senator from Texas, that every railroad in the country is opposed to this amendment. The Senator does not doubt that, does he?

Mr. BAILEY. I have no information on that point.

Mr. DIXON. The Senator is not even aware in any particular of the campaign that has been carried on in the last three weeks by the great traffic managers of the country against this amendment?

Mr. BAILEY. No, Mr. President; they never approach me about such matters.

Mr. DIXON. The truth is that there are on the one side the railroads of this country and a very few favored shippers and a few favored communities, and, on the other side of the question, about 95 per cent of the people of the United States. If that divides men up into railroad champions as against representing the overwhelming majority of the people of the United States, the division will have to stand. I do not think——

Mr. BAILEY. I did not put those words into the mouth of the Senator from Montana. I simply repeated them as he had uttered them, and I recall them to the Senator. When the Senator replied to the Senator from Idaho with the mild suggestion that he had better go some ways around the principle in order to get votes, he said he was trying to make this amendment so fair—and I wondered if he thought the other proposition to which he had given his adherence was not a fair one——

Mr. DIXON. Perfectly fair.

Mr. BAILEY. Then the Senator was a little unfortunate in expressing his desire to make this so fair, as he said, that the most pronounced champion—I am not sure that I use the exact adjective——

Mr. DIXON. I will accept it.

Mr. BAILEY. So that the most pronounced champion of the railroads could not find any fault with it.

Mr. DIXON. I stood on that platform then, and I do now, and I want to say, as to the matter of political division, that I do not think it is a matter of politics. The Senator from Texas interrupted me an hour ago in the debate because I said some people on this side of the Chamber said they had enough Democratic votes in their pockets to defeat the amendment when the time came. I think the Senator from Texas brought up the fact that this is a Republican proposition, either for or against.

Mr. BAILEY. I hardly think anybody would recognize it now as compared to what it was when introduced.

Mr. DIXON. I think there is no politics in it. It is a matter with them of shifting the burden of proof onto the railroads. When they demand something, let them prove to the satisfaction of the Interstate Commerce Commission that those facts exist. That is all we ask.

Mr. BAILEY. I think the Senator from Montana, when he quietly reflects on it, will regret that he repeated in the Senate a suggestion, appearing in irresponsible public prints, that anybody in the Senate carries the votes of other Senators in his pocket. That is scarcely courteous, but I waive the courtesy, and I only demand the proof. If there is any Senator on that side making such a boast as that, I want to see him have the courage to stand on the floor and say it within the hearing of Democratic Senators; and if there are not 33 denials, prompt and emphatic, coming from this side, then I mistake the character of my associates.

I think that is not exactly the kind of rumors to repeat on the floor of the Senate. The country thinks little enough of the Senate, and if I thought as badly of it as some of our friends occasionally speak of it, I would concur in the general judgment of condemnation. I think we are partly responsible ourselves, that in the heat of controversy we say things that we know are misrepresentations. That Senators on this side sometimes vote

with Senators on that side is true, but it has never occurred to me that we either carried you in our pocket or that you carried us.

I think we vote together now and then because you agree with us or we agree with you, or, if you still like a different way of expressing it, because we agree with each other; and I hope we will continue from time to time to do that, because a vast deal of the legislation that transpires in this body is not and ought never to be considered political or partisan in its character.

Mr. SMOOT. Mr. President——

Mr. BAILEY. I yield to the Senator from Utah.

Mr. SMOOT. So far as I personally am concerned, I do not think it is a political question. I have the honor, in part, to represent as conservative a lot of people as exist in this world, and I do not want to have the American people or anybody else think that because I am in favor of the repeal of the qualification in the long-and-short-haul clause I am an enemy of the railroads——

Mr. BAILEY. Nobody would suspect the Senator of that.

Mr. SMOOT. Because I am not. I am not an enemy of the railroads or any other business concern existing in this country. I want them to be prosperous. I want the railroads to be prosperous. I want the railroads to have fair and remunerative rates from one end of the country to the other, but I want them to be fair to all sections of this country.

Mr. BAILEY. Particularly Salt Lake City.

Mr. SMOOT. No, Mr. President, I do not say Salt Lake City in particular. I want them, however, to be fair to Salt Lake City. I want them to be fair to Boston. I want them to be fair to Texas. I want them to be fair to every section in this country. I can prove to the Senate, or to the Senator from Texas himself, that the railroads are not fair to the State of Utah in the rates that they charge the people there to-day. I would be myself perfectly willing to present my case here and leave it entirely in the hands of the Senator from Texas, and if he says that it is right and just I never in the world would complain again. I have enough confidence in the Senator from Texas to go even that far.

What I want to do and the reason why I approve of the amendment is because I want to be just to all sections and all interests, and I do so as a friend of the railroads. I want to say to the railroads, "You do right to the people in this section of the country and do no harm whatever to any other part of the land." That is all that I believe this amendment will do. That will be the result of it. I have not even gone so far as to say that we are not perfectly willing to pay the same rate as to the coast. I am perfectly willing to say we will pay more if it is necessary for the railroads to carry the traffic to the coast at a profit.

But, Mr. President, when it comes to water competition, that has nothing whatever to do with the case, and when we are imposed upon it is for no other reason on earth except to give an advantage to business men living a thousand miles from the community in which we live and do business. I think it is an injustice which every Senator ought to vote to correct. The amendment which was offered by the Senator from Montana will do that and nothing more.

Mr. BAILEY. Mr. President, the Senator from Utah makes it manifest that I was not mistaken when I began by saying that this was rather a contest between States or communities than a contest between the people and the railroads.

The Senator from Utah does himself no discredit when he avows that he is friendly to the railroads. I would hate to see a Senator stand in this high place and proclaim himself hostile to any legitimate industry in this country. Recognizing that the railroads represent, perhaps, 20 per cent—certainly more than 10 per cent—of the total wealth of the country, recognizing that they employ a vast army of intelligent men in all their departments, recognizing that perhaps the laborers on their pay rolls represent a higher degree of intelligence than any other equal number of laborers in the United States, he would be a strange man indeed who would proclaim his hostility to such an institution. If more were wanted, it would be found in the fact that these railroads are great agencies of progress, development, civilization, and commerce. By helping to exchange the commodities produced in one section and consumed in another section they constantly add to the wealth of the country and to the comforts of the human race.

I would be as far as the Senator from Utah or any other Senator in this body from suggesting any legislation that would be unjust and unfair to the railroads. My whole concern has been, and my whole concern is now, to see that the railroads are as just toward the people as they always ask, and as they have a right to expect, that the people will be toward them.

I only rose to try to keep this discussion in what I conceive to be its proper channel and to observe—which I have done, and which I repeat—that this is not a contest, as I understand it, between the railroads and the people.

I did not know, though I do not doubt the statement of the Senator from Montana, that all the railroads are seeking to prevent the adoption of this amendment. I take his word for that. I have myself seen no evidence of it. No railroad man has spoken to me. The greatest man who owns them, as well as the humblest man who helps to operate them, could come to me at any time, at any place, and state his case to me and I would hear him respectfully, and I would give suitable attention to what he might say. But none of them have come, and I have no means of knowing; but I accept the statement of the Senator from Montana, but accepting it, I still must express my inability to understand how it could be to their interest to be prevented from charging less than they might otherwise receive, because I have never heard anybody who understands this question suggest that the railroad is going to reduce the charges from the intermediate points, and they can not be compelled to reduce them unless, indeed, that compulsion could be put upon them without an amendment to the present law, because if the charges from the intermediate point are now unreasonably high, an application to the Interstate Commerce Commission will correct that. Therefore we must assume that the purpose is not to reduce the charges from the intermediate points, but it is to raise the charges from the initial points; and just exactly how it can be to the interest of the railroad to prevent them from charging less is one of the things I am not able to comprehend.

Mr. BRISTOW. I think the Senator has noticed that this is an effort to secure a reduction of rates to interior points.

Mr. BAILEY. If that is true, the present law must be inefficient, because the present law requires those rates to be reasonable and just, and if they are not reasonable and just it is in violation of the law as it exists to-day. In that case we want what the Senator suggested a while ago, an administrative amendment in order to enforce the law as it now exists rather than a new rule.

Mr. BRISTOW. In my judgment that would be the effect of the present amendment. There is no desire on the part of anyone, I think, to increase the terminal rates. If the through rates are lawful rates now, they are just and reasonable.

Mr. BAILEY. The Senator, I think, misstates that. A rate may be below what is just and reasonable and still be lawful, but it can not be above what is just and reasonable and be lawful.

Mr. BRISTOW. I presume that is true.

Mr. HEYBURN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kansas yield to the Senator from Idaho?

Mr. BRISTOW. Certainly.

Mr. HEYBURN. Of course I would not undertake to refer personally to the former action of anyone, but I take it for granted the Senator from Kansas is not assuming that the Senator from Texas is opposed to the long-and-short-haul clause as expressed in my amendment.

Mr. BRISTOW. I did not have anything in mind as to the views of the Senator from Texas.

Mr. BAILEY. I will answer the Senator from Idaho; I am opposed to his amendment and will vote against it.

Mr. HEYBURN. I want to be entirely within the rules of propriety. The Senator cast his vote for it before.

Mr. BAILEY. That may be true.

Mr. HEYBURN. I did not intend to call the Senator up on that.

Mr. BAILEY. If I could intensify the divisions on that side I might vote for it again, but always with the understanding that I would not become responsible for the adoption of an amendment that I thought would introduce an endless confusion into the existing conditions.

If the Senator from Kansas will permit me, I want to say—and I think it is a confession which many Senators could make as well as I can—I do not now know what would be the practical effect upon the country, upon its industries, its commerce, and its population of the adoption of any of these amendments. I know perfectly well that if we were starting over; if there were no industries established; if there were no fields in cultivation; if there were no cities in these United States, I should favor, except at points of river competition, a hard and fast mileage basis. But I would hesitate a long time before I would make myself responsible for introducing a change that would not only disturb but would absolutely destroy existing conditions.

In other words, let us take a city. Take the city of Atlanta, Ga., if you please. It might be better for the State of Georgia if there were ten places of 15,000 each instead of one place of 150,000. It might contribute to the happiness, wealth, prosperity, and morals of that State. But that is not the condition which confronts us now. That population has concentrated in that city under the law as it stands to-day. They have built their homes, they have invested their money, they have established their enterprise, and extended their trade.

I would not be willing to pass a law which would compel an enterprise established at Atlanta in consequence of a mileage basis to pick up its factory and set it down in some smaller place, because it would not only involve a destruction of the capital which has been invested, but it would involve the removal of every operative in that factory or else a change in his employment. Many of those operatives, I rejoice to say, are home owners now; and yet from their homes, which they have built out of the proceeds of their labor and through their frugality, they would be compelled to move and to become tenants of some more prosperous man. That is a result, I will say to the Senator from Idaho very frankly, for which I will not make myself responsible.

One more illustration. Take the city of Memphis and undertake to regulate by these amendments shipments from it to the city of New Orleans. We will take cotton for an example. Nobody believes that under a mileage basis or under a substantial change in the existing law the railroads would reduce the charge on cotton from the intermediate points to New Orleans. They would simply raise the rate on cotton from Memphis to New Orleans, with the result that all cotton shipped from there instead of going by railroad would go the river route.

The sum of that would be that the railroad would lose the cotton tonnage which it now takes up at Memphis and delivers at New Orleans, and would consequently lose the revenue, with the inevitable result that the charges on the cotton taken up at the interior points would be increased rather than reduced, because the railroad would be compelled to supply the deficiency in revenue arising out of the loss of tonnage at the city of Memphis. Now, to my mind, that is a perfectly plain operation.

I will say to the Senator right now, and without hesitation, I will vote for any amendment calculated to create divisions and dissatisfactions on the other side up to the point that I might adopt them, and while I am willing to make all the trouble I can in your party, I am not willing to make mischief for my country in order to make mischief for the Republican majority. Does the Senator understand it now?

Mr. HEYBURN. Mr. President, I regret that I do. I had interrupted in the time of the Senator from Kansas, and I assume that he wants to proceed with his remarks; otherwise I would make some suggestions at this time.

Mr. BRISTOW. I will be through in a short time and then I will be very glad to yield to the Senator from Idaho.

I can not agree with the Senator from Texas in regard to the effect of this amendment; but when I rose it was to reply to some remarks that had been made by the Senator from West Virginia and the Senator from Rhode Island. I asked the Senator from West Virginia if he thought it was right for the railroad to charge the people of the vicinity of Wichita, Kans., 6½ cents a hundred more for taking their wheat down to Galveston than they charge people in the vicinity of Kansas City for taking their wheat from Kansas City through Wichita down to Galveston, 225 miles farther.

The Senator from West Virginia stated that I was endeavoring to secure for some "shoe store in Kansas 500 miles from nowhere" the same natural right that San Francisco has, which is located on the seaboard. My efforts, feeble as they are, are not in behalf of "some shoe store 500 miles from nowhere."

In the county just south of Wichita, Kans. (Sumner), the last year that I looked up its resources, I think it was 1906, there were produced 4,300,000 bushels of wheat. About 4,000,000 bushels of that wheat were exported from that county to the markets elsewhere, some of it going to Europe.

The rate paid on that wheat was at that time 14½ cents more per hundred than if it had been grown up here in this vicinity [indicating on map], 250 miles farther away. The excessive rate paid for the exportation of that wheat aggregated about $300,000 to the wheat growers of that county.

Now, we will take Great Bend, Kans., which is located here on the map [indicating], the county seat of Barton County. That same year that county produced, as I remember, over 5,000,000 bushels of wheat, and they paid 16½ cents per hundred more for transporting that wheat to Galveston than if the wheat had been grown here in the vicinity of Kansas City, or here in northern Kansas [indicating]. It cost the people of that county in excessive freight rates between $350,000 and $400,000, or $100 for every quarter section of land in the county.

Mr. BAILEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kansas yield to the Senator from Texas?

Mr. BRISTOW. Certainly.

Mr. BAILEY. Just at that point I am not able to follow the Senator. He says it costs them that much in excessive freight rates. If the freight rates were excessive, there is a remedy against that provided by statute.

Mr. BRISTOW. I beg the Senator's pardon.

Mr. BAILEY. I understand that it costs them that much more than it would have cost to ship the same quantity of wheat from Kansas City.

Mr. BRISTOW. Yes.

Mr. BAILEY. I do not understand the Senator to complain that it is an excessive charge, but rather it was a discrimination.

Mr. BRISTOW. Well, I complain that it was a discrimination and excessive.

Mr. BAILEY. If it is excessive, then this amendment is not the way to reach it.

Mr. BRISTOW. If the Senator will pardon me, I think I can show that this amendment would reach it. It is true that the law now forbids an excessive charge, but it is not practicable for the average citizen to avail himself of the provisions of the law.

Mr. BAILEY. I understand that difficulty, too; but I should like to support some amendment that would make it possible for the average citizen who could write an intelligent complaint, and mail it to the Interstate Commerce Commission, to have his case investigated at the public expense.

Mr. ELKINS. May I interrupt the Senator and give him some information? That is the law now.

Mr. BAILEY. That may be the law or it may not be. Under certain conditions it is; but suppose I make a complaint to the Interstate Commerce Commission at present. I am compelled to establish my complaint, and I must equip myself to do it with attorneys and depositions. What I want to do is to relieve the individual shipper from the necessity of doing anything other or further than filing the complaint, making an intelligent statement of the matter about which he desires to complain. Mark you, I do not say that there are not discriminations practiced under this. I believe, however, that if the Interstate Commerce Commission would address itself to the question, and if it had the time to do it, many of the discriminations against which the Senator has a right to complain, and against which I have often complained, and against which I will continue to complain, could be corrected under the present law that condemns all discriminations.

But if we would do our country the most substantial and effective service it would be to provide an amendment that does just what the Senator from West Virginia makes the mistake of saying the law now does, and enable every citizen who is overcharged or who has the right to complain about the very instances to which the Senator from Kansas has now called the attention of the Senate, by a simple statement in writing, under oath, if you please. I do not think the Interstate Commerce Commission ought to be put to the expense and trouble of instituting an inquiry upon any naked statement, but I believe that if any American citizen is willing, under oath, to state a complaint, that ought to be the end of his obligation, his expense, and his duty, and from that time on I think it ought to be a matter for the Interstate Commerce Commission to deal with at the public expense.

Mr. BRISTOW. That, of course, would be an ideal condition, but this amendment provides that where the railroad charges more for the interior shipment that it shall in substance show cause why that charge is made. It shifts the burden from the citizen who is unable to bear it, so that when the complaint is made the railroad then shows reason why such a charge is just.

It seems to me that there can be no reason why any Senator should not support an amendment which requires the railroad to show cause why it should be permitted to charge more for a less service. In my judgment, when the railroad is required to show cause why it makes this higher charge, it lifts from the burdens of the citizen a very great load, although it does not relieve him entirely. I am earnestly in favor of the enactment of this provision into the law because the citizen has a right when the railroad charges him more than somebody else to ask the commission to have the railroad show the reason why it shall do so.

That is the reason why I think this amendment will very materially help. It will not bring about the ideal condition which

the Senator from Texas suggests, but it will tend in that direction, to use the phrase of the Senator from Massachusetts.

Mr. ELKINS. Will the Senator allow me to interrupt him?

Mr. BRISTOW. Certainly.

Mr. ELKINS. The Senator says the rate from Wichita to Galveston is 25 cents.

Mr. BRISTOW. Yes.

Mr. ELKINS. If the Senator succeeds in his amendment the rate from a half-way point to Wichita from Galveston is 25 cents, and 300 miles from Galveston the domestic rate may be even more than that.

Mr. BRISTOW. No.

Mr. ELKINS. What are you going to do with the shipper who pays more for an intermediate point 300 miles from New York, Chicago, or Galveston than the Wichita shipper pays? Kansas is getting 25 cents for the wheat to Galveston when at the interior points between Wichita and Galveston you have to pay twice as much.

Mr. BRISTOW. Does the Senator from West Virginia think that the interior points ought to pay twice as much?

Mr. ELKINS. I am not saying anything about that; I am only stating a fact and what would happen if we are put on a mileage basis.

Mr. BRISTOW. A rule which has been announced this afternoon, and which is as plain and specific as anything can be.

Mr. ELKINS. I understand the Senator is announcing the rule, but can he, under the rule that he wants to establish, justify a greater rate from a point 300 miles from Galveston than the through rate from Wichita?

Mr. BRISTOW. Certainly not.

Mr. ELKINS. Then, what is the Senator going to do with that point?

Mr. BRISTOW. Reduce it so that it will not be more than the long haul.

Mr. ELKINS. The Senator had admitted what I say. The minute his amendment prevails he will have to begin reducing the rates all over the country, in the interior. The shipper 50 miles from market should, under his rule, have a lower rate than the shipper 100 or 200 miles from market, no matter if the shipper in the 10-mile rate can not supply the market.

Mr. President, if the Senator will allow me—and I am extremely obliged to him for his courtesy—take Lynn, Mass. It makes more shoes than can be consumed in New England. The rate for 200 miles out of Lynn is as great as the rate to St. Louis, Chicago, Cincinnati, and Louisville.

Mr. BRISTOW. It is not more?

Mr. ELKINS. No; but if it was not as low the manufacturer could not sell the shoes. He would make more shoes than he could sell in the territory 200 miles from Lynn. Producers must have low rates to reach distant markets.

Mr. BRISTOW. Does the Senator think it ought to be more for 200 miles out?

Mr. ELKINS. I do not say it would. The Senator's rule would make the St. Louis rate so high that the shoes could not be sold there, and Lynn would have to stop making as many shoes.

Mr. BRISTOW. But does the Senator believe that it ought to be more 200 miles out of Lynn, Mass., than to St. Louis?

Mr. ELKINS. Making low rates to distant markets comes from the present adjustment of rates all over the country; and this is done so communities and sections can sell their surplus products. Unless low rates are made they can only sell what the communities consume where their plants are located or grain is grown.

Mr. BRISTOW. But that is an easy question to answer.

Mr. ELKINS. I will answer it, having regard to the claims of sections and railroads reaching various sections and competitive points.

Mr. BRISTOW. Ah!

Mr. ELKINS. Wait a moment. But if you strike out what the Senator wants in the existing law, under which this country has prospered as it never had prospered before, then the men who have a lower rate nearer the market than the farmers of Kansas will complain.

I want to say to the Senator that the farmers of Kansas contribute to the glory of Kansas. Take the farmer out of Kansas and there would not be a great deal left in Kansas. Mr. President, the farmers of Kansas, Iowa, Nebraska, and other States are satisfied with the present rates on eastern traffic. There is not a farmer nor an association of farmers that complains about rates to competitive points or the rates east or west. They are glad to get their corn and their wheat, flour, butter, and cheese to New York and to Europe and to Seattle and San Francisco for shipment to the Orient at a lower rate than the intermediate points pay. The farmers of the West are benefited by the present long and short haul, and they are making no complaints; and how can they when their rates are lower to the markets than to nearby points. Under the long-and-short-haul clause Washington and Oregon ship their lumber and apples east on a lower rate than Missouri and Ohio can ship apples and lumber. I ate apples from Washington and Oregon all winter; paid a good price, and the shipper had a low rate; everybody satisfied but the Senators from those States.

Mr. BRISTOW. The farmers of Kansas do not get a lower rate from any farm or railroad station in Kansas to New York or Galveston than is given to any other farmer between that farm and those points, and the Senator can not show it.

Mr. ELKINS. I will show to the Senator how they, all the way across to New York, get a lower rate.

Mr. BRISTOW. Cite a single product on which the rate is higher from an intermediate point than it is from Kansas.

Mr. ELKINS. I will state now, and, Mr. President, I will show it, that the existing rate on wheat in Kansas, in Iowa, and in Missouri to New York is a lower rate than intermediate wheat raised in States nearer New York.

Mr. BRISTOW. Than the existing rates from those States?

Mr. ELKINS. Yes, sir.

Mr. BRISTOW. The Senator is mistaken. He can not cite a single rate to bear out his statement.

Mr. ELKINS. I am sorry that the Senator contradicts it. That is the trouble about arguing this case. I want to say one word more.

Mr. BRISTOW. I should like to have the Senator submit the rate.

Mr. ELKINS. We are talking about these railroad rates.

Mr. BRISTOW. I have stated in every statement I have made the rates specifically and definitely from points with the miles, and I challenge the Senator to submit a point and a schedule of rates and a mileage that bears out his statement. There are no rates that I have been able to find on Kansas products to the sea, when there is a higher rate for the short haul than the long haul, the short haul being a part of the long haul, and if there were it would be unjust to the community that has to pay the higher rate for the short haul.

Mr. ELKINS. I will show the Senator.

Mr. BRISTOW. I should like to have the Senator do so.

Mr. ELKINS. It is very common and so generally known that I did not think it would be contradicted. How would you get the surplus of one community to market unless the rates were made lower? Kansas can not consume all her corn and all her wheat. She must find a market for it somewhere, and if she does not get a lower rate to the East and Europe than intermediate points she can not dispose of her surplus grain, and it must rot, as it once did in her fields. I repeat, no farmer anywhere objects to the long-and-short-haul clause of the present law. A few merchants do, farmers never; not a single farmer has protested.

The Senator is on record for a maximum and minimum rate. He has an amendment here.

Mr. BRISTOW. Mr. President, I have a right to ask the Senator to back up his declaration which I deny by a citation of facts.

Mr. ELKINS. Has not the Senator an amendment here to establish a maximum and minimum rate?

Mr. BRISTOW. I have an amendment asking the commission to fix the actual rates.

Mr. ELKINS. Has not the Senator one to give a mileage basis?

Mr. BRISTOW. I have not.

Mr. ELKINS. Then I am mistaken. The Senator offered an amendment for a maximum and a minimum rate. I remember one.

Mr. BRISTOW. The Senator remembers one where I contend that the commission ought to fix the specific rate, but not the maximum rate.

Mr. ELKINS. The Senator wants the commission to fix the rates and not allow the railroads to reduce them without the consent of the commission. I will never oppose railroads reducing rates. That is in the interest of the shipper. I stand for the shipper and the people.

Mr. BRISTOW. The Senator, in discussing the rates on Kansas products, doubtless has in mind a difference in export rates and domestic rates. I do not believe the Senator would state what is absolutely untrue if he had the information, but he has not accurate information in regard to the matter he is discussing. There is a difference between the rate from Kansas to New York if the product is to be exported and the rate from Kansas to New York if the product is to be consumed in New York.

Mr. ELKINS. Did I not say the export rate?

Mr. BRISTOW. The Senator said the export rate. There is a difference in the rate for export from Kansas City to Galveston and the rate from Kansas City to Galveston for local consumption, but I do not believe that there is an export rate on any product of Kansas that is lower than an intermediate rate on that same product from any other intermediate point, and I challenge the Senator to produce it, and if he does I will unhesitatingly state that it ought not to exist.

Now, to get back to the wheat illustration. The low rate of 18½ cents is from Kansas City, but there is comparatively little wheat raised in the vicinity of Kansas City. That is a corn country. There is four times as much wheat raised within a radius of 50 miles of Wichita as there is within a radius of 50 miles of Kansas City. The great tonnage of wheat is here in this central part of Kansas and Oklahoma [indicating], and where the greatest tonnage is produced the rate is highest. You would naturally think that where there is a very large tonnage there would be a lower rate, but the truth is the rate is higher where there is the larger production. It is so fixed, of course, to get revenue. If there was an 18½-cent rate from here [indicating], it would make a reduction of several million dollars in the freight paid on the wheat crop which we ship. So the roads, in fixing the rate, have fixed the highest rate where the largest tonnage originates. When the Senator from West Virginia [Mr. ELKINS] asserts that my contention here is for the purpose of getting a special favor for a shoe store, he is entirely mistaken.

My contention is to get justice for the great products of the prairie States, which in a large measure feed the world, and which make up the balance of trade between the United States and foreign countries.

It was not my purpose to occupy the floor at any length this afternoon, but I felt, in justice to the State which I in part and in a feeble way represent, that it should not be misrepresented upon this floor, and that its great resources should not be minimized or ridiculed by representatives of States that do not produce so much as one-half or one-third of the amount of the wealth and resources of our country as does Kansas.

I want to say to the Senate that in this contention we, as citizens of this country, are contending for what is legitimately just and right. It is not well for the Senate of the United States to refuse to grant justice when justice is asked, because by so refusing it contributes to the unjust gain of some particular community or individual. We are not here asking that any burden be put upon any other community or upon any other State or upon any seaport city; we are not here asking that we be permitted to prosper by levying tribute upon some other sections of our country; we are not here asking that our prosperity be enhanced by levying a tax upon any of our sister States, but we are here demanding that the rules of equity and justice be applied to our commercial affairs.

Because our resources are great, because nature has placed ingredients in the soil of the States that have been carved out of the Great Plains that makes it productive, because fertility is there and production is great, is no reason why those States should be unjustly and unduly taxed that some other community may prosper; it is no reason why the men who have builded the railroads should be permitted to take from us more than that which is just. I resent the statement that the railroads have made the prosperity of Kansas. They have shared in that prosperity. They have prospered because of the industry of the people who have gone there and conquered the prairies and the plains. The men who have constructed those railroads have amassed millions as the result of the labors of the men who have tilled that soil. It comes with poor grace from Senators on this floor who represent those great corporate interests to stand up and chide us and declare that because our industry applied to the wealth that nature gave our soil, has brought forth abundantly, that the railroads have the right to take from us more than is due them.

We heard this afternoon a very eloquent plea for the great seaport cities. No Senator on this floor would take from those cities any of the advantages which nature has given them; but it comes with ill-grace for the Representatives from any great commercial metropolis which is located upon the sea, to ask that an unjust tax be placed upon the communities that do not enjoy that great advantage, in order that they may prosper more than they can upon a just and equitable adjustment of rates. They would take from us that which we have by our right, and add to the advantages which nature has given them. Because we object to that, we are referred to in terms of opprobrium and invited to leave the country that our toil has made what it is.

In no age has there ever been a population clustered anywhere on the face of God's green earth that was more intelligent, more industrious, or of higher moral purpose than the people who have settled upon those plains, and the population of no other section of this Nation has contributed more to the commercial prosperity, and to the great wealth of this Republic. They have transformed the burning prairie into fruitful fields and happy homes and have builded flourishing cities. They are here through their Representatives this afternoon pleading with the United States Senate for nothing but justice. I want to say to this body that the time will come, if it is not now here, when their voice will be heard, because they are asking for nothing but that which is right. No man has yet contended that these abuses do not exist and all men know that the law, as it now stands, does not provide a remedy.

Mr. BACON. Mr. President, I desire to submit an amendment to the amendment offered by the Senator from Montana [Mr. DIXON], which I ask may be read in order that it may appear in the RECORD, and also that it may be printed and lie on the table until it can be offered at the proper time.

The PRESIDING OFFICER. The amendment proposed by the Senator from Georgia will be stated.

The SECRETARY. The amendment intended to be proposed by Mr. BACON to the amendment proposed by Mr. DIXON to the pending bill is, in line 12, page 2, after the word "cases," to insert the words "under substantially similar circumstances and conditions," so that the proviso, if so amended, will read as follows:

Provided, however, That upon application to the Interstate Commerce Commission such common carrier may in special cases, under substantially similar circumstances and conditions, after investigation, be authorized by the commission to charge less for longer than for shorter distances for the transportation of passengers or property.

It is also proposed to further amend the amendment by inserting, in line 17, page 2, after the word "That," the words "the common carrier shall in no case be authorized to charge less for a longer than for a shorter distance, unless in the judgment of the commission," so that the proviso, if so amended, will read as follows:

Provided further, That the common carrier shall in no case be authorized to charge less for a longer than for a shorter distance, unless in the judgment of the commission the rates for the shorter distances involved in the application are just and reasonable rates.

The PRESIDING OFFICER. The amendment proposed by the Senator from Georgia will be printed and lie on the table.

Mr. BACON. Mr. President, without occupying the time of the Senate at any length, I desire to call attention to the reason for the first amendment which I propose. The Senate will, of course, recognize that the words "under substantially the same circumstances and conditions" are words which are proposed to be stricken out of the present law by the amendment submitted by the Senator from Montana. I propose to reinsert those words, not in the same place nor in any place where they will have the same effect, but in another connection, which will, in my opinion, make that part of the section constitutional. In the absence of those words, I am afraid it would not be so.

The words "under substantially the same circumstances and conditions," as they occur in the present law, are words which relate to the act of the railroads; in other words, the law authorizes them to make these discriminations in cases where there are substantially the same circumstances and conditions. The purpose of the amendment of the Senator from Montana was to transfer that discretion from the railroads to the Interstate Commerce Commission; in other words, to transfer to the commission the right to determine when the circumstances and conditions arise which will justify the lesser rate for the longer haul. The words which I propose to reinsert are inserted in the part of the amendment offered by the Senator from Montana which relates to the act of the commission, and, if inserted, will provide that in special cases under similar circumstances and conditions the commission may do so and so. It prescribes a rule for the action of the commission and the reason for the authority given them, which, in my opinion, is not found in the amendment as it now exists. I make this short explanation of the amendment in order that Senators in considering the amendment may have direct recognition of its purpose and effect.

Mr. CLAPP. Mr. President——

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

Mr. BACON. I do.

Mr. CLAPP. I want to suggest to the Senator whether his amendment is not a limitation upon the amendment of the Senator from Montana; that is, if the commission might not find cases where they would authorize this under the amendment of the Senator from Montana in excess of cases or conditions

where they would permit it under the amendment of the Senator from Georgia?

Mr. BACON. The trouble about the amendment offered by the Senator from Montana is that there is no rule prescribed, and we have no right to delegate the authority to be exercised by the commission unless we prescribe a rule by which they shall be guided. That, I presume, is a fundamental principle which the Senator will recognize.

Mr. CLAPP. Mr. President——

Mr. BACON. The Senator will pardon me a moment. He asked me a question, and I want, with his permission, to reply to it before he asks me another. The words in the present law have been construed by the Supreme Court of the United States; and, rather than suggest any other words, I have taken them exactly. If they establish a rule of conduct by which the railroads may be governed, of course they may establish a rule also by which the commission may be guided in determining what the railroads shall be allowed to do.

The question the Senator from Minnesota asked me is whether these words will not operate as a limitation upon the powers of the commission as they are now expressed in the amendment offered by the Senator from Montana; in other words, whether the powers of the commission in authorizing a lesser rate for a longer haul may not be less than they would be if the words were not inserted. I think so, undoubtedly; and there is the vice in the present amendment, namely, that there is no limitation. Under the words of the present amendment, if it could be sustained in the court, the commission under any circumstance that they deemed a special case could authorize a lesser rate for a longer haul, whereas under exactly similar circumstances in another case they might deny it. That is exactly what my amendment seeks to guard. It does seek to limit it, and it does limit it, and limits it as it ought to be limited, to wit, that there shall be the same ruling under all similar circumstances and conditions.

Mr. CLARKE of Arkansas. What would be the difference in the law then from the law as it is now?

Mr. BACON. I have endeavored to explain that, but I will repeat it. The law as it is now——

Mr. CLARKE of Arkansas. Let me state the question a little more fully. For instance, take the case that went to the Supreme Court of the United States involving a number of little towns in Georgia. Suppose the commission would find the same condition of facts to exist that was decided to exist in that case; then it would be the duty of the commission to do the very thing the railroads did.

Mr. BACON. It is not their duty at all.

Mr. CLARKE of Arkansas. Then does the Senator mean to say that they can grant the right to charge a greater amount for a short haul in one case and deny it under identically similar circumstances in another case?

Mr. BACON. I will wait until the Senator gets through.

Mr. CLARKE of Arkansas. I say, would you want to invest the commission with a power that they could so arbitrarily exercise as to grant the application when based on one set of facts and to deny it in another case based on identically the same facts?

Mr. BACON. When the Senator has finished I will endeavor to reply.

Mr. CLARKE of Arkansas. I have finished.

Mr. BACON. I have been extremely unfortunate in the expression of my thought in this matter if I have not expressed exactly the opposite of that which the Senator assumes I intended to express. My proposition is that that is what the commission can do under the amendment offered by the Senator from Montana in the words in which it is now expressed.

Mr. CLARKE of Arkansas. Mr. President——

Mr. BACON. The Senator will pardon me a moment, please. Under the language of the present amendment the commission can do it in special cases without specifying anything about uniformity; but in giving them unlimited power in any case that they may think special and in providing no rule to guide them, the amendment is open to two objections: In the first place, I do not think it would be constitutional; and, in the second place, it would be unjust, as suggested by the inquiry made of me by the learned Senator from Arkansas, to permit the commission to decide one way in one case and directly the opposite way in another case. Therefore the insertion of the words "under similar circumstances and conditions" is necessary, in order that the commission may not decide differently in one case from what it does in another, but always the same, whenever the two cases are similar.

Mr. CLARKE of Arkansas. Mr. President——

Mr. BACON. The Senator will pardon me a moment.

Mr. CLARKE of Arkansas. I merely want to make myself clear.

Mr. BACON. The Senator asked me a question, and he will certainly allow me to finish the answer.

Mr. CLARKE of Arkansas. Certainly.

Mr. BACON. When I complete it, I will yield to him with great pleasure. He asked me how, with the insertion of these words, the amendment was different from the present law. The answer is plain. Under the law as it now exists the railroad companies themselves are authorized to make the rates whenever, in their opinion, there are like circumstances and conditions.

The amendment I propose to the amendment of the Senator from Montana will not have any such effect. The words inserted are put in connection with the power to be exercised by the commission, and will simply have the effect of providing that in the special cases they are to deal with they must pass rules uniform wherever there are like circumstances and conditions. There is certainly a vast difference between the two. In the one case, as the law now exists, the qualification as to like circumstances and conditions simply limits the power of the railroads themselves to fix the rates. If the amendment offered by me is engrafted upon the amendment of the Senator from Montana, those words will limit simply the power of the commission, and will in no manner relate to the power exercised by the railroads. I do not know whether or not I have made myself clear.

Mr. CLARKE of Arkansas. Mr. President, the point to which I desired to direct the attention of the Senator was this: For instance, the railroads find that at a certain place there is water competition, and the railroad authorities thereupon reduce the rates at that point, so as to create a condition where a lesser rate is charged to that point, on the ground of its being a competitive point, than is charged to intermediate points.

The railroad finds that condition, and thereupon institutes the discriminating rate; that is to say, it charges less for the long haul than for the short haul. Suppose the commission, under the amendment of the Senator from Georgia, would find identically the same conditions of fact that the railroad company found, would it not be compelled to make the same rate?

Mr. BACON. Not at all; because there is nothing mandatory in the amendment offered by the Senator from Montana.

Mr. CLARKE of Arkansas. If the railroad company is not going to act upon the logical facts after they have been ascertained, why give them any authority at all? Then, if the commission is compelled to act on facts identical with the facts found by the railroad company and to act in identically the same way, what have you gained by it?

Mr. BACON. The Senator is mistaken in speaking of the commissioners as being "compelled." They are not compelled, but it is a matter left to their judgment and discretion. I want to say to the Senator that the amendment offered by me in no manner impairs the force, vigor, and power of the amendment offered by the Senator from Montana. In my opinion, it will simply guard it.

Mr. CLARKE of Arkansas. What I wanted to say was——

Mr. BACON. I am sure the Senator has not properly read the amendment or has not properly heard it, or he would not be criticising it.

Mr. CLARKE of Arkansas. If a given state of facts justifies the charging of a lesser rate for a long haul than for a short haul, it is immaterial whether that state of facts is found by the railroad company or found by the commission. If a condition is brought about which justifies the charging of a lesser rate for a long haul than for a short haul, it is, as I have said, immaterial whether the commission finds that condition to exist or whether the railroad company finds it to exist. It is a result which follows the ascertainment of a given state of facts, and I doubt if much would be gained. I would not captiously criticise anything that the Senator from Georgia presents and supports as earnestly as he does his amendment, but I shall avail myself of an opportunity of examining the amendment. I only say what I do now in order to have his view about a matter that occurred to me upon a cursory consideration of it.

Mr. BACON. I want to say, in reply to the distinguished Senator, that the words which he has uttered may be a good argument in debate as to the propriety of the amendment offered by the Senator from Montana, but I do not think they have any application to the amendment offered by myself.

Mr. ELKINS. Mr. President, I rise merely to say a word. I believe there is a rule of the Senate that no Senator can reflect in debate upon any State. The Senator from Kansas [Mr. BRISTOW], it seems, believes that some remark has been made reflecting upon the State of Kansas. For my part, whatever I might have said I meant no reflection, and I do not think I

made any reflection, upon the State of Kansas or any other State. I was, in connection with the argument I made, simply citing a concrete case, and if any words of mine can be construed as reflecting upon the State of Kansas or upon the Senator himself, I most cheerfully withdraw them. I think just as much of Kansas people and of Kansas as the Senator thinks, and I should like to say possibly more than he does, if it would be proper. I knew Kansas long before he did. I was reared on the border of Kansas, when it was known as the American desert and populated only by wolves and wild animals, and from this condition I have seen it grow into a great and powerful State. I think a good deal of West Virginia also. The people of West Virginia are just as good as those of Kansas and their interests are just as sacred as those of Kansas; I do not say the people are any better or their property entitled to more protection, but whatever property West Virginia has, it is entitled to the same protection as that of the State of Kansas.

I heard with pleasure the Senator from Kansas refer to the great wealth of his State. It is a great State, and the Senator can not rival me in telling how great his State is; but from the Senator's remarks there might appear to be some reflection upon the State of West Virginia. I do not claim that he intended to do so; but when he is setting forth the glories of his State I do not want him to minimize the wealth and glories of my State. There is a good deal of wealth in West Virginia, as the Senator would find if he would stop there long enough in transit to look into our wonderful resources. He must not forget these facts in making comparisons between Kansas and West Virginia. The State of West Virginia has enormous wealth and undeveloped resources. It is not necessary for me to refer to them. It is an interior State, like Kansas. It does not have all the advantages of rates that more favored places having water competition enjoy. In this respect we are situated just as is Kansas. West Virginia can not change the laws of trade and commerce and disturb and upset freight and traffic arrangements that have grown up and been in existence for nearly twenty years under a system that has given satisfaction, simply because we can not have the advantages that belong to cities, towns, and communities situated on the Great Lakes, the Atlantic and Pacific oceans, and the Gulf of Mexico. West Virginians can only have these advantages by moving to these points or sections.

Mr. BRISTOW. Mr. President, I do not think the Senator from West Virginia can cite a single statement that I have ever made on the floor of the Senate or elsewhere that would reflect upon the people of West Virginia or upon the resources of that State. I have not suggested that if they are not satisfied with their conditions they ought to move elsewhere. I have not indicated that the Senator from West Virginia was contending for the same natural advantages for a mining camp in the mountains of West Virginia that the city of New York has. I was simply undertaking to defend the right of Senators upon this floor to stand up in this presence and appeal to the Congress of the United States for justice for the people of the States that happen to be located west of the Mississippi River, who do not have justice under the present system of rate making, and who can not get relief under the provisions of the law that now exists.

Mr. ELKINS. On that one question of moving out of the State, I am going to read again for the benefit of Senators just what I did say. I did not invite the Senator or his people to leave Kansas. I do not want him or them to leave Kansas, and I hope he will adorn the Senate for a long time as a Senator from Kansas.

Mr. BAILEY. Especially not to come to West Virginia. [Laughter.]

Mr. ELKINS. No; I am sure he will not come to West Virginia, as he is too fond of Kansas. As the Senator has referred to this matter so often, let us see if I have violated the proprieties in inviting these gentlemen to leave their States. I do not want them to leave them, and if I have said anything of that kind I now recall it and apologize. The Senator from Montana [Mr. DIXON], as well as the Senator from Utah [Mr. SMOOT] and the Senator from Kansas [Mr. BRISTOW], were vigorously making some observations upon the question of the long and short haul and asked what were their people to do to have the advantages of competitive water points.

They wanted to know how they could get justice; how they could get these advantages. I said you can not get them by legislation; that Congress can not by legislation provide so that a shoe store in Kansas should have all the advantages that Chicago has in the way of freight rates; that it could not be made as large; there is no lake near it; nor can Congress make that shoe store out on the plains of Kansas as large as San Francisco on the Pacific Ocean. I meant no disrespect. I wanted to strengthen my argument, and to show that all places could not have the same rates, because they did not have the same advantages.

Mr. President, here is what I said. I read from the RECORD:

> The only thing you can do to enjoy the advantages of competitive points on water, and I regret to say, is to move to those points—

Not move out of your section of the country, but to Los Angeles, to San Francisco, or to Seattle, Chicago, or New York if you must have these rates and advantages. I did not invite you or your people to move, nor did I wish you to do so.

Mr. DIXON. I want to ask the Senator from West Virginia a question.

Mr. ELKINS. I want to say this to the Senator from Montana and the Senator from Kansas, so that we will have no more difficulty——

Mr. DIXON. I want to ask just one question. That will settle the matter.

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from Montana?

Mr. ELKINS. No; I will not yield. I should like to read this, and then I will yield.

The PRESIDING OFFICER. The Senator from West Virginia declines to yield.

Mr. ELKINS. I read from the RECORD:

> Mr. ELKINS. The only thing you can do to enjoy the advantages of competitive points on water, and I regret to say, is to move to those points, and when the Senator does he will favor the long-and-short-haul clause.

Is that any offense? That is argument, and I meant only to suggest something that was disturbing these Senators. You can not get this Congress and this country to reverse all the laws we have on the subject of traffic and traffic regulations, and have the Senators enjoy these competitive rates without their going there. I do not see how they are to get there.

ALLEGED ABUSE OF FRANKING PRIVILEGE.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

Mr. CARTER. Will the Senator from Illinois withhold the motion for a moment?

Mr. CULLOM. Certainly.

Mr. CARTER. From the Committee on Post-Offices and Post-Roads I report a resolution, and ask for its present consideration.

The PRESIDING OFFICER. The Senator from Montana reports a resolution, which will be read.

The Secretary read the resolution, as follows:

Senate resolution 235.

Resolved, That the Committee on Post-Offices and Post-Roads be, and is hereby, directed to examine and report to the Senate any violation of law or abuse of privilege enjoyed under the law in sending matter through the mail under frank or otherwise without payment of postage; and that special report be made on the right to mail free of postage a certain document made up of extracts on the tariff debate of 1909, embraced in a pamphlet or book of about 490 pages, entitled "A story of a tariff," and whether, in connection with such pamphlet or book, there has been mailed under frank, with frankable matter, circulars or other matter subject to payment of postage.

The resolution was considered by unanimous consent and agreed to.

Mr. LA FOLLETTE. Mr. President, in this connection I wish to correct a statement submitted to the Senate yesterday regarding this very matter.

I received from the editor of a paper in Wisconsin an envelope in which there had been transmitted to him some matter under the frank of a Senator. A nonfrankable circular, which I was led to believe had been transmitted to him, was pinned to the envelope. It is the circular which I hold in my hand. It was issued by the American Protective Tariff League. No letter from the editor accompanied this communication, but there was written at the bottom of the circular these words:

> Perhaps this is a legitimate way of getting free postage, but it looks to me like a steal on the public.

That was signed by the editor. I wired him yesterday for a more complete statement in respect to it, and learned that the circular was not received by him in the franked envelope, but came under another cover, postage paid. The matter which he received in the franked envelope was the pamphlet or book to which reference was made in the resolution introduced by the Senator from Missouri [Mr. STONE].

I will not knowingly do injustice to anyone, and avail myself of the first opportunity to make this correction.

Mr. CARTER. The resolution presented was in the nature of a substitute for the resolution referred to the Committee on Post-Offices and Post-Roads.

The PRESIDING OFFICER. And the resolution has been agreed to, the Chair will suggest.

EXECUTIVE BUSINESS.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 4 o'clock and 40 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, May 11, 1910, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate May 10, 1910.

CONSUL-GENERAL.

Elisha J. Babcock, of New York, to be consul-general of the United States of America at Tangier, Morocco, vice William H. Robertson, appointed consul-general at Callao.

PROMOTION IN THE REVENUE-CUTTER SERVICE.

John Stansbury Baylis, of New York, to be third lieutenant in the Revenue-Cutter Service of the United States, to fill an original vacancy.

UNITED STATES DISTRICT JUDGE.

John J. Jenkins, of Wisconsin, to be United States district judge for the district of Porto Rico, vice Bernard S. Rodey, whose term will expire June 15, 1910.

PROMOTIONS IN THE NAVY.

Capt. William H. H. Southerland to be a rear-admiral in the navy from the 4th day of May, 1910, vice Rear-Admiral James D. Adams, retired.

Commander George R. Clark to be a captain in the navy from the 4th day of May, 1910, vice Capt. William H. H. Southerland, promoted.

Lieut. Commander Henry A. Wiley to be a commander in the navy from the 4th day of May, 1910, vice Commander George R. Clark, promoted.

Ensign William E. Eberle to be a lieutenant (junior grade) in the navy from the 31st day of January, 1910, upon the completion of three-years' service in present grade.

Asst. Surg. Frank H. Stibbens to be a passed assistant surgeon in the navy from the 4th day of January, 1910, upon the completion of three years' service in present grade.

Midshipman Carl T. Osburn to be an ensign in the navy from the 12th day of February, 1909, to fill a vacancy existing in that grade on that date.

The following-named midshipmen to be ensigns in the navy from the 7th day of June, 1909, to fill vacancies existing in that grade on that date:

Michael J. Torlinski,
Leslie E. Bratton,
William E. Sherlock, jr.,
Charles S. Keller,
Harold H. Ritter,
Elmo H. Williams,
Frederick T. Stevenson,
George N. Barker,
Newton L. Nichols,
Louis C. Scheibla,
Schuyler F. Heim,
George M. Dallas,
Edmund D. Almy,
John H. Conditt, and
Charles McK. Lynch.

REGISTERS OF THE LAND OFFICE.

Truman G. Daniells, of California, to be register of the land office at Oakland, Cal., his term having expired. (Reappointment.)

Thomas A. Roseberry, of California, to be register of the land office at Susanville, Cal., his term having expired. (Reappointment.)

RECEIVERS OF PUBLIC MONEYS.

Alfred H. Taylor, of California, to be receiver of public moneys at Susanville, Cal., his term having expired. (Reappointment.)

John E. Bush, of Arkansas, to be receiver of public moneys at Little Rock, Ark., his term expiring May 18, 1910. (Reappointment.)

UNITED STATES MARSHAL.

Thomas J. Alcott, of New Jersey, to be United States marshal for the district of New Jersey. (A reappointment, his term having expired.)

POSTMASTERS.

ARKANSAS.

George H. Taylor to be postmaster at Morrillton, Ark., in place of George H. Taylor. Incumbent's commission expires June 22, 1910.

CALIFORNIA.

Daniel F. Hunt to be postmaster at Santa Barbara, Cal., in place of Daniel F. Hunt. Incumbent's commission expired May 4, 1910.

W. A. Howe to be postmaster at Crescent City, Cal., in place of William F. Wulf, resigned.

Louis V. Howell to be postmaster at Sebastopol, Cal., in place of David Robinson, deceased.

W. B. McCorkle to be postmaster at Escondido, Cal., in place of John N. Turrentine. Incumbent's commission expired April 23, 1910.

Meda L. Waite to be postmaster at Campbell, Cal., in place of Daniel H. Coates, deceased.

FLORIDA.

William R. O'Neal to be postmaster at Orlando, Fla., in place of William R. O'Neal. Incumbent's commission expires June 8, 1910.

GEORGIA.

Frederick D. Dismuke, jr., to be postmaster at Thomasville, Ga., in place of Frederick D. Dismuke, jr. Incumbent's commission expired May 1, 1910.

Henry B. Sutton to be postmaster at Ocilla, Ga., in place of Henry B. Sutton. Incumbent's commission expired April 5, 1910.

IDAHO.

Charles E. Baird to be postmaster at Milner, Idaho, in place of Hubert O. Bell, resigned.

ILLINOIS.

F. W. Herman to be postmaster at Freeburg, Ill. Office became presidential January 1, 1909.

C. S. Holman to be postmaster at Washburn, Ill., in place of Milton S. Fulton, deceased.

Alexander B. Sproul to be postmaster at Sparta, Ill., in place of Alexander B. Sproul. Incumbent's commission expires May 14, 1910.

Roger Walwark to be postmaster at Ava, Ill., in place of Roger Walwark. Incumbent's commission expires May 18, 1910.

INDIANA.

Charles Carter to be postmaster at Converse, Ind., in place of Charles Carter. Incumbent's commission expired May 4, 1910.

IOWA.

William B. Arbuckle to be postmaster at Villisca, Iowa, in place of William B. Arbuckle. Incumbent's commission expired April 12, 1910.

George A. Stibbins to be postmaster at Red Oak, Iowa, in place of Cornelius C. Platter, deceased.

Fergus E. Walker to be postmaster at Walnut, Iowa, in place of Alfred E. Kincaid, resigned.

KANSAS.

Harvey P. Donnell to be postmaster at Waverly, Kans., in place of Harvey P. Donnell. Incumbent's commission expired March 2, 1910.

Benjamin Fox to be postmaster at Onaga, Kans., in place of Andrew McClellan, resigned.

KENTUCKY.

Frank M. Fisher to be postmaster at Paducah, Ky., in place of Frank M. Fisher. Incumbent's commission expired April 19, 1910.

MAINE.

Charles S. Akers to be postmaster at Norway, Me., in place of Charles S. Akers. Incumbent's commission expires May 29, 1910.

MARYLAND.

Albert E. Lambert to be postmaster at New Windsor, Md., in place of Albert E. Lambert. Incumbent's commission expired March 5, 1910.

MASSACHUSETTS.

Louise G. Newton to be postmaster at South Ashburnham, Mass., in place of Louise G. Newton. Incumbent's commission expired May 9, 1910.

Joseph A. West to be postmaster at Provincetown, Mass., in place of Joseph A. West. Incumbent's commission expires June 22, 1910.

MICHIGAN.

E. Harvey Drake to be postmaster at Yale, Mich., in place of E. Harvey Drake. Incumbent's commission expired May 7, 1910.

Harry K. Myers to be postmaster at Vulcan, Mich. Office became presidential April 1, 1910.

MINNESOTA.

Fred A. Swartwood to be postmaster at Waseca, Minn., in place of Fred A. Swartwood. Incumbent's commission expired May 7, 1910.

George H. Tome to be postmaster at Pine Island, Minn., in place of George H. Tome. Incumbent's commission expired April 6, 1910.

MISSISSIPPI.

Felicie L. Delmas to be postmaster at Pascagoula (late Scranton), Miss., in place of Felicie L. Delmas, to change name of office.

Benjamin R. Trotter to be postmaster at Lucedale, Miss. Office became presidential April 1, 1910.

Neal M. Woods to be postmaster at Water Valley, Miss., in place of Neal M. Woods. Incumbent's commission expires May 18, 1910.

MISSOURI.

Henry A. Ayre to be postmaster at Oronogo, Mo., in place of Henry A. Ayre. Incumbent's commission expired May 4, 1910.

Frederick W. Deuser to be postmaster at Clayton, Mo., in place of Frederick W. Deuser. Incumbent's commission expires May 14, 1910.

J. H. Smith to be postmaster at Warrensburg, Mo., in place of J. H. Smith. Incumbent's commission expired May 9, 1910.

MONTANA.

Thomas W. McKenzie to be postmaster at Havre, Mont., in place of Thomas W. McKenzie. Incumbent's commission expired April 19, 1910.

James R. White to be postmaster at Kalispell, Mont., in place of James R. White. Incumbent's commission expired April 23, 1910.

NEBRASKA.

Joseph H. Casler to be postmaster at Utica, Nebr. Office became presidential January 1, 1910.

Iver T. Petersen to be postmaster at Shelton, Nebr., in place of Frank D. Reed, resigned.

E. T. Westervelt to be postmaster at Scottsbluff, Nebr., in place of Charles H. Simmons, resigned.

NEW HAMPSHIRE.

John B. Cooper to be postmaster at Newport, N. H., in place of John B. Cooper. Incumbent's commission expires May 18, 1910.

NEW JERSEY.

William N. Nixon to be postmaster at Woodstown, N. J., in place of William N. Nixon. Incumbent's commission expired March 14, 1910.

R. M. Willis to be postmaster at Pleasantville, N. J., in place of Samuel Bartlett, resigned.

NEW MEXICO.

Lucy P. Waring to be postmaster at Aztec, N. Mex. Office became presidential January 1, 1910.

NEW YORK.

Robert H. Bareham to be postmaster at Palmyra, N. Y., in place of Robert H. Bareham. Incumbent's commission expires June 22, 1910.

Edward Bolard to be postmaster at Salamanca, N. Y., in place of Edward Bolard. Incumbent's commission expired May 8, 1910.

Warren H. Curtis to be postmaster at Marion, N. Y., in place of Thomas Geer, deceased.

Robert A. Greenfield to be postmaster at Mount Vernon, N. Y., in place of David O. Williams. Incumbent's commission expires May 16, 1910.

Thomas Snyder to be postmaster at High Falls, N. Y. Office became presidential October 1, 1909.

NORTH CAROLINA.

L. Clint Wagner to be postmaster at Statesville, N. C., in place of John W. C. Long. Incumbent's commission expired March 9, 1910.

NORTH DAKOTA.

Ellery C. Arnold to be postmaster at Larimore, N. Dak., in place of Ellery C. Arnold. Incumbent's commission expired April 23, 1910.

Henry F. Speiser to be postmaster at Fessenden, N. Dak., in place of Henry F. Speiser. Incumbent's commission expired May 9, 1910.

OKLAHOMA.

Jasper N. Perkins to be postmaster at Temple, Okla., in place of Jasper N. Perkins. Incumbent's commission expires May 18, 1910.

PENNSYLVANIA.

William H. Davis to be postmaster at Pittsburg, Pa., in place of William H. Davis. Incumbent's commission expires May 14, 1910.

UTAH.

Leonard S. Harrington to be postmaster at American Fork, Utah, in place of John Peters, resigned.

VERMONT.

Burt Merritt to be postmaster at Brandon, Vt., in place of Burt Merritt. Incumbent's commission expired January 30, 1910.

VIRGINIA.

Louis L. Whitestone to be postmaster at Culpeper, Va., in place of Louis L. Whitestone. Incumbent's commission expired April 12, 1910.

WASHINGTON.

Forest W. France to be postmaster at Buckley, Wash., in place of Forest W. France. Incumbent's commission expires May 18, 1910.

WEST VIRGINIA.

Harrison A. Darnall to be postmaster at Buckhannon, W. Va., in place of Harrison D. Darnall. Incumbent's commission expired April 23, 1910.

WISCONSIN.

Martin Copenhefer to be postmaster at Richland Center, Wis., in place of Rollin C. Lybrand. Incumbent's commission expired May 7, 1910.

WYOMING.

Lola Smith to be postmaster at Gillette, Wyo. Office became presidential July 1, 1909.

CONFIRMATION.

Executive nomination confirmed by the Senate May 10, 1910.

ATTORNEY-GENERAL OF PORTO RICO.

Foster V. Brown to be attorney-general of Porto Rico.

WITHDRAWAL.

Executive nomination withdrawn from the Senate May 10, 1910.

POSTMASTER.

Clyde S. Burkerd to be postmaster at Shelton, in the State of Nebraska.

HOUSE OF REPRESENTATIVES.

TUESDAY, *May 10, 1910.*

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. Henry N. Couden, D. D.

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

CORRECTION.

Mr. ASHBROOK. Mr. Speaker, on the roll call yesterday on the playgrounds proposition I am recorded as not voting. I am paired with the gentleman from Ohio [Mr. KENNEDY]. I was present, and answered "present."

The SPEAKER. The correction will be made.

RAILROAD BILL.

Mr. MANN. Mr. Speaker, I call up House bill 17536, reported from the Committee of the Whole House on the state of the Union, and I move to amend the amendment reported from the Committee of the Whole House on the state of the Union.

The SPEAKER. The gentleman from Illinois calls up the bill the title of which the Clerk will report.

The Clerk read as follows:

A bill (H. R. 17536) to create an interstate commerce court and to amend the act entitled "An act to regulate commerce," approved February 4, 1887, as heretofore amended, and for other purposes.

The SPEAKER. And to the amendment reported by the Committee of the Whole House on the state of the Union the gentleman from Illinois offers the following amendment.

Mr. FITZGERALD. Mr. Speaker, I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. FITZGERALD. Is not the question pending concurrence in the recommendation of the Committee of the Whole House on the state of the Union?

The SPEAKER. The Committee of the Whole House on the state of the Union has reported to the House an amendment with the recommendation that the House do agree to the amendment.

Mr. FITZGERALD. And is not the pending question concurrence in that amendment?

The SPEAKER. The pending question is upon agreeing to the amendment, but that amendment is subject to amendment.

Mr. FITZGERALD. It may be, but the question that I submit to the Speaker is this——

The SPEAKER. Does not that answer the gentleman's question?

Mr. FITZGERALD. It does not. The question pending is, Shall the House concur in the recommendation of the Committee of the Whole House on the state of the Union that this amendment be agreed to? I make the point of order that, pending that question, it is not in order to offer an amendment.

The SPEAKER. The first question is, on the report of the Committee of the Whole of a bill with amendments, as to whether a separate vote is asked on any amendment. That is where there is more than one amendment, and the unvarying practice of the House is to vote on the amendments separately if a separate vote is asked for, and not to take the question on concurring in the action or the recommendation of the Committee of the Whole. This amendment reported by the Committee of the Whole House on the state of the Union is an amendment to be acted on by the House, and subject, in the absence of the previous question being demanded and ordered, to amendment.

Mr. FITZGERALD. I call the attention of the Chair to the precedents which hold that without motion there is deemed to be pending a motion to concur in the recommendation of the committee; and that being the fact, then no amendment is in order.

The SPEAKER. The Chair will examine any precedents that the gentleman from New York calls to the attention of the Chair, but the Chair does not remember any such except in cases of recommendation to strike out the enacting clause or such exceptional reports.

The general rule is in all the history of amendments reported from the Committee of the Whole, as the Chair recollects, and as the gentleman recollects as to appropriation bills, that the question is on the pending amendments, and the unbroken practice of the House has been that when a bill is reported from the Committee of the While with amendments it is in order to submit additional amendments; but the first question is on the amendments reported.

Mr. BARTLETT of Georgia rose.

Mr. FITZGERALD. The first question is on the recommendation of the committee that the amendment be agreed to. The gentleman from Illinois is trying to interpolate something.

The SPEAKER. This amendment is like any other amendment, and is subject to amendment unless the previous question is ordered.

Mr. FITZGERALD. I think not; I think the question under the precedents cited by the Speaker is as to agreeing to the amendment reported from the committee.

The SPEAKER. The Chair reads the following precedent:

Instance wherein a substitute amendment was offered to a bill reported from the Committee of the Whole with amendments and the previous question was ordered on all the amendments and bill to the final passage.

That is an analogous case. There is no trouble about the practice of the House with the statement that there is no sanctity about a recommendation of the Committee of the Whole House on the state of the Union which is the great committee of the House, but that the same rules, the same parliamentary usage as to amendments recommended by that committee are to be had as to amendments recommended by any other committee.

Mr. MANN. Mr. Speaker, upon the amendments and the bill to final passage I move the previous question.

Mr. FITZGERALD. But the gentleman has not the floor for that purpose.

The SPEAKER. The gentleman from Georgia is recognized.

Mr. BARTLETT of Georgia. Mr. Speaker, I desire to present to the Speaker——

The SPEAKER. The Chair understands the gentleman from Georgia to rise to a parliamentary inquiry?

Mr. BARTLETT of Georgia. Yes.

The SPEAKER. The gentleman will state it.

Mr. BARTLETT of Georgia. It is this: This bill reported from the committee was reported by substitute. The bill reported to the House now is one entire amendment. It is a substitute, striking out all after the enacting clause, and providing that the bill do pass by substitute as amended by the Committee of the Whole. Therefore this is a substitute reported from the Committee of the Whole, with certain amendments. The Committee of the Whole in reference to the matter that the gentleman now proposes to amend amended the bill by striking out section 12, the one which the gentleman from Illinois [Mr. MANN] now proposes to further amend by inserting what the Committee of the Whole struck out. The substitute being one entire amendment, and the right of amendment having been exhausted by the committee, I make the point of order that an amendment to the substitute as reported to the Committee of the Whole in the way the gentleman from Illinois offers it is not in order. It is beyond the right to amend.

The SPEAKER. In reply to the parliamentary inquiry of the gentleman from Georgia [Mr. BARTLETT], the Chair finds from the report of the Chairman of the Committee of the Whole House on the state of the Union that that committee has considered the bill committed to it, and has directed him to report an amendment in the nature of a substitute. It is one amendment in the nature of a substitute to the bill. That is all the Chair knows touching the proceedings of the Committee of the Whole. A substitute is always subject to an amendment, like any other amendment, and therefore the proposition of the gentleman from Illinois [Mr. MANN] to amend the substitute in the House is in order.

Mr. SULZER. Mr. Speaker, I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SULZER. Mr. Speaker, I desire to amend by striking out sections 12, 13, and 14.

Mr. MANN. Mr. Chairman, I make the point of order that that is not a parliamentary inquiry.

The SPEAKER. The gentleman has not the floor for that purpose.

Mr. SULZER. I desire to ask this question——

The SPEAKER. There is one amendment pending, and the gentleman from Illinois has the floor.

Mr. SULZER. I would like to know when the amendment will be in order.

The SPEAKER. When the gentleman has the floor for that purpose.

Mr. MANN. Mr. Speaker, I ask to have the amendment reported.

Mr. SIMS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SIMS. Mr. Speaker, I have no objection to the amendment being reported, but I do want, when it is reported, to make a parliamentary inquiry before the previous question is ordered.

The SPEAKER. The Chair will accept notice. The Clerk will read the amendment.

Mr. FITZGERALD. But, Mr. Speaker, I wish to call the attention of the Chair to the precedent which I had in mind, page 1072 of volume 4 of Hinds's Precedents, and that is as follows:

The recommendation of the Committee of the Whole being before the House, the motion is considered as pending without being offered from the floor.

The recommendation of the Committee of the Whole House is that this amendment be agreed to. That is the pending question. Now, any motion that the gentleman may wish to offer which would be in the nature of an amendment to that motion may be in order, but the gentleman can not, under any precedents that can be found, take from before the House the pending question, which is on agreeing to a certain amendment.

The SPEAKER. But the gentleman can see at once, if his contention was right, that if the House must first vote upon the amendment recommended by the Committee of the Whole House, the House might agree to it or reject it, and there would be no opportunity to amend it.

Mr. MANN. Mr. Speaker, the Chair will pardon me for giving a precedent. When the bill was passed creating the Department of Commerce and Labor a substitute bill was reported back from the Committee of the Whole House on the state of the Union to the House. Thereupon, Mr. Hepburn, of Iowa, moved to amend the substitute reported back by striking out all after the word "that," and the motion was held in order.

Mr. FITZGERALD. But the question was not raised, and merely because the House had followed a bad practice is no justification for a continuance of it.

Mr. MANN. I call it a very good practice.

The SPEAKER. The Chair has another ruling. The Chair reads from Hinds's Precedents, volume 5, page 237, paragraph 5472:

Instance wherein a substitute amendment was offered to a bill reported from the Committee of the Whole with amendments, and the previous question was ordered on all the amendments and the bill to a final passage. On April 29, 1898, the House was considering the bill (H. R. 10100) to provide ways and means for war expenditures under the terms of a special order, which provided the Committee of the Whole should report the bill to the House at 4 p. m. that day with all amendments and that a vote should be then taken. The committee accordingly rose at the hour named, and the Chairman reported the bill to the House with one amendment. This report having been made, Mr. Nelson Dingley, of Maine, said, "I desire, on behalf of the Committee on Ways and Means, before moving the previous question, to offer an amendment in the nature of a substitute for the entire bill, but making no changes in the bill except certain amendments which have been agreed to by a majority of the Ways and Means Committee."

Mr. James D. Richardson, of Tennessee, reserved a point of order; and Mr. JOSEPH W. BAILEY, of Texas, asked of the Chair if the substitute was in order. The Speaker gave his opinion that it was in order.

That was a decision of Mr. Thomas B. Reed.

Mr. FITZGERALD. Mr. Speaker, that is not this case.

The SPEAKER. It is precisely on all fours with this case.

Mr. FITZGERALD. I beg the Chair's pardon. There a bill was reported from the Committee of the Whole with a certain amendment and then an amendment was offered in the nature of a substitute——

The SPEAKER. Precisely.

Mr. FITZGERALD. And that was an amendment to the bill; but this is an attempt to amend an amendment which has been recommended to the House for concurrence. There is a clear distinction between them.

The SPEAKER. An amendment by way of a substitute is amendable just as much as the original bill is amendable so that the precedent is precisely in point. The Clerk will report the amendment.

The Clerk read as follows:

Amend by inserting after line 17, page 75, the following:

"SEC. 12. That no railroad corporation which is a common carrier subject to the act to regulate commerce, approved February 4, 1887, as amended, shall hereafter acquire, directly or indirectly, any interest of whatsover kind in the capital stock of any railroad or water-carrier corporation, or purchase or lease any railroad, or water line which is substantially competitive with that of such first-named corporation, nor shall any water-carrier corporation engaged in interstate commerce hereafter acquire, directly or indirectly, any interest of whatsoever kind in the capital stock of any railroad corporation, or purchase or lease any railroad, that is subject to the act to regulate commerce and which is substantially competitive with such water line; nor shall any such railroad or water-carrier corporation have after the 1st day of July, 1911, as an officer or a director any person who may also be at the same time an officer or director of any such competing corporation; and any corporation which acquires any interest in capital stock, or which purchases or leases a railroad or water line contrary to this section, or which holds or retains any interest in capital stock or in a railroad or water line hereafter acquired in violation of this section, or which shall have and retain as an officer or director after the 1st day of July 1911, any person who is also an officer or director of any such competing corporation, shall be fined $5,000 for each day or part of day during which it holds or retains such interest unlawfully acquired, or retains such prohibited officer or director.

"Any attempted acquisition of an interest in capital stock or the purchase or lease of a railroad or water line, contrary to this section shall be void and may be enjoined by any court of competent jurisdiction at the suit of the United States; and the holding or retention of any interest in capital stock or the acquisition of a railroad or water line contrary to this section may likewise be enjoined in any court of competent jurisdiction at the suit of the United States: *Provided, however,* That any railroad or water carrier corporation, being a common carrier, as aforesaid, may lease or purchase any railroad or water line, or may acquire any interest in the capital stock of the corporation of any railroad or water line, that is not substantially competitive, if the public welfare will be thereby promoted, but no such purchase or lease shall be made, except upon application to the Interstate Commerce Commission, and upon an order of said commission permitting such lease or sale. The Interstate Commerce Commission is hereby given jurisdiction to hear and determine such applications and to take all proper proceedings thereon. The United States shall be a party defendant to such petition. Notice of the filing of such petition with the commission shall be served upon the United States in such manner as the commission may by general or special order provide; and the United States shall be represented in such proceedings by the Attorney-General or such general or special counsel as may be directed by him or by the commission. The Interstate Commerce Commission shall make no order permitting the sale of any capital stock of one railroad or water-line corporation to any other railroad or water-line corporation, or common carrier, as herein defined, or permitting the sale or lease of any water line or railroad to any other such common carrier, unless it shall find that such lines are not substantially competitive, and unless it shall also find that the public welfare will be promoted by such sale or lease: *Provided further,* That nothing herein contained shall be construed to affect in any way any suit or action pending at the passage of this act, nor the rights or liabilities of any party thereto, nor to authorize or validate the acquisition by a railroad corporation, being a common carrier, subject to said act to regulate commerce, as amended, of any interest in the capital stock, or the purchase or lease of the railroad or water line of any other railroad or water carrier company in violation of any act of Congress, including the act approved July 2, 1890, entitled 'An act to protect trade and commerce against unlawful restraints and monopolies.'"

Mr. SIMS. Mr. Speaker, a parliamentary inquiry. I gave notice that I would ask it.

Mr. MANN. Just a moment. The gentleman can not take me off the floor. Mr. Speaker, this amendment, section 12, as proposed as an amendment now, is precisely the same as agreed to in the committee the other day by the Good and other amendments in the committee before the committee struck it out, and I move the previous question on the amendments and the bill to a final vote.

Mr. SIMS. Mr. Speaker, a parliamentary inquiry before that motion is put, and it is this: Is it in order to move to amend this amendment by striking out the two provisos, the merger provisions?

The SPEAKER. There is only one amendment in order to a substitute.

Mr. SIMS. I mean if the previous question is ordered, will it be then in order——

Mr. MANN. It will not be in order in any event; it is an amendment in the third degree.

Mr. ADAMSON. This is the Good amendment, adopted in the committee the other day to the section which we knocked out afterwards.

Mr. MANN. Yes; this is——

The SPEAKER. Only one amendment is in order to a substitute until that amendment is disposed of. Of course, if it is disposed of another amendment to the substitute would be in order, but the gentleman from Illinois demands the previous question, which would bring the House to a vote.

Mr. SULZER. Mr. Speaker, I want to ask the gentleman from Illinois a question. I heard the amendment read, and I would like to inquire of the gentleman from Illinois if there is anything in this amendment that repeals or modifies in any way the so-called antitrust act?

Mr. MANN. There is not, in my opinion.

Mr. SULZER. I differ about that.

Mr. SIMS. Mr. Speaker, I ask to make the motion I have indicated.

The SPEAKER. But the gentleman from Illinois demands the previous question on the amendment to the substitute, and the bill to final passage.

Mr. SULZER. I hope the amendment will be voted down.

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

On a division (demanded by Mr. ADAMSON and Mr. SULZER) there were—ayes 198, noes 152.

So the previous question was ordered.

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

Mr. SIMS. Now, Mr. Speaker, I offer my amendment to strike out the two provisos.

The SPEAKER. My friend knows that is not in order.

Mr. SIMS. If I can be recognized, it will be.

The SPEAKER. The previous question is ordered, and the only thing in order now is, Will the House agree to the amendment to the substitute, the amendment offered by the gentleman from Illinois [Mr. MANN]?

Mr. BARTLETT of Georgia. Mr. Speaker, a parliamentary inquiry. I desire to know whether the previous question was ordered on the amendment or on the bill as amended.

The SPEAKER. The previous question was ordered on the amendment and on the substitute, one and all, to the final passage of the bill.

Mr. SULZER. I ask that the amendment be again reported, so that we can understand it. [Cries of "Regular order!"]

The SPEAKER. Objection is heard.

Mr. SULZER. It is an amendment to repeal the antitrust act, and should be defeated.

The SPEAKER. Objection is heard, and the Chair is powerless.

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

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

Mr. ADAMSON. Division, Mr. Speaker.

Mr. SULZER. Mr. Speaker, I ask for the yeas and nays.

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

The yeas and nays were ordered.

The question was taken; and there were—yeas 161, nays 169, answered "present" 15, not voting 45, as follows:

YEAS—161.

Alexander, N. Y.	Bennet, N. Y.	Burke, Pa	Cassidy
Anthony	Bennett, Ky.	Burke, S. Dak.	Chapman
Austin	Bingham	Butler	Cocks, N. Y.
Barclay	Boutell	Calder	Cole
Barnard	Bradley	Calderhead	Cook
Bartholdt	Brownlow	Campbell	Cooper, Wis.

Coudrey	Hamer	McCredie	Reynolds
Cowles	Hamilton	McGuire, Okla.	Rodenberg
Crow	Hanna	McKinney	Russell
Crumpacker	Havens	McLachlan, Cal.	Saunders
Dalzell	Hawley	McLaughlin, Mich.	Scott
Davidson	Hayes	McMorran	Simmons
Dawson	Heald	Madison	Slemp
Diekema	Hinshaw	Malby	Smith, Cal.
Dodds	Hollingsworth	Mann	Smith, Iowa
Douglas	Howell, N. J.	Martin, S. Dak.	Smith, Mich.
Driscoll, M. E.	Howell, Utah	Miller, Kans.	Snapp
Dwight	Howland	Miller, Minn.	Southwick
Edwards, Ky.	Hubbard, W. Va.	Millington	Stafford
Ellis	Huff	Mondell	Steenerson
Elvins	Hughes, W. Va.	Moon, Pa.	Sterling
Englebright	Humphrey, Wash.	Moore, Pa.	Stevens, Minn.
Fairchild	Johnson, Ohio	Morehead	Sturgiss
Fish	Joyce	Morgan, Mo.	Sulloway
Focht	Kahn	Morgan, Okla.	Swasey
Fordney	Keifer	Morse	Tawney
Foss, Ill.	Kennedy, Iowa	Murdock	Taylor, Ohio
Foster, Vt.	Kinkaid, Nebr.	Murphy	Tener
Foulkrod	Knapp	Needham	Thomas, Ohio
Fowler	Knowland	Norris	Townsend
Fuller	Kopp	Nye	Volstead
Gaines	Kronmiller	Palmer, H. W.	Vreeland
Gardner, Mich.	Küstermann	Parsons	Wanger
Gardner, N. J.	Lafean	Payne	Wheeler
Gillespie	Langham	Pearre	Wilson, Ill.
Goebel	Law	Picket	Wood, N. J.
Good	Lawrence	Plumley	Young, Mich.
Graff	Longworth	Pratt	Young, N. Y.
Grant	Loud	Pray	
Griest	Lundin	Prince	
Guernsey	McCreary	Reeder	

NAYS—169.

Adair	Dies	Hughes, N. J.	Rhinock
Adamson	Dixon, Ind.	Hull, Tenn.	Richardson
Aiken	Draper	Johnson, Ky.	Roberts
Alexander, Mo.	Driscoll, D. A.	Jones	Robinson
Ames	Edwards, Ga.	Keliher	Roddenbery
Anderson	Ellerbe	Kendall	Rothermel
Ansberry	Estopinal	Kitchin	Rucker, Colo.
Barnhart	Finley	Korbly	Rucker, Mo.
Bartlett, Ga.	Fitzgerald	Lamb	Sabath
Bartlett, Nev.	Flood, Va.	Latta	Shackleford
Beall, Tex.	Floyd, Ark.	Lee	Sharp
Boehne	Fornes	Lenroot	Sheffield
Booher	Foss, Mass.	Lever	Sheppard
Borland	Foster, Ill.	Lindbergh	Sherwood
Bowers	Gallagher	Lindsay	Sims
Brantley	Gardner, Mass.	Livingston	Sisson
Burgess	Garner, Tex.	Lloyd	Slayden
Burleson	Garrett	McDermott	Smith, Tex.
Burnett	Gill, Md.	McHenry	Sperry
Byrd	Gill, Mo.	Macon	Spight
Byrns	Gillett	Madden	Stanley
Candler	Godwin	Maguire, Nebr.	Stephens, Tex.
Cantrill	Goulden	Martin, Colo.	Sulzer
Carlin	Greene	Maynard	Talbott
Carter	Gregg	Moore, Tex.	Taylor, Ala.
Cary	Gronna	Morrison	Taylor, Colo.
Clark, Mo.	Hamill	Moss	Thomas, Ky.
Clayton	Hamlin	Nelson	Thomas, N. C.
Cline	Hammond	Nicholls	Tilson
Collier	Hardy	O'Connell	Tirrell
Conry	Harrison	Oldfield	Tou Velle
Covington	Haugen	Padgett	Washburn
Cox, Ind.	Hay	Page	Watkins
Cox, Ohio	Heflin	Parker	Webb
Craig	Helm	Patterson	Weeks
Cravens	Henry, Conn.	Peters	Wickliffe
Cullop	Henry, Tex.	Poindexter	Wiley
Currier	Higgins	Pou	Willett
Davis	Hill	Pujo	Wilson, Pa.
Dent	Hobson	Rainey	Woods, Iowa
Denver	Houston	Randell, Tex.	
Dickinson	Hubbard, Iowa	Ransdell, La.	
Dickson, Miss.	Hughes, Ga.	Rauch	

ANSWERED "PRESENT"—15.

Ashbrook	Ferris	Langley	Moon, Tenn.
Cooper, Pa.	Glass	Loudenslager	Riordan
Durey	James	McKinlay, Cal.	Thistlewood
Fassett	Johnson, S. C.	McKinley, Ill.	

NOT VOTING—45.

Allen	Foelker	Jamieson	Reid
Andrus	Garner, Pa.	Kennedy, Ohio	Sherley
Barchfeld	Gilmore	Kinkead, N. J.	Small
Bates	Goldfogle	Legare	Sparkman
Bell, Ga.	Gordon	Lowden	Turnbull
Broussard	Graham, Ill.	McCall	Underwood
Burleigh	Graham, Pa.	Mays	Wallace
Capron	Hardwick	Moxley	Weisse
Clark, Fla.	Hitchcock	Mudd	Woodyard
Creager	Howard	Olcott	
Denby	Hull, Iowa	Olmsted	
Esch	Humphreys, Miss.	Palmer, A. M.	

So the amendment to the substitute was rejected.

The Clerk announced the following pairs:

For the remainder of the session:

Mr. WOODYARD with Mr. HARDWICK.

Mr. ANDRUS with Mr. RIORDAN.

Mr. KENNEDY of Ohio with Mr. ASHBROOK.

Until further notice:

Mr. CAPRON with Mr. GILMORE.

Mr. ESCH with Mr. GLASS.

Mr. GARNER of Pennsylvania with Mr. WALLACE.

Mr. MUDD with Mr. LEGARE.

Mr. GRAHAM of Pennsylvania with Mr. REID.

Mr. MCCALL with Mr. UNDERWOOD.

Mr. OLMSTED with Mr. JAMES.

Mr. ALLEN with Mr. SPARKMAN.

Mr. BURLEIGH with Mr. JOHNSON of South Carolina.

Mr. MCKINLAY of California with Mr. CLARK of Florida.

Mr. LOUDENSLAGER with Mr. KINKEAD of New Jersey.

Mr. MCKINLEY of Illinois with Mr. HOWARD.

Mr. LOWDEN with Mr. BROUSSARD.

Mr. FOELKER with Mr. GOLDFOGLE.

Mr. DENBY with Mr. GRAHAM of Illinois.

Until June 6, 1910:

Mr. DUREY with Mr. A. MITCHELL PALMER.

Mr. BARCHFELD with Mr. SHERLEY.

Until May 14, 1910:

Mr. FASSETT with Mr. SMALL.

Mr. LANGLEY with Mr. BELL of Georgia.

Until May 16, 1910:

Mr. COOPER of Pennsylvania with Mr. HITCHCOCK.

Mr. CREAGER with Mr. FERRIS.

Until May 12, 1910:

Mr. MOXLEY with Mr. WEISSE.

Until May 11, 1910:

Mr. BATES with Mr. TURNBULL.

Upon this vote:

Mr. THISTLEWOOD with Mr. MAYS.

Mr. HULL of Iowa with Mr. MOON of Tennessee.

Mr. OLCOTT with Mr. HUMPHREYS of Mississippi.

Mr. JAMES. Mr. Speaker, I desire to know if the gentleman from Pennsylvania [Mr. OLMSTED] voted.

The SPEAKER. He did not.

Mr. JAMES. I have a pair with him; I voted in the negative. I want to withdraw my vote and answer "present."

The name of Mr. JAMES was called, and he answered "present."

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

The SPEAKER. The question now recurs on the amendment by way of a substitute.

The question was taken, and the substitute was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. ADAMSON. Mr. Speaker, I move to recommit the bill with instructions, which I send to the desk.

The SPEAKER. The Chair asks if the gentleman is opposed to the bill?

Mr. ADAMSON. Somewhat. [Laughter.]

The SPEAKER. The gentleman from Georgia moves to recommit the bill to the Committee on Interstate and Foreign Commerce with the following instructions, which the Clerk will report.

The Clerk read as follows:

I move to recommit H. R. 17536 to the Committee on Interstate and Foreign Commerce, with instructions to report back the bill forthwith with the following amendments:

First. Strike out sections 1, 2, 3, 4, 5, and 6, providing for the establishment of a commerce court, and proceedings and practice therein and in connection therewith.

Second. Amend section 10 by striking out of lines 10 and 11, page 72, the words "commerce court" and insert in lieu thereof the words "circuit court in the district where such carrier has its principal operating office or in which the violation or disobedience of such order shall happen." Also, in the amendment by the Committee of the Whole House on the state of the Union, following the word "complaint," in line 4, page 72, section 10, strike out the words "the commerce."

Third. Strike out "commerce court" wherever the term appears in the bill.

Fourth. Strike out the period after the word "same," line 18, page 72, and insert the following:

"And in the enforcement of such process the court shall have those powers ordinarily exercised by it in compelling obedience to its writs of injunction and mandamus.

"From any action upon such petition an appeal shall lie by either party to the Supreme Court of the United States, and in such court the case shall have priority in hearing and determination over all other causes except criminal causes, but such appeal shall not vacate or suspend the order appealed from.

"The venue of suits brought in any of the circuit courts of the United States against the commission to enjoin, set aside, annul, or suspend any order or requirement of the commission shall be in the district where the carrier against whom such order or requirement may have been made has its principal operating office, and may be brought at any time after such order is promulgated. And if the order or requirement has been made against two or more carriers then in the district where any one of said carriers has its principal operating office, and if the carrier has its principal operating office in the District of Columbia, then the venue shall be in the district where said carrier has its principal office; and jurisdiction to hear and determine such suits is hereby vested in such courts. The provisions of 'An act to expedite the hearing and determination of suits in equity, etc., approved February 11, 1903, shall be, and are hereby, made applicable to all such suits, including the hearing on an application for a preliminary injunction, and are also made applicable to any proceeding in equity to

enforce any order or requirement of the commission, or any of the provisions of the act to regulate commerce approved February 4, 1887, and all acts amendatory thereof or supplemental thereto. It shall be the duty of the Attorney-General in every such case to file the certificate provided for in said expediting act of February 11, 1903, as necessary to the application of the provisions thereof, and upon appeal as therein authorized to the Supreme Court of the United States, the case shall have in such court priority in hearing and determination over all other causes except criminal causes: *Provided*, That no injunction, interlocutory order, or decree suspending or restraining the enforcement of an order of the commission shall be granted except on hearing after not less than five days' notice to the commission. An appeal may be taken from any interlocutory order or decree granting or continuing an injunction in any suit, but shall lie only to the Supreme Court of the United States: *Provided further*, That the appeal must be taken within thirty days from the entry of such order or decree, and it shall take precedence in the appellate court over all other causes except causes of like character and criminal causes."

Mr. ADAMSON. Mr. Speaker, I move the previous question on the motion to recommit.

The SPEAKER. The gentleman from Georgia moves the previous question upon the motion.

Mr. HARDY. A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HARDY. I have an amendment to the motion to recommit.

The SPEAKER. Answering the parliamentary inquiry, the gentleman may have it; but if the previous question is ordered it would bar him.

Mr. RANDELL of Texas. A parliamentary inquiry. My inquiry is this: I could not hear all the reading of the motion. As I understand it, the proposition is to strike out all provisions for the commerce court and all amendments in connection therewith.

Mr. ADAMSON and Mr. BARTLETT of Georgia. That is right.

Mr. MANN. It does a great deal more than that.

The SPEAKER. Debate is not in order.

The question was taken, and the previous question was ordered.

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

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

Mr. ADAMSON. Division!

Several MEMBERS. Yeas and nays!

The yeas and nays were ordered.

The question was taken and there were—yeas 157, nays 176, answered "present" 13, not voting 44, as follows:

YEAS—157.

Adair	Dickson, Miss.	Hughes, N. J.	Randell, Tex.
Adamson	Dies	Hull, Tenn.	Ransdell, La.
Aiken	Dixon, Ind.	James	Rauch
Alexander, Mo.	Driscoll, D. A.	Jamieson	Rhinock
Anderson	Edwards, Ga.	Johnson, Ky.	Richardson
Ansberry	Ellerbe	Jones	Robinson
Barnhart	Estopinal	Keliher	Roddenbery
Bartlett, Ga.	Finley	Kitchin	Rothermel
Bartlett, Nev.	Fitzgerald	Korbly	Rucker, Colo.
Beall, Tex.	Flood, Va.	Lamb	Rucker, Mo.
Boehne	Floyd, Ark.	Latta	Russell
Booher	Fornes	Lee	Sabath
Borland	Foss, Mass.	Lenroot	Saunders
Bowers	Foster, Ill	Lever	Shackleford
Brantley	Fowler	Lindbergh	Sharp
Burgess	Gallagher	Lindsay	Sheppard
Burleson	Garner, Tex.	Livingston	Sherwood
Burnett	Garrett	Lloyd	Sims
Byrd	Gill, Md.	McDermott	Sisson
Byrns	Gill, Mo.	McHenry	Slayden
Candler	Gillespie	Macon	Smith, Tex.
Cantrill	Glass	Maguire, Nebr.	Spight
Carlin	Godwin	Martin, Colo.	Stanley
Carter	Goulden	Maynard	Stephens, Tex.
Cary	Gregg	Moore, Tex.	Sulzer
Clark, Mo.	Gronna	Morrison	Talbott
Clayton	Hamill	Moss	Taylor, Ala.
Cline	Hamlin	Nelson	Taylor, Colo.
Collier	Hammond	Nicholls	Thomas, Ky.
Conry	Hardy	Norris	Thomas, N. C.
Covington	Harrison	O'Connell	Tou Velle
Cox, Ind.	Haugen	Oldfield	Watkins
Cox, Ohio	Hay	Padgett	Webb
Craig	Heflin	Page	Wickliffe
Cravens	Helm	Patterson	Willett
Cullop	Henry, Tex.	Peters	Wilson, Pa.
Davis	Hobson	Poindexter	Woods, Iowa
Dent	Houston	Pou	
Denver	Hubbard, Iowa	Pujo	
Dickinson	Hughes, Ga.	Rainey	

NAYS—176.

Alexander, N. Y.	Burke, S. Dak.	Crumpacker	Fairchild
Ames	Butler	Currier	Fish
Anthony	Calder	Dalzell	Focht
Austin	Calderhead	Davidson	Fordney
Barclay	Campbell	Dawson	Foss, Ill.
Barnard	Cassidy	Diekema	Foster, Vt.
Bartholdt	Chapman	Dodds	Foulkrod
Bennet, N. Y.	Cocks, N. Y.	Douglas	Fuller
Bennett, Ky.	Cole	Draper	Gaines
Bingham	Cook	Driscoll, M. E.	Gardner, Mass.
Boutell	Cooper, Wis.	Dwight	Gardner, Mich.
Bradley	Coudrey	Ellis	Gardner, N. J.
Brownlow	Cowles	Elvins	Gillett
Burke, Pa.	Crow	Englebright	Goebel
Good	Kennedy, Iowa	Moon, Pa.	Smith, Iowa
Graff	Kinkaid, Nebr.	Moore, Pa.	Smith, Mich.
Grant	Knapp	Morehead	Snapp
Greene	Knowland	Morgan, Mo.	Southwick
Griest	Kopp	Morgan, Okla.	Sperry
Guernsey	Kronmiller	Morse	Stafford
Hamer	Küstermann	Murdock	Steenerson
Hamilton	Lafean	Murphy	Sterling
Hanna	Langham	Needham	Stevens, Minn.
Havens	Law	Nye	Sturgiss
Hawley	Lawrence	Olmsted	Sulloway
Hayes	Longworth	Palmer, H. W.	Swasey
Heald	Loud	Parker	Tawney
Henry, Conn.	Lundin	Parsons	Taylor, Ohio
Higgins	McCreary	Payne	Tener
Hill	McCredie	Pearre	Thomas, Ohio
Hinshaw	McGuire, Okla.	Pickett	Tilson
Hollingsworth	McKinney	Plumley	Tirrell
Howell, N. J.	McLachlan, Cal.	Pratt	Townsend
Howell, Utah	McLaughlin, Mich.	Pray	Volstead
Howland	McMorran	Prince	Vreeland
Hubbard, W. Va.	Madden	Reeder	Wanger
Huff	Madison	Reynolds	Washburn
Hughes, W. Va.	Malby	Roberts	Weeks
Humphrey, Wash.	Mann	Rodenberg	Wheeler
Johnson, Ohio	Martin, S. Dak.	Scott	Wiley
Joyce	Miller, Kans.	Sheffield	Wilson, Ill.
Kahn	Miller, Minn.	Simmons	Wood, N. J.
Keifer	Millington	Slemp	Young, Mich.
Kendall	Mondell	Smith, Cal.	Young, N. Y.

ANSWERED "PRESENT"—13.

Ashbrook	Perris	McKinlay, Cal.	Thistlewood
Cooper, Pa.	Johnson, S. C.	McKinley, Ill.	
Durey	Langley	Moon, Tenn.	
Fassett	Loudenslager	Riordan	

NOT VOTING—44.

Allen	Edwards, Ky.	Howard	Olcott
Andrus	Esch	Hull, Iowa	Palmer, A. M.
Barchfeld	Foelker	Humphreys, Miss.	Reid
Bates	Garner, Pa.	Kennedy, Ohio	Sherley
Bell, Ga.	Gilmore	Kinkead, N. J.	Small
Broussard	Goldfogle	Legare	Sparkman
Burleigh	Gordon	Lowden	Turnbull
Capron	Graham, Ill.	McCall	Underwood
Clark, Fla.	Graham, Pa.	Mays	Wallace
Creager	Hardwick	Moxley	Weisse
Denby	Hitchcock	Mudd	Woodyard

So the motion to recommit was rejected.

The Clerk announced the following pair:

Until further notice:

Mr. EDWARDS of Kentucky with Mr. GORDON.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

Mr. MANN. I demand the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and there were—yeas 201, nays 126, answered "present" 12, not voting 51, as follows:

YEAS—201.

Alexander, N. Y.	Fowler	Kopp	Pou
Ames	Fuller	Kronmiller	Pratt
Anthony	Gaines	Küstermann	Pray
Austin	Gardner, Mass.	Lafean	Prince
Barclay	Gardner, Mich.	Langham	Reeder
Barnard	Gardner, N. J.	Law	Reynolds
Bartholdt	Garner, Tex.	Lawrence	Roberts
Bartlett, Nev.	Gillespie	Lenroot	Rodenberg
Bennet, N. Y.	Gillett	Lindbergh	Russell
Bennett, Ky.	Goebel	Longworth	Saunders
Bingham	Good	Loud	Scott
Boutell	Graff	Lundin	Sheffield
Bradley	Grant	McCreary	Simmons
Brownlow	Greene	McCredie	Slemp
Burke, Pa.	Griest	McGuire, Okla.	Smith, Cal.
Burke, S. Dak.	Gronna	McKinney	Smith, Iowa
Butler	Guernsey	McLachlan, Cal.	Smith, Mich.
Calder	Hamer	McLaughlin, Mich.	Smith, Tex.
Calderhead	Hamilton	McMorran	Snapp
Campbell	Hanna	Madden	Southwick
Cary	Hardy	Madison	Sperry
Cassidy	Haugen	Malby	Stafford
Chapman	Havens	Mann	Steenerson
Cocks, N. Y.	Hawley	Martin, S. Dak.	Sterling
Cole	Hayes	Miller, Kans.	Stevens, Minn.
Cook	Heald	Miller, Minn.	Sturgiss
Cooper, Wis.	Henry, Conn.	Millington	Sulloway
Coudrey	Higgins	Mondell	Swasey
Cowles	Hill	Moon, Pa.	Tawney
Crow	Hinshaw	Moore, Pa.	Taylor, Ohio
Crumpacker	Hollingsworth	Morehead	Tener
Currier	Howell, N. J.	Morgan, Mo.	Thomas, Ohio
Dalzell	Howell, Utah	Morgan, Okla.	Tilson
Davidson	Howland	Morse	Tirrell
Davis	Hubbard, Iowa	Murdock	Townsend
Dawson	Hubbard, W. Va.	Murphy	Volstead
Diekema	Huff	Needham	Vreeland
Dodds	Hughes, N. J.	Nelson	Wanger
Douglas	Hughes, W. Va.	Nicholls	Washburn
Draper	Humphrey, Wash.	Norris	Webb
Driscoll, M. E.	Jamieson	Nye	Weeks
Dwight	Johnson, Ohio	Olmsted	Wheeler
Ellis	Joyce	Page	Wiley
Elvins	Kahn	Palmer, H. W.	Wilson, Ill.
Englebright	Keifer	Parker	Wood, N. J.
Fish	Kendall	Parsons	Woods, Iowa
Focht	Kennedy, Iowa	Payne	Young, Mich.
Fordney	Kinkaid, Nebr.	Pearre	Young, N. Y.
Foss, Ill.	Kitchin	Pickett	
Foster, Vt.	Knapp	Plumley	
Foulkrod	Knowland	Poindexter	

NAYS—126.

Adair	Cullop	Hobson	Ransdell, La.
Adamson	Dent	Houston	Rauch
Aiken	Denver	Hughes, Ga.	Rhinock
Alexander, Mo.	Dickinson	Hull, Tenn.	Richardson
Anderson	Dickson, Miss.	James	Robinson
Ansberry	Dies	Johnson, Ky.	Roddenbery
Barnhart	Dixon, Ind.	Jones	Rothermel
Bartlett, Ga.	Driscoll, D. A.	Kelliher	Rucker, Mo.
Beall, Tex.	Ellerbe	Korbly	Sabath
Boehne	Estopinal	Lamb	Shackleford
Booher	Finley	Latta	Sharp
Borland	Fitzgerald	Lee	Sheppard
Bowers	Flood, Va.	Lindsay	Sherwood
Brantley	Floyd, Ark.	Livingston	Sims
Burgess	Fornes	Lloyd	Sisson
Burleson	Foss, Mass.	McDermott	Slayden
Burnett	Foster, Ill.	McHenry	Spight
Byrd	Gallagher	Macon	Stanley
Byrns	Garrett	Maguire, Nebr.	Stephens, Tex.
Candler	Gill, Md.	Martin, Colo.	Sulzer
Cantrill	Gill, Mo.	Maynard	Talbott
Carlin	Glass	Moore, Tex.	Taylor, Ala.
Carter	Goulden	Morrison	Taylor, Colo.
Clark, Mo.	Gregg	Moss	Thomas, Ky.
Clayton	Hamill	O'Connell	Thomas, N. C.
Cline	Hamlin	Oldfield	Tou Velle
Collier	Hammon	Padgett	Watkins
Conry	Harrison	Patterson	Wickliffe
Cox, Ind.	Hay	Peters	Willett
Cox, Ohio	Heflin	Pujo	Wilson, Pa.
Craig	Helm	Rainey	
Cravens	Henry, Tex.	Randell, Tex.	

ANSWERED "PRESENT"—12.

Ashbrook	Fassett	Loudenslager	Riordan
Cooper, Pa.	Ferris	McKinlay, Cal.	Rucker, Colo.
Denby	Langley	Moon, Tenn.	Thistlewood

NOT VOTING—51.

Allen	Edwards, Ky.	Howard	Mudd
Andrus	Esch	Hull, Iowa	Olcott
Barchfeld	Fairchild	Humphreys, Miss.	Palmer, A. M.
Bates	Foelker	Johnson, S. C.	Reid
Bell, Ga.	Garner, Pa.	Kennedy, Ohio	Sherley
Broussard	Gilmore	Kinkead, N. J.	Small
Burleigh	Godwin	Legare	Sparkman
Capron	Goldfogle	Lever	Turnbull
Clark, Fla.	Gordon	Lowden	Underwood
Covington	Graham, Ill.	McCall	Wallace
Creager	Graham, Pa.	McKinley, Ill.	Weisse
Durey	Hardwick	Mays	Woodyard
Edwards, Ga.	Hitchcock	Moxley	

So the bill was passed.

The following additional pair was announced:

Until further notice:

Mr. FAIRCHILD with Mr. LEVER.

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

On motion of Mr. MANN, a motion to reconsider the vote whereby the bill was passed was laid on the table.

FRIAR LANDS IN THE PHILIPPINES.

Mr. OLMSTED. Mr. Speaker, from the Committee on Insular Affairs I report back the following resolution.

Mr. DOUGLAS. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. DOUGLAS. I rise to call up a conference report on a House bill.

The SPEAKER. That would take precedence.

Mr. OLMSTED. I hope the gentleman will yield to me.

The SPEAKER. The gentleman from Pennsylvania seeks to report a resolution from his committee which he claims is privileged under the rule. Pending that, the gentleman from Ohio arises to call up a conference report. Unless the gentlemen can agree between themselves, the gentleman from Ohio would have precedence.

Mr. DOUGLAS. Mr. Speaker, I will yield temporarily to the gentleman from Pennsylvania.

The SPEAKER. The gentleman from Pennsylvania offers the following privileged report (No. 1314):

The Clerk read as follows:

House resolution 679.

Resolved, That the Attorney-General be, and he is hereby, directed to furnish to the House of Representatives the following-named documents and the information herewith requested:

(*a*) The date and full text of the opinion of the Attorney-General sent to the Secretary of War informing him that lands in the Philippine islands known as "friar lands" could be sold in excess of the limitation fixed in the act of Congress entitled "An act temporarily to provide for the administration of affairs of civil government in the Philippine Islands, and for other purposes," approved July 1, 1902.

(*b*) Whether or not the Attorney-General or Department of Justice, at the date of the above opinion, had any knowledge or information as to who were the prospective purchasers of the San Jose estate, in the island of Mindoro, Philippine Islands, a part of the "friar lands."

(*c*) The date when the Government accepted a $2,000,000 settlement from the American Sugar Refining Company for the amount due in revenue or fines through the short-weight cases at the port of New York, together with a statement of the approximate amount of revenue the Government had lost from the American Sugar Refining Company at that date by the short-weight frauds, as disclosed by evidence in the possession of the Department of Justice.

(*d*) Whether or not the Department of Justice at the date of the consummation of the sale of the San Jose estate, on January 4, 1910, had possession of any of the facts and evidence upon which was based the indictment of Charles R. Heike, secretary of the American Sugar Refining Company, in the United States district court for the southern district of New York.

With the following committee amendments:

On page 1, line 2, after the word "representatives," insert the words "if not incompatible with the public interests."

In lines 3 and 4, page 2, strike out the words "two-million dollar."

Mr. OLMSTED. Mr. Speaker, the Committee on Insular Affairs is not greatly impressed with the importance of this resolution, particularly the first clause, which calls for a copy of the letter addressed by the Attorney-General to the Secretary of War. That letter has already been produced by the Secretary of War and is printed on page 3803 of the RECORD. Nor do we see any connection between the occupancy of the friar lands in the Philippine Islands and the settlement with the American Sugar Refining Company in New York, or between either one of these transactions and the indictment of Charles R. Heike in the southern district of New York. Nevertheless, the committee recommend with slight amendments the passage of the resolution. One amendment is the insertion of the usual clause, "if not incompatible with the public interests," and the other is to strike out the words "two million dollars." The resolution calls on the Secretary of War to state the date when the Government accepted a $2,000,000 settlement from the American Sugar Refining Company. We do not know whether it was a $2,000,000 settlement, so we merely strike out "two million dollars" and call upon him to state when any settlement was made, whatever that settlement may have been.

Unless some gentleman desires to ask a question I demand the previous question on the resolution and amendments to final passage.

The SPEAKER. The gentleman from Pennsylvania demands the previous question on the resolution and amendments to a final passage.

The question was taken, and the previous question was ordered.

The amendments were agreed to.

The resolution as amended was agreed to.

Mr. OLMSTED. Mr. Speaker, I present an additional privileged report (No. 1315).

The Clerk read as follows:

House resolution 680.

Resolved, That the Secretary of War be, and he is hereby, directed to furnish to the House of Representatives the original, or if the original be unavailable, the letterpress copy of the original, letter written to the Attorney-General on December 4, 1909, and requesting the Attorney-General's opinion upon the question "Whether section 15 of the act of Congress approved July 1, 1902, entitled 'An act temporarily to provide for the administration of affairs of civil government in the Philippine Islands, and for other purposes,' limiting the amount of land which may be acquired by individuals and corporations, is made applicable by section 65 of said act to the estates purchased from religious orders in the Philippine Islands pursuant to authority conferred upon the Philippine government by sections 63, 64, and said section 65 of the act mentioned," together with the originals, or if the originals be unavailable, copies of all data, memoranda, letters, or other statements submitted by counsel for Horace Havemeyer and his copurchasers of the San Jose friar estate, island of Mindoro, Philippine Islands, or by others, to the Secretary of War and transmitted to the Attorney-General with said letter of December 4, 1909.

With the following committee amendments:

In line 2, after the word "Representatives," insert "if not incompatible with the public interest, a true."

Also strike out, in line 1, page 2, after the word "with," the words "the originals, or if the originals be unavailable."

Also, in line 3, page 2, after the word "for," strike out the words "Horace Havemeyer and his copurchasers" and insert the words "the purchaser or purchasers;" and after line 8, page 2, insert "and to state name or names of the purchaser or purchasers of the said San Jose estate."

Mr. OLMSTED. Mr. Speaker, this resolution was recommended to passage with two or three trifling amendments, one of which was the insertion of the usual clause, "if not incompatible with the public interests."

The other is to strike out where the resolution calls for the originals or letterpress copies, and insert words in place thereof so that it will read, "true copies." We have not thought it necessary to transfer the original records of the War Department to the House of Representatives in the absence of any reason for believing that copies will not serve the purpose just as well.

We have stricken out the names alleged in the resolution to be the purchasers, because we do not know whether they were the purchasers or not; but we have called for all statements submitted by counsel for the purchasers, whoever they may be, and for the statement of the name or names of the purchaser or purchasers of the San Jose estate.

Mr. MARTIN of Colorado. Will the gentleman yield?

Mr. OLMSTED. Yes.

Mr. MARTIN of Colorado. I would like to ask the gentleman if he does not know that the Chief of the Bureau of Insular Affairs and his assistant testified before the gentleman's committee, the House Committee on Insular Affairs, that the real purchasers of this land were Horace Havemeyer and a man named Semff, who was formerly vice-president of the American Sugar Refining Company, and another gentleman associated with the Havemeyers in the sugar business?

Mr. OLMSTED. No; he did not so testify. He did testify that an attorney who called at the department did mention those names, but that that attorney withdrew from the matter, and afterwards the matter was prosecuted by an entirely different attorney, and whether or not he was acting for those gentlemen we have no definite information; but we have so amended this resolution that it calls upon the Secretary of War to give the name or names of the purchasers, whoever they may have been.

Mr. MARTIN of Colorado. Mr. Speaker, I appeal to the record, to the hearings had before the gentleman's committee, on April 13 last, in which hearings General Edwards and his assistant, Major McIntyre, said that they were informed by an attorney who was brought into this transaction by the original attorneys, for there was no change of clients whatever, that these men I have named were the real purchasers and put up all of the money to pay for this land, and used that very expression.

Mr. OLMSTED. There was no statement, so far as I recall, about who put up the money. There was a statement that a certain lawyer who appeared there mentioned the names of those gentlemen, at least one of them, and probably all three, but he withdrew from the matter and never appeared again. Subsequently another attorney appeared. The name in which the purchase was made, I believe, was Poole. Now, as to who finally put up the money, I do not know; but this resolution will bring out this information.

Mr. PAYNE. What difference does it make whether an attorney said that or not?

Mr. OLMSTED. It does not make a particle of difference.

Mr. MARTIN of Colorado. I am not going outside of the record in speaking of these matters.

Mr. OLMSTED. The record before the Committee on Insular Affairs mentioned what I stated. It mentions those names as having been mentioned by an attorney who appeared with reference to this matter.

Mr. MARTIN of Colorado. Oh, I beg to differ with the gentleman.

Mr. OLMSTED. I do not yield, Mr. Speaker. I do not yield for any dispute as to the record before the Committee on Insular Affairs, because the fact is that another attorney carried that matter through and for another client by name. Whether he really represented those parties named I do not know. We do not propose to have the House of Representatives state who did do the purchasing, but we call on the Secretary of War to furnish the names, which is all the gentleman needs, if he wants the facts.

Mr. MARTIN of Colorado. I want to ask the gentleman if he means to say that the attorney who was brought into this transaction by the firm of Strong & Cadwallader, Mr. Gersdorff, did not say before the gentleman's committee—and he was the attorney who carried the transaction through—that Horace Havemeyer and Welch and Semf furnished the money——

Mr. OLMSTED. Mr. Gersdorff never appeared before our committee.

Mr. MARTIN of Colorado. I am asking the gentleman if General Edwards and Major McIntire did not tell the gentleman's committee that Mr. Gersdorff told them that these men were putting up the money?

Mr. OLMSTED. My recollection is that it was the other attorney who came in earlier.

Mr. MARTIN of Colorado. I will say to the gentleman that his recollection is decidedly faulty.

Mr. OLMSTED. That may be, but it does not make any difference. This resolution calls for the names, whoever they were.

Mr. MARTIN of Colorado. Will the gentleman join me in asking unanimous consent that I may put into the RECORD in connection with this colloquy just what was stated before the committee by General Edwards and Major McIntyre?

Mr. OLMSTED. If it is necessary to put that in, I will put it in when I get ready, but it does not have any bearing on this matter. If the gentleman wants the information as to who purchased the property, this resolution is intended to get it. If the gentleman wants something for some other purpose—well, Mr. Speaker, I demand the previous question on the amendments and resolution to final passage.

Mr. MARTIN of Colorado. Mr. Speaker, I ask unanimous consent that I may put into the RECORD in connection with this colloquy the statements to which I refer as having been made before the Committee on Insular Affairs.

The SPEAKER. The gentleman is not recognized for that purpose, because there is a demand for the previous question. Unless that is withdrawn the gentleman can not be recognized for that purpose.

The question is on ordering the previous question.

The question was taken, and the previous question was ordered.

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

The question was taken, and the amendments were agreed to.

The resolution as amended was agreed to.

Mr. OLMSTED. Mr. Speaker, I also offer the following privileged resolution.

The SPEAKER. The gentleman from Pennsylvania reports from the Committee on Insular Affairs a privileged resolution, which the Clerk will report. (Report No. 1317.)

The Clerk read as follows:

House resolution 684.

Resolved, That the Secretary of War be, and he is hereby, directed to furnish the House of Representatives the original, or, if the original be unavailable, a true copy, of the cablegram mentioned by officials of the War Department before the House Committee on Insular Affairs on April 13, 1910, as having been sent, presumably, to the governor-general of the Philippine Islands, and the reply cablegram of the governor-general thereto, with reference to the Mindoro Development Company, a corporation organized under the laws of New Jersey, together with the originals, or copies, if the originals are not available, of all other cablegrams or letters exchanged between the War Department and the Philippine government or between the War Department and any other persons, by telegram, letter, or otherwise, with reference to said Mindoro Development Company; and to inform the House whether said company has been authorized to do business in the Philippine Islands.

The committee amendments were read, as follows:

In line 2, after the word "Representatives," strike out the words "the original, or if the original be unavailable," and insert the words "if not incompatible with the public interests;" and also, in line 11, strike out the words "the originals, or copies, if the originals are not available" and insert "true copies."

Mr. OLMSTED. Mr. Speaker, this is another of the daily resolutions of the gentleman from Colorado [Mr. MARTIN]. The Committee on Insular Affairs recommends its passage with the insertion of the usual clause "if not incompatible with the public interests," and we have stricken out the words "the originals or letterpress copies if the originals are not available" and inserted "true copies," so that it calls for true copies instead of originals.

Mr. PAYNE. Will the gentleman permit a question?

Mr. OLMSTED. Certainly.

Mr. PAYNE. As I heard the resolution read it calls for the cablegram sent and for all other cablegrams sent by the War Department, and I do not know what other department, to the Philippine Islands——

Mr. OLMSTED. It is in reference to this one matter, however—the Mindoro Development Company.

Mr. PAYNE. I did not know but we would have to make an extra appropriation for clerks to get copies of the cablegrams sent between the department and the Philippine Islands. Of course, we want to give the gentleman from Colorado all the information possible.

Mr. FITZGERALD. The gentleman states he put in what he terms to be the usual clause——

Mr. OLMSTED. Yes.

Mr. FITZGERALD. Is this resolution addressed to the head of the Department of War?

Mr. OLMSTED. It says "if not incompatible with the public interest."

Mr. FITZGERALD. That is not the usual clause of a resolution addressed to the head of a department.

Mr. OLMSTED. It is the very identical clause put in the gentleman's resolution the other day.

Mr. FITZGERALD. That was a resolution addressed to the President of the United States. The House took the trouble to look up the precedents, not long ago, and struck this particular clause out of resolutions addressed to heads of departments.

Mr. OLMSTED. From the locality from which the Secretary of War comes, and his politics, has the gentleman from New York any hesitation in leaving this matter to the Secretary of War in this way?

Mr. FITZGERALD. From what I read I would not give the Secretary of War any excuse for not transmitting this information; and if it is a fact that the law firm of the brother of the President of the United States is mixed up——

Mr. OLMSTED. I did not yield for a discussion of the law firm of the brother of the President, and I——

Mr. FITZGERALD. And if there is any violation of the law——

Mr. OLSMTED. And I move the previous question upon the amendments and the resolution.

The SPEAKER. The gentleman demands the previous question upon the amendments and the resolution.

The previous question was ordered.

The amendments were agreed to.

The resolution as amended was agreed to.

Mr. OLMSTED. Mr. Speaker, I also offer the following privileged resolution.

Mr. MANN. Will the gentleman yield for a question? Is this a continuous vaudeville performance?

Mr. OLMSTED. This is one of the daily resolutions of my friend the gentleman from Colorado.

The SPEAKER. The Clerk will report the resolution. (Report No. 1316.)

The Clerk read as follows:

House resolution 682.

Resolved, That the Secretary of War be, and he is hereby, directed to furnish the House of Representatives the original, or if the original be unavailable, a true copy, of the cablegram mentioned by officials of the War Department before the House Committee on Insular Affairs on April 13, 1910, as having been sent, presumably to the governor-general of the Philippine Islands, and the reply cablegram of the governor-general thereto, with reference to the Mindoro Development Company, a corporation organized under the laws of New Jersey, together with the originals, or copies if the originals are not available, of all other cablegrams or letters exchanged between the War Department and the Philippine government or between the War Department and any other persons by telegram, letter, or otherwise, with reference to said Mindoro Development Company; and the Secretary of War is further directed to ascertain by cable whether said company has been authorized to do business in the Philippine Islands, setting forth such cable exchanges in his reply hereto.

Mr. OLMSTED. Mr. Speaker, this resolution is identical with the one to which the House has just agreed, except that this one asks the Secretary of War to ascertain by cable whether a company has been authorized to do business in the Philippine Islands, whereas the one we have just passed directed him to inform the House whether it is authorized to do business in the Philippine Islands. It may well be doubted whether the House alone can direct the Secretary of War to cable for information, but in any event the resolution already passed will doubtless accomplish all that is desired. I move, therefore, that this resolution do lie upon the table.

The question was taken, and the motion was agreed to.

Mr. MARTIN of Colorado. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. MARTIN of Colorado. For the purpose of asking unanimous consent that I may insert in the RECORD, in connection with these resolutions that have been passed, the statements made by General Edwards and Major McIntyre before the House Committee on Insular Affairs, admitting the purchase of the San Jose friar estate by the Havemeyers and other sugar-stock holders.

The SPEAKER. The gentleman from Colorado [Mr. MARTIN] asked unanimous consent, and while he was asking unanimous consent the gentleman from New York [Mr. PAYNE] demanded the regular order, which is equivalent to an objection.

Mr. CLARK of Missouri. The gentleman from New York never rose in his place and demanded it.

The SPEAKER. Is there objection?

Mr. DOUGLAS. I object.

Mr. PAYNE. I object.

The SPEAKER. The gentleman from Ohio [Mr. DOUGLAS] rises in his place and objects.

BUREAU OF MINES.

Mr. DOUGLAS. Mr. Speaker, I desire to call up the bill (H. R. 13915) to establish in the Department of the Interior a bureau of mines, and ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER. Is there objection?

There was no objection.

[For conference report and statement see RECORD of May 9, 1910, p. 5971.]

Mr. TAWNEY. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. TAWNEY. I rise for the purpose of making a point of order against the conference report.

The SPEAKER. The gentleman will state the point of order.

Mr. TAWNEY. My point of order is that the conferees have exceeded their authority in inserting into the bill, in conference, legislation that was not enacted by either House. Amendment 15 is where this happened. The language of Senate amendment No. 15 is as follows:

And shall cease and determine under the organization of the United States Geological Survey; and such experts and clerks as are now employed by the Geological Survey in connection with the subjects hereby transferred to the bureau of mines are authorized to be transferred to the said bureau by the President.

The agreement on the part of the conferees strikes out the language I have just read and inserts:

And shall cease and determine under the organization of the United States Geological Survey; and such experts, employees, property, and equipment as are now employed or used by the Geological Survey in connection with the subjects herewith transferred to the bureau of mines are directed to be transferred to said bureau.

Now, the language that is inserted here is—

Employees, property, and equipment as are now employed or used by the Geological Survey in connection with the subjects—

And so forth.

That transfers the physical property belonging to the Geological Survey, heretofore used in connection with the investigation and testing of structural material, and in the investigation of coal, none of which was included by the House provision and stricken out by the Senate, or by the Senate provision that was inserted as an amendment. It is beyond the jurisdiction of the conferees to adopt in conference any original legislation; that is, legislation that was not considered and agreed to by either House, or a matter that was not in difference between the two Houses. The question of the transfer in the bill as it passed both Houses related to the transfer of the employees and supervision over the subjects of investigation. The equipment and property used in connection with the testing of structural material was not transferred by either House, but is transferred or proposed to be transferred by the conferees.

Mr. DOUGLAS. Will the gentleman yield?

Mr. TAWNEY. Yes; I yield.

Mr. DOUGLAS. Is not the gentleman mistaken when he says that the clerks, and so forth, were removed by the bill as it passed both Houses?

Mr. TAWNEY. No; I did not say that the clerks——

Mr. DOUGLAS. I assure the gentleman that he has.

Mr. TAWNEY. I did not say anything about the clerks. I will read from section 5 of the bill:

Immediately after the organization of the bureau of mines under appropriations made therefor by Congress, the work of the so-called technologic branch of the Geological Survey, including the investigation of structural materials, the analyzing and testing of coals, lignites, and other mineral fuel substances, and the causes of mine explosions, shall cease and determine under the organization of the United States Geological Survey.

That was the language of the provision in the House. That was stricken out by the Senate, and in lieu thereof was inserted this language:

And shall cease and determine under the organization of the United States Geological Survey; and such experts and clerks as are now employed by the Geological Survey in connection with the subjects herewith transferred to the bureau of mines are authorized to be transferred to the said bureau by the President.

Now, the language which the conferees inserted, and which was not contained in either the House provision or the Senate amendment to the House provision, is:

Employees, property, and equipment as are now employed or used by the Geological Survey in connection with the subjects—

And so forth.

That language, taken in connection with what precedes it and what follows it, operates to transfer to the bureau of mines the property and equipment now in the possession of the Geological Survey, which was not considered and was not a matter that was considered by either House of Congress.

Mr. DALZELL. Mr. Speaker, the bill creating the bureau of mines transfers the work that has heretofore been done by the Geological Survey to the bureau of mines. The amendment made by the conferees was a germane amendment to the amendment originally made by the Senate to the House bill. The Senate provided in its amendment that the experts and clerks now employed by the Geological Survey in connection with the work transferred to the bureau of mines should likewise be transferred to the bureau by the President. The amendment made by the conferees was a germane amendment to that. It simply inserts the words "property and equipment." So that when the work that has heretofore been done by the Geological Survey is transferred to the bureau of mines there is also transferred the property or equipment by which that work was being done. The amendment is a perfectly germane amendment, and I do not think it is subject to the point of order.

Mr. TAWNEY. In reply to the gentleman, Mr. Speaker, I will say——

Mr. DOUGLAS. In addition to the statement made by the gentleman from Pennsylvania, I think it is highly probable that

this transfer would have been made by operation of law, and therefore it is certainly absolutely germane.

Mr. TAWNEY. In reply to the gentleman from Pennsylvania, Mr. Speaker, I wish to say that the language inserted in the bill by the conferees transfers to the bureau of mines and mining that which neither House proposed to transfer by any language of either House, employed either in the original section 5 or Senate amendment No. 15.

Mr. DOUGLAS. Will the gentleman deny that where the work is transferred that the means used ought to go with it, and is it not therefore absolutely germane?

Mr. TAWNEY. The question of work is not specifically transferred, I would say to the gentleman——

Mr. DOUGLAS. The gentleman is mistaken.

Mr. TAWNEY (continuing). To the Secretary of the Interior. Let me read section 4, to which amendment 15 is offered:

That the Secretary of the Interior is hereby authorized to transfer to the bureau of mines from the United States Geological Survey the supervision of the investigations of structural materials and the analyzing and testing of coals, lignites, and other mineral fuel substances.

The Senate struck out "structural materials," and they say that it applies only to the transfer of the work of supervision and investigation, analyzing and testing of coals, lignites, and other mineral fuel substances—

and the investigation as to the causes of mine explosions, and the appropriations made for such investigations may be expended under the supervision of the director of the bureau of mines in manner as if the same were so directed in the appropriation acts, and such investigations shall hereafter be within the province of the bureau of mines.

And then the Senate adds:

And shall cease and determine under the organization of the United States Geological Survey, and such experts and clerks as are now employed.

The language proposed by the Senate, which language I have just read, transfers the clerks only. So that after authorizing the transfer of the supervision of the investigation of these subjects, to have that transfer effective, in the judgment of the Senate, they authorize the transfer of the clerical force now employed, and they did not include in their amendment anything except the transfer of the experts and clerks. The equipment of the Geological Survey used in these investigations was not transferred by either House.

Mr. DOUGLAS. Let me call the attention of the gentleman——

Mr. WILSON of Pennsylvania. I should like to suggest to the gentleman——

Mr. TAWNEY. I yield to the gentleman from Pennsylvania.

Mr. WILSON of Pennsylvania. I want to call the gentleman's attention to this language in the Senate bill, section 4:

And the investigation as to the causes of mine explosions.

Now, can the gentleman conceive the possibility of testing coal and making an investigation as to the causes of mine explosions without having an equipment for that purpose?

Mr. TAWNEY. I would say to the gentleman from Pennsylvania that I can not conceive of making an investigation of that kind without an equipment. But I say that that language does not transfer the equipment from one bureau to another bureau, and that can not be done without express legislative authority.

Mr. WILSON of Pennsylvania. It does not say that, because the equipment is part and parcel of the means of investigation.

Mr. DOUGLAS. Mr. Speaker, I desire to be heard on the point of order, but I will yield to the gentleman from Pennsylvania, who asks to be heard on the point of order.

Mr. OLMSTED. Mr. Speaker, I understand the rule and practice to be that in a part of the bill which has not been in dispute between the two Houses the text may be not amended in the conference report or at this stage. But here is an amendment made in the Senate, beginning with line 14, on page 3, in italics. Now, the conferees agree to a slight modification of that. I fail to see why it is not proper for them to do so. They agree to a modification of the Senate amendment. It is not a part to which both Houses have agreed, and therefore it is a subject for conference.

The text of the copy of the bill that I have reads:

And shall cease and determine under the organization of the United States Geological Survey; and such experts, employees, property, and equipment as are now employed or used by the Geological Survey in connection with the subjects herewith transferred to the bureau of mines are directed to be transferred to said bureau.

As I understand the gentleman from Minnesota [Mr. TAWNEY], he objects to the fact that the words "property and equipment" are included there. I can see no objection to that. The conferees merely agreed upon an amendment to the Senate amendment. The employees, property, and equipment all properly belong to the use in this department, which is the subject of consideration by the conferees. It seems to me that the provision is not open to the point of order suggested by the gentleman from Minnesota.

Mr. TAWNEY. Mr. Speaker, I wish to call the attention of the Chair——

Mr. DOUGLAS. I should like to be heard at some time on the point of order. The gentleman from Minnesota [Mr. TAWNEY] has had the floor for ten minutes.

Mr. TAWNEY. I merely want to say——

The SPEAKER. The Chair will hear the gentleman from Ohio.

Mr. TAWNEY. I want to call the Speaker's attention to the precedent established in the ruling made a few days ago by the Speaker on the playgrounds proposition, where the same point of order was made against the conferees that is now made here.

The SPEAKER. The Chair would be glad if the gentleman would give the ruling in that case, the date of it, and the reference to it.

Mr. DOUGLAS. I remember the ruling. I do not recall how nearly akin that ruling was to the question now before the Speaker. I do submit that the language in line 17 of this amendment placed in this bill by the Senate fully covers the right to insert the language which was inserted by the conferees. The Chair will please note that this bill as it left the House contained a separate section 5 by which the appropriations made and the work of the so-called technologic branch of the Geological Survey was transferred to this bureau. Now, the Senate, as the Chair will note, left out section 5 entirely and changed section 4 in several particulars. Among others, the Chair will please note that the language—

Analyzing and testing of coals, lignites, and other mineral-fuel substances—

Which was under the Geological Survey was by the action of both Houses transferred to the new bureau of mines. Now, the Chair will further note that the Senate added the words—

And the investigation of the causes of mine explosions.

The Chair will further note that the Senate added the language which obviated the necessity of section 5. They left out section 5, but put in this language:

That this work hereby transferred shall cease and determine under the organization of the United States Geological Survey, and such experts and clerks as are now employed by the Geological Survey in connection with the subjects herewith transferred to the bureau of mines—

Was inserted by the Senate.

I submit that that amendment coming before the conferees, they had a perfect right to amend it in any way that was strictly germane to the purpose of the amendment. Now, what was the purpose of that amendment? It was to transfer this work, not only the investigation of structural material, but the analyzing and testing of coals, lignites, and other mineral fuel substances, and other work that had heretofore been done by the technological bureau of the Geological Survey—to transfer that work, with the clerks and the property and equipment necessary for that work, to this new bureau. I submit that there can be no question that it is apposite; that it is necessary; that anything else would create confusion; that to transfer the work without the equipment and necessitate the purchase of new equipment in this mining bureau would be a work of supererogation and exceedingly bad legislation.

Mr. NICHOLLS. Will the Chair hear me for one moment on the point of order?

The SPEAKER. The Chair will hear the gentleman.

Mr. NICHOLLS. Section 4 directs the Secretary of the Interior to transfer to the Geological Survey the supervision of those different matters, and I make the point that the supervision over the whole matter includes the possession and the authority to use the equipment and materials now in use in the Geological Survey, and that it therefore clearly means the possession and the use and the transfer of the actual materials and equipment themselves.

Mr. HUGHES of West Virginia. I just want to say a word on the point of order. I think the point of order of the gentleman from Minnesota is untenable. I think it was competent for the conference committee to insert the words "property and equipment" in the Senate amendment No. 5, in order to fully carry out the purpose of the amendment. Those words are certainly germane to the Senate amendment, for the reason that the amendment as agreed to by the Senate, and which became the subject of disagreement between the two Houses provides for the transfer from the Geological Survey of "such experts, and employees as now employed or used" by that bureau to the proposed bureau of mines, and the words added thereto by the conferees merely provides further that the paraphernalia used by such experts and employees in their work shall also be transferred to the bureau of mines. The whole object of the

amendment is to transfer that work to the bureau of mines with everything appertaining thereto, and the transfer of the jurisdiction carries with it, or should carry with it, not only the personnel, but the equipment and property of the office so transferred, and in putting in the latter the conferees simply made this more certain and less liable to misconstruction; in other words, they perfected the amendment without in the least degree changing its import. The point of order of the gentleman, while it may not be captious, is not even technical, and goes rather to the merits of the proposition itself, I think, than to any alleged violation of the rules governing conference reports. I hope the point will be overruled that this wholesome legislation may be no longer delayed, but may proceed to ultimate enactment. Even were the point well taken I hope it will not stand in the way of this measure which is of such vital concern to the vast mining interests and the thousands of miners in this country. This bill has been carefully and seriously considered by Congress in response to a wise demand from the people in behalf of those whose lives are daily jeopardized in the hazardous pursuit of mining, and for more scientific methods in this great industry, and in my judgment no mere parliamentary point should intervene at this juncture to threaten its final passage.

Mr. CRUMPACKER. Mr. Speaker, it seems to me, from a practical standpoint, that this is rather a plain proposition. The bill creates a bureau of mines and mining and transfers the administration of the subject from the Geological Survey to the proposed bureau. The House bill did not provide for the transfer of the instrumentalities through which these functions were performed from the Geological Survey to the new bureau. The bill went to the Senate, and the Senate amendment under consideration provided for the transfer to the new bureau of clerks, employees—a portion of those instrumentalities.

Now, the Senate having provided for the transfer of some of the agencies through which the work of the bureau was performed, the House having disagreed to the Senate proposition, it was in conference, and the House conferees had a right to say to the Senate conferees—

> If we agree to the amendment transferring some of the instrumentalities through which the functions of the bureau are performed, it must be with an amendment to cover them all.

Therefore the conferees agreed that the Senate amendment should be so enlarged as to cover all the agencies that the Geological Survey had employed in performing its functions, and that they be all transferred to the bureau of mines and mining in so far as that subject was concerned.

It seems to me there can be no kind of question that the addition agreed to by the conferees was germane to the Senate amendment. It was right in line with the Senate amendment. Now, suppose the Senate had provided for the transfer of clerks and employees to the number of 17, and when the provision went into conference the House conferees insisted—there being 23 clerks and employees in the bureau that were used for the purpose that were in the future to be discharged by the new bureau—that if a portion of the clerks and employees were to be transferred they all should be transferred, and therefore the number was increased from 17 to 23. The property and equipment are as much a part of the instrumentalities of the service as the clerks and employees.

I want to repeat that the House conferees insisted that if a portion should go all should go, and the Senate amendment was amended accordingly, and was certainly a germane amendment if any regard is had for the purpose and intent of the Senate provision.

Mr. TAWNEY. Will the gentleman yield?

Mr. CRUMPACKER. Certainly.

Mr. TAWNEY. Do I understand the gentleman from Indiana to say that it is competent for the conferees to agree to any proposition in conference, whether considered by either House or not, provided it is germane?

Mr. CRUMPACKER. Yes; if it is germane to the matter in disagreement.

Mr. TAWNEY. That is the first time I ever heard that proposition advanced.

Mr. CRUMPACKER. Conferees may agree with an amendment.

Mr. TAWNEY. Provided they keep within the legislative action of both Houses.

Mr. CRUMPACKER. There could be no amendment if the change must be within the legislative action of both Houses. They may agree with a germane amendment that goes outside of the legislative action of the two Houses in order that they may get together. That is a principle that has been settled for generations in the parliamentary procedure of the House. What becomes of that rule authorizing conferees to agree to a new provision put in by one branch, with an amendment? The amendment must be germane, and this is germane; it is right in keeping with the purpose of the Senate amendment, and if this transfer is not made the Government will have to provide additional equipment for the new bureau.

The SPEAKER. Section 4 of the House bill reads as follows:

> The Secretary of the Interior is hereby authorized to transfer to the bureau of mines from the United States Geological Survey the supervision of the investigation of structural material and the analyzing and testing of coal, lignites, and other mineral substances, and the appropriation made for any such investigation may be expended under the supervision of the commissioner of mines in manner as if the same were so directed in the appropriation act, and such investigation shall hereafter be within the province of the bureau of mines.

It will be noticed that by the House provision certain matters were transferred, as read by the Chair. Now, the Senate amended section 4, which the Chair has just read, by inserting at the end of section 4 these words:

> And shall cease and determine under the organization of the United States Geological Survey, and such experts and clerks as are now employed by the Geological Survey in connection with the subject herein transferred to the bureau of mines are authorized to be transferred to said bureau by the President.

Now, that was a Senate amendment to section 4. The House disagreed to the Senate amendment. The conferees met, and having the disagreement before them, struck out the words "and clerks" of the Senate amendment and inserted "employees, property, and equipment."

The only change in the Senate amendment made by the conferees was to strike out the words "and clerks" and insert "employees, property, and equipment." It seems to the Chair that the conferees did not exceed their jurisdiction, the main question being whether the Geological Survey should cease and determine as to the work specified. The other matter is an incident of the settlement of the main question.

Now, as to the precedent that the gentleman from Minnesota [Mr. TAWNEY] refers to, the Chair finds on examination that it is not in point, because in that case the House and Senate had agreed to a text and there was no difference between them, and the conferees changed that text, which was not in disagreement.

The Chair, therefore, overrules the point of order.

Mr. DOUGLAS. Mr. Speaker, I move that the House agree to the conference report.

The motion was agreed to.

Mr. KENDALL. Mr. Speaker, this bill in its perfected form represents the intelligent efforts of earnest men responding to a universal demand that measures be inaugurated to reduce to the minimum the danger which inevitably attends labor in the mines of America. The frightful slaughter which has been reported weekly from the coal fields of the country during the past decade has appalled and alarmed the civilized world. For years a consistent struggle has been prosecuted to secure a law for the better protection of the brave and devoted men who go down into the dark and somber earth to earn their daily living by their daily toil, and this bill, so wise in its provisions and so humane in its purpose, is the result. It is inconceivable that any substantial objection can be advanced to its enactment. The great party to which I belong inserted in its last national platform a plank declaring for the establishment of a bureau of mines, in this language:

> In the interest of the great mineral industries of our country, we earnestly favor the establishment of a bureau of mines and mining.

The United Mine Workers of America are unanimously for this legislation. In their nineteenth annual convention they said:

> Whereas the mining interests of the United States yielded during the year 1907 an increase to the Nation's wealth of nearly $2,000,000,000 and employed 600,000 or more men in the various States of the Union; and
>
> Whereas in 1906 nearly 7,000 men were killed and injured in coal mining alone; and
>
> Whereas this number is rapidly increasing and is now greater than in any other mining country of the world; and
>
> Whereas every important mining country except the United States maintains a bureau of mines for the study of mining and the protection of life in the mines; and
>
> Whereas it is desirable that more adequate recognition should be given the industry by the investigation of mining and metallurgical methods, with a view to better protection of life and the better utilization and conservation of these mineral resources: Therefore be it
>
> *Resolved*, That the United Mine Workers of America, in their nineteenth annual convention assembled, recommend the establishment at this time of a national bureau of mines, with adequate authority and funds to make the necessary investigations to carry into effect the purposes herein stated and to make recommendations to Congress as to any needed legislation. Be it further
>
> *Resolved*, That the international officers are hereby instructed to appear before the proper congressional committees in Washington, urging the enactment of such legislation.
>
> J. H. WALKER,
> JOHN P. WHITE,
> *District Presidents.*

Their twenty-first annual convention in session last January, adopted the following:

Whereas there are now pending before the United States Congress bills for the creation of a bureau of mines and mining; and

Whereas the importance of creating such a bureau is fully recognized by every individual conversant with the mining industry of the country; and

Whereas we believe the awful catastrophes in the mines should prompt Congress to act immediately in the enactment of a law to establish a bureau of mines and mining:

Resolved, That we, the representatives of the twenty-first annual convention of the United Mine Workers of America, in convention assembled, and representing directly 300,000 organized workers and indirectly 700,000 men, petition, request, and urge the Members of the United States Congress, both House and Senate, to pass immediately such bills as are necessary for the creation of a bureau of mines and mining.

T. L. LEWIS, *President*.
EDWIN PERRY, *Secretary-Treasurer*.

The pledge of the party is redeemed and the petition of the mine workers answered in the bill which I reproduce as it will appear if the conference report is adopted:

An act to establish in the Department of the Interior a bureau of mines.

Be it enacted, etc., That there is hereby established in the Department of the Interior a bureau, to be called the bureau of mines, and a director of said bureau, who shall be thoroughly equipped for the duties of said office by technical education and experience and who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive a salary of $6,000 per annum; and there shall also be in the said bureau experts and other employees as may from time to time be authorized by Congress.

SEC. 2. That it shall be the province and duty of said bureau and its director, under the direction of the Secretary of the Interior to make diligent investigation of the methods of mining, especially in relation to the safety of miners, and the appliances best adapted to prevent accidents, the possible improvement of conditions under which mining operations are carried on, the treatment of ores and other mineral substances, the use of explosives and electricity, the prevention of accidents, and other inquiries and technologic investigations pertinent to said industries, and from time to time make such public reports of the work, investigations, and information obtained as the Secretary of said department may direct, with the recommendations of such bureau.

SEC. 3. That the Secretary of the Interior shall provide the said bureau with furnished offices in the city of Washington, with such books, records, stationery, and appliances, and such assistants, clerks, stenographers, typewriters, and other employees as may be necessary for the proper discharge of the duties imposed by this act upon such bureau, fixing the compensation of such clerks and employees within appropriations made for that purpose.

SEC. 4. That the Secretary of the Interior is hereby authorized and directed to transfer to the bureau of mines from the United States Geological Survey the supervision of the investigations of structural materials and the analyzing and testing of coals, lignites, and other mineral fuel substances and the investigations as to the causes of mine explosions; and the appropriations made for such investigations may be expended under the supervision of the director of the bureau of mines in manner as if the same were so directed in the appropriations acts; and such investigations shall hereafter be within the province of the bureau of mines, and shall cease and determine under the organization of the United States Geological Survey; and such experts, employees, property, and equipment as are now employed or used by the Geological Survey in connection with the subjects herewith transferred to the bureau of mines, are directed to be transferred to said bureau.

SEC. 5. That nothing in this act shall be construed as in any way granting to any officer or employee of the bureau of mines any right or authority in connection with the inspection or supervision of mines or metallurgical plants in any State.

SEC. 6. This act shall take effect and be in force on and after the first day of July, 1910.

Under this bill we propose to seek the cause of accidents, and to recommend means to remove them. We propose to improve the methods of supplying suitable air to the workers. We propose to examine the machinery employed, with a view to its betterment. We propose to inquire into the disastrous explosions which have shocked the world with their enormity, and to prevent a repetition of these catastrophes where possible. We propose to ascertain if some reforms in operation may not be introduced to safeguard life and health. These are the purposes of the bill in which I am chiefly interested; but there are others of secondary importance relating to the examination of minerals, the inspection of ores, etc.

The mining industry in America is one of immense consequence to all our people. It produces annually over two billions of wealth, and employs over one million of men. It is prosecuted under conditions of extraordinary peril always and everywhere. The various States have endeavored, in desultory and insufficient fashion, to provide for the protection of life and limb and health, but there is no uniformity in the legislation attempted by the several Commonwealths, and the deliberate judgment of those best informed has determined that the National Government itself ought to embark upon a scientific investigation for the discovery of the most effective agencies to conserve human life in the coal mines of the country. The bureau here contemplated will ascertain the cause of explosions, and will communicate to the operators and miners all the information it can acquire with reference to the most approved methods and appliances known to modern science for the prevention of disaster and death.

Many countries have established departments similar to the one now about to be created here, and the result has invariably been that the death rate in such countries has steadily declined. It is conceded that the European mines are deeper than ours, and largely more liable to gas and dust explosions; and yet, by reason of the superior system of supervision adopted abroad and the scientific inquiries that have been conducted by the mining bureaus, the unavoidable casualties incident to the industry have gradually diminished as the years have elapsed. Up to the present moment we, of all the great mineral-possessing countries on the globe, appear to have stood alone in our indifference to the welfare and security of our citizens who engage in the vitally necessary but exceptionally hazardous labor of mining coal. It is a matter for congratulation that the conscience of the country is at last awakening and that the humane impulses of our people are finally aroused. The constant danger which confronts the coal miner can not be overstated, and the appeal of that worthy craft, encountering every moment the jeopardy of most perilous employment in order that the commerce and development of the Nation may continue, is entitled to the favorable consideration of Congress.

In the last five years 12,000 men perished in the coal mines of America alone. That awful mortality means many thousands of wives made widows, and multiplied thousands of children made orphans. The memories of Marianna and Steubenville and Yolande and Darr and Monongah and Cherry are fresh and vivid, and they haunt us with the reminder of duty grossly neglected. The other day a Pennsylvania newspaper contained the following item:

Within the past week 23 men have been killed in the mines in this vicinity, and 30 have been injured more or less seriously. The deaths have come in horrible and excruciating form. Half a dozen men lay in a dark tunnel, suffering untold torture from burns. Others were crippled by a fall of rock, and lay in terrible suspense until another fall came and crushed out their lives. One had his back broken and will be compelled to remain motionless until death ends his misery. Another suffered a fracture of the skull and will be an invalid for life.

It is all horrible, heart-rending. But this story of the mines goes on day after day, not always with such a fearful record as that enacted during the present week, but yet with its daily toll of one, two, three, or four lives, with a secondary record of broken bones and lacerations.

But yesterday the country was thrilled with horror to read of the terrible disaster which occurred at Palos, Ala. One account runs:

TWO HUNDRED MEET DEATH IN NEW ALABAMA MINE HORROR—PALOS, ALA., SCENE OF CATASTROPHE—ALL HOPE ENTOMBED MEN MAY BE RESCUED ABANDONED.

PALOS, ALA., *May 5*.

All hope that any of the 45 white and the 150 negro miners entombed in mine No. 3 of the Palos Coal and Coke Company as the result of an explosion in the mine this afternoon may be rescued alive has been abandoned. It is thought that if any of the men escaped death from the explosion, they were later suffocated by black damp.

Officials of the mine say that according to their records only 110 men are in the mine; but as a number of miners were employed under the contract system, the list of names on their pay rolls does not include all in the mine. The explosion is supposed to have been caused by one of the miners going into a gas pocket with a lighted lamp.

At midnight rescue parties had reached the 1,400-foot level and had found 11 bodies. A majority of the miners were working in the 2,300-foot level at the time of the explosion, and it is here that it is expected that the other bodies will be found. None of the bodies will be brought to the surface to-night.

The flames resulting from the explosion shot into the air from the mouth of the slope for a distance of 200 feet, and the shock was felt for miles. Timbers from the slope were hurled several hundred feet from its mouth and rock from the roof of the slope caved in and made access to the mouth very difficult. The fan machinery was badly damaged.

Local residents began at once to do what they could, but relief work was not started in earnest until the special train from Birmingham arrived in Palos shortly after 4 o'clock with eight physicians and surgeons, four undertakers, and a number of special helpers.

The first rescuers who went into the mine after the explosion were overcome by fire damp and had to be carried out. Mr Rutledge was among the first to enter, and after working his way 1,400 feet down the slope found the second right entry caved in. Two bodies recovered to-night were in the main slope.

These recitals might be continued indefinitely. A daily paper with competent press service seldom appears without containing the grewsome details of some mine horror. Within the past three years, in notable disasters, men have perished at—

Monongah, December 19, 1907	358
Darr, December 19, 1907	239
Marianna, November 28, 1908	154
Yolande, December 16, 1907	56
Hanna, March 28, 1908	59
Cherry, November 13, 1909	269
Palos, May 4, 1910	200

These tragedies demonstrate the necessity of a bureau of mines: (1) To develop rules and regulations looking to the prevention of explosions and fires; (2) to develop adequate methods of extinguishing fires; (3) to develop an adequate system of signals, uniform throughout the country, by means of which men located in all parts of any mine can be notified immediately when an accident occurs and what exit to take in order to avoid poisonous or explosive gases; (4) to develop more efficient methods of mine-rescue work.

It has been frequently asserted, and I think upon authority, that in no country in the world is coal mined under as favorable conditions as in ours, and that nowhere is the per diem production of the miner greater. We know that our workmen are of far higher average intelligence than their fellows elsewhere. And yet, notwithstanding these facts, our mortality in the mine is in excess of that of any other country in the world.

The number of men killed in the mines of the United States during the years 1896–1908, inclusive, is exhibited in the following statistical table:

1896	1,103
1897	934
1898	1,032
1899	1,217
1900	1,465
1901	1,543
1902	1,891
1903	1,729
1904	1,962
1905	2,175
1906	2,092
1907	3,125
1908	2,450

If the number killed be considered in connection with the whole number employed, the enormity of the sacrifice will be better understood. The number who perished out of each 1,000 employed during the past thirteen years is shown in the following table:

1896	2.79
1897	2.34
1898	2.59
1899	2.98
1900	3.24
1901	3.24
1902	3.49
1903	3.14
1904	3.38
1905	3.53
1906	3.43
1907	3.76
1908	3.64

It is interesting to observe in comparison that although the coal-producing countries of Europe have vastly increased the output of their mines in these years, the number of deaths instead of advancing has gradually diminished. The number killed out of each 1,000 employed in Belgium follows:

1896	1.16
1897	1.03
1898	.97
1899	1.05
1900	1.16
1901	1.07
1902	1.14
1903	.93
1904	.91
1905	.90
1906	.92
1907	.91
1908	.88

In Great Britain the figures are full of suggestion. Out of every 1,000 employed in the mines of that Kingdom, fatalities were as follows:

1896	1.48
1897	1.34
1898	1.28
1899	1.26
1900	1.30
1901	1.36
1902	1.24
1903	1.27
1904	1.24
1905	1.35
1906	1.29
1907	1.27
1908	1.24

Germany has been less solicitous for the welfare of her miners, but even her showing is more creditable than ours. Out of every 1,000 engaged in the industry in that Empire there were killed, as follows:

1896	2.58
1897	2.35
1898	2.86
1899	2.31
1900	2.24
1901	2.34
1902	1.99
1903	1.92
1904	1.80
1905	1.79
1906	1.76
1907	1.74
1908	1.71

A comparative summary for the seven-year period (1902–1908) is of absorbing interest. The number of men killed per thousand of those employed were, in the respective countries:

Belgium	0.96
Great Britain	1.28
Germany	1.81
United States	3.49

The fatalities in this country for the past thirteen years were distributed among the States as follows:

State or Territory.	1896.	1897.	1898.	1899.	1900.	1901.
Alabama	28	38	45	40	37	41
Arkansas						18
Colorado	68	35	24	41	29	55
Illinois	77	69	72	84	94	99
Indiana	28	16	22	16	18	24
Iowa	22	21	26	20	29	26
Kansas	12	6	17	16	22	26
Kentucky	6	12	6	7	17	21
Maryland	6	5	4	5	7	12
Michigan				4	10	6
Missouri	16	8	9	14	10	15
New Mexico	7	7	7	15	15	9
Ohio	41	40	52	57	68	72
Oklahoma (Indian Territory)	12	22	17	25	40	44
Pennsylvania	682	573	610	719	676	814
Tennessee	22	10	19	20	10	53
Utah	3	3	3		209	10
Washington	8	7	9	45	33	27
West Virginia	65	62	90	89	141	130
Wyoming						41
Total	1,103	934	1,032	1,217	1,465	1,543

State or Territory.	1902.	1903.	1904.	1905.	1906.	1907.	1908.
Alabama	50	57	84	185	96	154	108
Arkansas	13			8	13	10	14
Colorado	73	40	89	59	88	99	61
Illinois	99	156	157	199	155	172	183
Indiana	24	55	34	47	31	53	45
Iowa	55	21	31	24	37	41	31
Kansas	27	36	16	36	31	32	27
Kentucky	19	25	19	31	40	32	39
Maryland	11	13	12	13	7		12
Michigan	6	8	7	8	6	7	5
Missouri	10	17	11	11	16	8	10
Montana	12				13	12	20
New Mexico	17	17	15	5	9	34	23
North Dakota							4
Ohio	81	114	118	131	127	153	113
Oklahoma (Indian Territory)	60	33	30	40	44	33	44
Pennsylvania	756	920	1,131	1,123	1,034	1,514	1,250
Tennessee	226	26	28	29	33		34
Utah	8	7	9	7	7	6	8
Washington	34	25	31	13	22	36	25
West Virginia	120	159	140	194	268	729	313
Wyoming	190			12	15		81
Total	1,891	1,729	1,962	2,175	2,092	3,125	2,450

Total in thirteen years, 22,716.

This shocking loss of life can be measurably avoided, and the imperative duty devolving upon us is to rescue the mining industry of America from the horrible slaughter which now accompanies its operation. The bill now under consideration will accomplish much in that direction. Great Britain and the less progressive countries of Europe have established bureaus and departments, which are now conducting most comprehensive experiments in the endeavor to prevent explosions, to improve conditions, and to promote a higher degree of safety in the mines. Their investigations, and the more efficient methods of operation which have followed, are abundantly justified in the rapidly decreasing mortality rates in the mines of those countries. Everywhere increased solicitude is manifested for the welfare and security of the men who toil. Surely the great Republic whose progress, whose prosperity, whose permanency depends in the last analysis upon those who perform its labor will not continue to disregard its obvious obligation to the miners of the United States.

I am not commissioned to appear here for the operators of the country, and I do not assume to represent them in this discussion. But the industrious mine workers amongst my constituency have imperative claims upon my allegiance, and I should be recreant to the vital interests of those spendid men if I failed to exert every influence which I can command to facilitate this legislation. The situation of these patient and unassuming workers addresses itself to me with peculiar persuasiveness. They are as intelligent, as patriotic, as worthy as any citizenship beneath the Stars and Stripes. Day after day, in the darkness and in the silence, they are pursuing their arduous labor in good hope and with stout heart, surrounded by hazards and dangers which would completely overawe men of less intrepid courage. Hour after hour they are confronted with serious injury and possible death, but they do not falter. They recognize that the work in which they are engaged, difficult and perilous as it is, must be done, and that no ordinary men are vigorous enough or venturesome enough to do it. And so they toil perseveringly on, proud and happy in the consciousness that they are responsible for the motive power which transports

the mighty commerce of a continent. They are entitled to my utmost fidelity, and in their behalf I appeal to the membership of the House to unite with me in support of this bill.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had insisted upon its amendments to the bill (H. R. 19070) to regulate the height of buildings in the District of Columbia, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. GALLINGER, Mr. CARTER, and Mr. MARTIN as conferees on the part of the Senate.

The message also announced that the Senate had disagreed to the amendments of the House of Representatives to the bill (S. 4179) authorizing the Omaha tribe of Indians to submit claims to the Court of Claims, had asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. BROWN, Mr. SUTHERLAND, and Mr. PURCELL as the conferees on the part of the Senate.

AGRICULTURAL ENTRIES ON COAL LANDS.

Mr. MONDELL. Mr. Speaker, I call up the bill (H. R. 13907) to provide for agricultural entries on coal lands, a privileged bill, and move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill. Before the motion is put I desire to reach an agreement, if possible, with regard to general debate on the bill, and I would ask the gentleman from Arkansas [Mr. ROBINSON] what length of time is required on that side in general debate?

Mr. ROBINSON. Mr. Speaker, we should like to have two hours on this side, if possible.

Mr. MONDELL. Mr. Speaker, I think we ought to close general debate this evening, if possible, and that will give about two hours and a half on general debate; an hour and a quarter on a side. I hope the gentleman will agree to limit the debate, so that we can close general debate this evening by half past 5.

Mr. ROBINSON. I regret, Mr. Speaker, that I am unable to agree to a limitation of general debate which will not give those gentlemen on this side who have made application for time an opportunity to speak.

Mr. MONDELL. I think we ought to confine debate to the bill—to the question before the House.

Mr. ROBINSON. I agree with the gentleman as to that, and no gentleman who has requested time wants to speak on any other subject.

Mr. MONDELL. Would it be satisfactory to the gentleman to run general debate until 6 o'clock? That would give an hour and a half on a side.

Mr. ROBINSON. I think I can agree to that.

Mr. MONDELL. Then, Mr. Speaker, I ask unanimous consent that general debate on the pending bill close at 6 o'clock, the time to be equally divided and controlled by the gentleman from Arkansas and myself and debate to be confined to the bill.

The SPEAKER. Is there objection?

Mr. ROBINSON. Mr. Speaker, reserving the right to object, I want to call the attention of the gentleman from Wyoming to the fact that some gentlemen on this side have expressed a desire to extend their remarks on subjects not germane to the bill. I shall yield no time further than necessary for them to discuss any subject that is not germane, but I do not think——

Mr. MONDELL. Mr. Speaker, it seems to me debate and extension of remarks should be confined to the bill. We are coming to the sundry civil bill right after this bill and there will be an abundance of opportunity.

Mr. ROBINSON. All right.

The SPEAKER. The Chair hears no objection.

Mr. TAWNEY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. TAWNEY. Would it be proper to ask unanimous consent before going into the Committee of the Whole House that when the House adjourn on to-morrow it adjourn to meet at 11 o'clock on Thursday?

The purpose of that request is this: I am informed by the gentleman from Wyoming that he can dispose of the bill after the close of general debate in at least two hours, and that would enable the House then to resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the sundry civil appropriation bill.

Mr. MANN. Mr. Speaker, I call the attention of the gentleman from Minnesota to the fact that to-morrow is calendar Wednesday, and under the rules it is not in order to take a recess on calendar Wednesday.

Mr. TAWNEY. I did not say take a recess.

Mr. MANN. The gentleman asked to take a recess to-morrow——

Mr. TAWNEY. I beg the gentleman's pardon, I did not; I asked that when the House adjourns to-morrow it adjourn to meet at 11 o'clock on Thursday. I am not asking to vacate the sacred day of Wednesday.

The SPEAKER. The gentleman asks unanimous consent that when the House adjourns to-morrow that it adjourn to meet at 11 o'clock on Thursday. Is there objection? [After a pause.] The Chair hears none. Before putting the motion of the gentleman from Wyoming to go into the committee, by unanimous consent, the Chair will lay before the House the bill (H. R. 20988) authorizing the Secretary of Commerce and Labor to construct a water main and an electric cable across Galveston channel to furnish water and light to the immigration station, with a Senate amendment.

The Senate amendment was read.

Mr. BENNET of New York. Mr. Speaker, I move to concur in the Senate amendment.

The motion was agreed to.

AGRICULTURAL ENTRIES ON COAL LANDS.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 13907) to provide for agricultural entries on coal lands; Mr. LONGWORTH in the chair.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 13907) to provide for agricultural entries on coal lands.

Mr. MONDELL. Mr. Chairman, I move that the first reading of the bill be dispensed with.

The motion was agreed to.

Mr. MONDELL. Mr. Chairman, prior to the year 1873 the coal lands of the United States were not separated in any way from the agricultural surface. The vast coal fields of West Virginia, Pennsylvana, and the adjacent regions, containing the greatest body of the finest bituminous coal on the face of the earth, the great anthracite coal fields, the vast bituminous coal areas of Ohio, Kentucky, Illinois, and Indiana, all passed to the settler under his bounty land warrant or scrip or by cash sale at $1.25 an acre, or under one or another of the various laws under which our lands were then disposed of. In no case was the coal value of the land taken into consideration. The man who obtained title to the surface of the splendid and valuable coals of all that great region of country obtained title to the coal with the surface and at the surface price, but in the year 1873 we passed the coal-land law which provided that the lands of the United States chiefly valuable for coal should be sold at not less than, from $10 to $20 an acre dependent upon their distance from railroads. The law continued in force and effect at the minimum coal-land prices until about three years ago. Under Secretary Garfield the Interior Department inaugurated the policy of valuing the coal lands of the United States at prices dependent upon the character of the coal, the thickness of the vein, and its accessibility, and so forth.

In order to make these coal valuations it was considered necessary to withdraw the coal lands temporarily from entry and to classify them. The first extensive coal-land withdrawal was made in July, 1906, and affected about 12,000,000 acres. Following that, withdrawals were made from time to time during that year, until approximately 65,000,000 acres had been withdrawn from entry pending examination with a view of determining its coal or noncoal character and of placing a coal price upon it if determined to be valuable for coal. Soon after the first withdrawals were made, and as soon as appropriations were available, classification was undertaken in the field, and parties of the Geological Survey examined as well as they could under the circumstances and considering the vast area of the country each 40 acres of this territory, and as thus examined the land was classified and a coal price was put upon it if it was proven to be coal land. If it was declared noncoal land, it was restored to agricultural entry.

The coal price is fixed on the basis of the character of the coal and the thickness of the veins. On the low-grade lignites the price is fixed on the basis of from one-half a cent to 1 cent a ton; on the higher-grade lignites at from 1 to 2 cents per ton. The high-grade bituminous and the semianthracite coal are valued at from 2 to 3 cents a ton. This results in a price ranging all the way from the minimum of $10 to as high as $300 an acre, and in some localities, where there has been a considerable amount of development and the quantity and character of the coal are well known, prices as high as $450 per acre have been placed upon some of the land. The price is based in the main not upon the present selling value of the land, but, as I have stated, on the coal content of the land at a rate per ton which

it is assumed the operator can afford to pay when the land is actually required for mining. There are lands containing lignite veins in the State that I have the honor to represent which have no coal value whatever at this time because of the character of the coal, because of the fact that coal of the character contained in the land can not be successfully transported, and yet in some cases those veins are 20 to 30 feet in thickness, and a 20-foot vein, valued at half a cent a ton, means a valuation of $100 an acre; a cent a ton, $200 an acre, and yet much of that land could not be sold at auction at $10, or even $5 an acre, because it has practically no present coal value at all. The coal price is fixed on the amount of the coal in the land, and with the idea that the Government should retain the coal until such time as it is needed for development, and with the thought that when needed for actual development the purchaser can afford to pay the comparatively low per ton price fixed.

We have large areas of land containing coal of good quality, but so far from transportation facilities that it would not sell at this time at the minimum rates, and yet because of the thick veins and good quality is valued high.

The result of this policy is to prevent the acquisition of coal lands or to discourage the acquisition of coal lands by individuals except as they are needed for actual development. The classification has gone on and the withdrawals, until we have had a total of, approximately, 75,000,000 acres withdrawn; 35,000,000 of this has been classified, of which about 20,000,000 acres have been restored to agricultural entry, and 15,000,000 is open to coal entry at the classified price. Field examination has been made of a large area, and lands are being rapidly prepared for classification. There are about 40,000,000 acres of withdrawn lands not yet examined. These classified lands are withdrawn from all form of entry save coal entry. The price placed upon them is prohibitive for all purposes except for coal mining at points where development can be undertaken at once. The coal areas of the West are exceedingly extensive, as are the coal areas of some other portions of the country. For instance, few of us realize that two-thirds of the area of the State of Illinois is underlaid with coal, and that if no provision had been made whereby the surface of those lands could be farmed, the surface of two-thirds of Illinois would to-day be a wilderness and of no value except for the grazing of herds and flocks.

We passed the coal with the surface in Illinois, and now we are proposing in the West to pass the surface without the coal. In other words, while reserving in the Government all of the coal with the right to enter, to prospect, to mine, and to remove, we propose to give the agricultural entryman the opportunity to go upon these lands and farm them. For a number of years it has been clear to those who have given careful study to the subject that we must separate the surface from the coal in our public coal lands, or else give up the idea of reserving the coal to the Government, because the coal areas are so extensive that to withhold these lands from agricultural entry until such time as some one might desire to purchase them at the coal price would mean to close the door of opportunity and development in many western regions for generations to come.

Wyoming alone has a coal area of probably 25,000 square miles. Montana has within her borders at this time an area of at least 20,000,000 acres which is underlaid with coal. Under the practice of former times, before the passage of the coal law, that territory would all pass to the farmer at the agricultural price of his lands. Under conditions that existed up to three or four years ago, the homesteader would have obtained the coal under four-fifths of that land, because, until the time we classified our lands and determined which were coal lands, the homesteader, the desert entryman, the entryman under the various laws, acquired title to his land in fee unless there was some evidence of mineral on the surface. So areas underlaid with coal, that contained no surface indications of coal, passed by thousands of acres in the aggregate, into the hands of the incoming settler; but when we began to classify, our coal classification included everything that, in the opinion of the officials of the Government, contains workable coal at a depth at which it can ever be worked.

In the case of the low-grade lignite, they classify everything as coal which in their opinion contains lignite veins of more than 36 inches at a depth of less than 500 feet. As to the other coal, the higher grade lignites, the semibituminous, and bituminous coal, all lands are classified as coal lands which the government geologists, from a study of local and geological conditions, report as containing coal at depths of less than 2,000 to 3,000 feet. That means that vast areas, with no sign or indication of coal on the surface, are classified as coal lands and can not be entered except under the coal-land law. In the nature of things many of these lands can not and will not be mined for hundreds of years. There is enough coal in Wyoming, according to the Geological Survey, to last over three thousand seven hundred years at the present rate of production of the United States. There is a still larger area in Montana.

A large portion of it is of a character that can not find a market at this time, and even if it were all high-grade coal, it would not be mined, much of it, for generations to come, owing to the great quantity and the vast extent of the fields. I shall insert in the RECORD at this point the regulations of the Interior Department governing the classification and valuation of coal lands:

(C) Bituminous coals having a fuel value of less than 12,000 B. t. u. on an unweathered, air-dried sample, and high-grade subbituminous coals having a fuel value of more than 9,500 B. t. u. on an unweathered, air-dried sample.

(D) Low-grade subbituminous coals having a fuel value below 9,500 B. t. u. on an unweathered, air-dried sample, and all lignite coals.

(2) Lands underlain by coal beds, none of which contain 14 inches or over of coal, exclusive of partings, of class A, B, or C, or over 36 inches of class D, shall be classified as noncoal land.

(3) Lands containing coals of classes A and B of any thickness at depths greater than 3,000 feet shall be classified as noncoal lands, except where the rocks are practically horizontal and the coal lies within 2 miles of the outcrop or point at which it can be reached by a 3,000-foot shaft.

(4) Lands containing coals of class C of any thickness at a depth greater than 2,000 feet shall be classed as noncoal land, except where the rocks are practically horizontal and the coal lies within 2 miles of the outcrop or point at which it can be reached by a 2,000-foot shaft.

(5) Lands containing coals of class D of any thickness at a depth greater than 500 feet shall be classed as noncoal, except where the rocks are practically horizontal and the coal lies within 1 mile of the outcrop or point at which it can be reached by a 500-foot shaft.

(6) The price of coal lands of classes A, B, and C shall be determined on the basis of estimated tonnage at the rate of one-half to 1 cent per estimated ton for class C, 1 to 2 cents per estimated ton for class B, and 2 to 3 cents per estimated ton for class A, when the lands are within 15 miles of a completed railroad, and half that much when at a greater distance; but the price shall in no case exceed $300 per acre, except in districts which contain large coal mines where the character and extent of the coal are well known to the purchaser. When, however, topographic conditions affect the accessibility of the coal the land within the 15-mile limit may be given a lower valuation, but in no case shall it be placed at less than the minimum, and a graded allowance may be made for increasing depth, with the same restriction.

(7) The rates per ton in the preceding paragraph are based on the assumption that only one bed of coal is present. If more than one bed occurs in any tract of land in such relationship that the mining of one will not necessarily disturb the other, then for the second bed there shall be added to the price of the first bed 60 per cent of the value of the second bed according to the schedule, 40 per cent of the value of the third, and 30 per cent of the value of each additional bed; but the estimated price for coal shall in no case exceed $300 per acre, except in districts which contain large coal mines where the character and extent of the coal deposits are well known to the purchaser. Where a bed is over 15 feet thick, the normal value shall be placed only on 15 feet; the next 15 feet or part thereof shall be valued at 60 per cent of the normal; the next 15 feet or part thereof at 40 per cent of the normal; and the rest of the bed at 30 per cent of the normal.

(8) The tonnage shall be estimated for the purpose of valuation on the basis of 1,000 tons recovery per acre-foot.

(9) The coal price of lands of class D shall be the minimum provided by law—$20 per acre when within 15 miles of a railroad and $10 per acre when at a greater distance.

(10) In all valuations of coal lands any special conditions enhancing the value of the land for coal-mining purposes shall be taken into consideration.

(11) When only a part of a smallest legal subdivision is underlain by coal the price per acre shall be fixed by dividing the total estimated coal values by the number of acres in the subdivision, but in no case shall this be less than the minimum provided by law.

(12) When lands which were at time of classification more than 15 miles from a railroad are brought within the 15-mile limit by the beginning of operation of a new road, all values given in the original classification shall be doubled by the register and receiver.

(13) Except in case of entries now pending or entries made prior to classification, review of classification or valuation may be had only upon application therefor to the Secretary, accompanied by a showing clearly and specifically setting forth conditions not existing or known at time of examination.

Now, the necessity of this legislation has been appreciated by no one more than by the men who have most persistently preached conservation. President Roosevelt, in a number of his messages, called attention to the necessity of legislation separating the surface from the coal deposits. In the report of President Roosevelt's conservation commission I find these words:

As the law stands to-day, more than 50,000,000 acres, much of the surface of which is valuable for farm homes, is withdrawn from the homesteader, and unless the law is changed that fundamental principle of national efficiency, which demands that the agricultural lands be placed free of charge in the hands of agricultural home makers, can not be applied to this land. * * * President Roosevelt * * * to protect the homesteader has urged Congress to amend the public-land law so that a homesteader can get freely what he ought to have, and the miner get only full opportunity to mine his coal without holding farming land away from the agricultural home makers.

In his special message on "Conservation of national resources," transmitted to Congress January 14, this session, President Taft says, on page 5:

It is now proposed to dispose of agricultural lands as such, and at the same time reserve for other disposition the treasure of coal * * * contained therein. This may be best accomplished by separating the right to mine from the title to the surface.

In his annual report for 1908 Secretary Garfield recommended the segregation of the surface from the coal on the public lands, and in his statement before the Senate Committee on Public Lands, in connection with the so-called conservation bills, a short time ago he urged this legislation as of prime and immediate importance.

President Roosevelt, President Taft, Secretaries Garfield and Ballinger have all on various occasions called attention of Congress to the importance of legislation of the character now proposed. The immediate necessity for the legislation arises from the fact that in the course of withdrawal and classification a large portion of the coal area of the country has been withdrawn and classified, and so there are large areas now definitely defined upon which no man can build a home, in which development has absolutely ceased, and will cease until this legislation is had.

The coal field in my State, which is commonly known as the Sheridan-Gillett field, is 150 miles long, approximately 30 miles in width, practically all classified as coal land. The southern half of that field contains coal that is of but little present commercial value. It is a low grade of lignite; but the veins are heavy, and the time will eventually come when that coal will be valuable. It is classified, and as the price placed upon it depends upon the thickness of the vein, some of the land has a high classified price. That territory is crossed by continental lines of railroads, and dry-farming settlers from Illinois and Iowa and other portions of the country are seeking homes there. Half a dozen different irrigation projects are seeking to develop areas of varying size in that region.

Down here in Colorado we have the great Durango field, 150 miles in length and 75 miles in width. There are at least three or four considerable irrigation enterprises now under way in that territory entirely held up by reason of the fact that all or a part of the land they seek to reclaim is withdrawn, or classified, or both. It is undoubtedly coal land, although scarcely anywhere on these broad mesas is there any indication of coal, the coal running under the mesas at a very considerable depth, in some places 2,000 feet below the surface.

In southern Montana is a great field 150 miles east and west, and a still greater distance north and south, and running into Wyoming, and as far as the south line of the Big Horn Basin, a territory much larger than the State of Delaware, practically all classified coal land. Small areas here and there have been declared agricultural, but in the main these lands are classified coal lands. There are two or three large irrigation enterprises already begun there, launched before the question of the coal or noncoal character of the land had been raised, upon lands containing only here and there surface indications of coal, but which the Geological Survey has, by its examinations, decided contains coal within workable depth.

Recently in eastern Montana 13,000,000 acres of land were withdrawn as coal land, an area, if I recollect rightly, about twice that of Connecticut. That land is on the line of a transcontinental railroad. It is in a territory that is rapidly being developed under scientific farming methods, and a territory in which irrigation enterprises are going on. All this development halts until we shall have provided some method whereby we shall separate the surface from the coal.

Now, the bill before the House is, in my opinion, and in the opinion of a majority of the committee, a very carefully drawn one. Instead of following the recommendation made by the conservation commission, instead of following the recommendations of the secretaries, that the surface of coal lands be open to entry generally under the land laws, we have confined our entries of the surface of these lands to settlement entries, irrigation entries, and cultivation entries. First, the homestead law without the commutation privilege, requiring five years' residence and the cultivation required under the so-called enlarged homestead bill; the desert-land law, limited to 160 acres, a law which requires more earnest and patient and faithful work to secure a patent than almost any other of our land laws; withdrawal under federal irrigation laws, so that the Federal Government can proceed with irrigation enterprises; and reclamation under the Carey Act. There are those four classes of entries under which cultivation and residence are required to the fullest extent required under any of our land laws.

Mr. FERRIS. Will the gentleman yield?

Mr. MONDELL. I will be glad to.

Mr. FERRIS. I did not clearly understand the gentleman, but the gentleman did not state, and I believe he would be willing to state, that all of these coal lands are subject to entry under the enlarged-homestead act of 320 acres.

Mr. MONDELL. If the surface of the land is not irrigable, and so declared by the Secretary of the Interior, and is in the region where the dry-farming methods are required, then they can be entered, of course, under the enlarged homestead, as the surface of other lands.

Mr. FERRIS. In that respect making no distinction between coal lands and lands that are noncoal?

Mr. MONDELL. Not at all. But that law, as the gentleman knows, is the most exacting of all our land laws and is really the only simon-pure homestead law we have ever had, because it requires five years' residence and continuous cultivation.

Now, we have confined the bill to settlement and development entries in order that none of the so-called speculative entries may be made on the surface of coal land. We have retained in the Federal Government the ownership of the coal, the right to enter upon the land, to prospect and to mine.

There was some difference of opinion in the committee as to just how fully we ought to protect the interests or the rights of the surface entryman, and I imagine that whatever difference of opinion there may be in regard to this legislation will be on that point, because it seems to me that there can not be anyone in the Congress of the United States that will say or will take the position that the homestead settler shall be denied the right to develop these generally arid regions of the West.

I assume that there is no man that will take the position that because we are conserving carefully the natural resources of the Government we shall practice a dog-in-the-manger policy that will prevent the farmer going on and raising wheat, corn, and sugar beets and alfalfa. These coal areas are larger than many of the States. To suspend entries upon these lands is to absolutely prevent development over regions hundreds of miles square, regions where development and settlement is concentrated at this time along lines of the railways, at points where capital is assisting in irrigation development and the home seekers from Eastern States are seeking homes.

Mr. HINSHAW. Will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. HINSHAW. Are any coal areas within the boundaries of forest reserve?

Mr. MONDELL. None of the coal areas provided for in this bill are within the limits of the forest reserve.

Mr. HINSHAW. Would it not occur that there was valuable timber areas concurrently with these coal areas?

Mr. MONDELL. The bill does not apply to coal lands in forest reserve.

Mr. HINSHAW. But I ask if it is not true that on the surface of the coal land there may not be and is valuable timber?

Mr. MONDELL. I do not personally know of a single acre of coal land upon which there is valuable timber. There may be some such, but there is none in my State.

Mr. HINSHAW. I suppose a large amount of these lands underlaid with coal is mountainous?

Mr. MONDELL. A considerable amount is quite rough.

Mr. HINSHAW. And would not be taken up ordinarily for agricultural purposes?

Mr. MONDELL. That is true, but it is to those portions that can be developed for agricultural purposes that the provisions of the law apply to. This is a law in line with the highest and best ideas of conservation. It is a law following the Republican, and I hope the American, idea of homestead settlement and development.

It is a law which proposes to reserve to the people of the United States the coal values of our territory and still allow development to continue and still encourage the onward march of that settlement, which in these western lands is confronted with difficulties of which our forefathers never dreamed.

When the settler took his valuable coal land in the Virginias, in Pennsylvania, in Ohio, Indiana, and Illinois, and paid for it 50 cents, $1, or $1.25 an acre, he acquired not only the coal, but a soil that would produce a crop every year by the simple turning of the sod. The settler who is now turning his face toward that western region and asks only an opportunity to take the surface is taking a surface that is flinty and sterile and arid, much of the reclamation of which will cost $30 or $40 an acre before it is of any value at all and the best of which can only be made to produce a profitable crop without irrigation by the application of the most scientific and painstaking methods.

Mr. FERRIS. Will the gentleman yield?

Mr. MONDELL. I will.

Mr. FERRIS. I am very much touched by the appeal the gentleman is making and the vivid description of the country; but I would like to inquire how much per acre these lands are worth for agricultural purposes?

Mr. MONDELL. When irrigated many of them will be worth large sums. I have stated to the gentleman that it will cost a considerable amount of money before they can be made available, but it does not make any difference what they are worth

for agricultural purposes, provided they are valuable for agricultural purposes and can be successfully farmed.

Mr. FERRIS. I hope the gentleman will answer my question, because I want to ask him another. What is a reasonable value of the lands that are of this arid nature?

Mr. MONDELL. Well, the gentleman is from Oklahoma, and he has a fair idea of the value of western land. They are worth a little more than what it would cost to irrigate them, and it costs anywhere from $20 to $60 an acre for the Government to irrigate land. Private enterprise sometimes does it for a little less. The dry-farming lands, like some of the drier lands of Oklahoma, after they have been cultivated and reclaimed and scientific methods have been applied to them, will bring the prices that semiarid lands bring generally throughout the country. They will support a family and be worth eventually a sufficient sum to justify the farmer in development.

Mr. FERRIS. Will the gentleman not approximate in figures a fair estimate of what they will be worth?

Mr. MONDELL. No; because the gentleman can not do it; and the gentleman from Oklahoma knows that no one can approximate the agricultural value of lands of such variety; some of them when irrigated will be very valuable. I could not have approximated fifty years ago the future agricultural value of the lands of Illinois, and for the purposes of this discussion the question of the agricultural value of the land is not a particularly important one, except I think I know what the gentleman is getting at. I think I know what his theory is, and he will have plenty of time to discuss that, and that is, that we should beforehand determine in each case what the actual agricultural value of the tract of land is, as compared with the coal value.

Mr. FERRIS. Oh, that is not my contention at all.

Mr. MONDELL. And that we should go on to each 40-acre tract of land, and find out what the coal is worth at this time, or guess what it will be worth some time in the future, and attempt to compute what the land is worth for agricultural purposes now and at some time in the future, and that we should strike a balance between the two. The coal entryman is not injured by the fact that the agricultural entryman is on the surface, and it matters not whether that land may ultimately be dry farming land worth $25 an acre, or beet-sugar land which eventually may sell for $200 an acre.

On the other hand, the agriculturist on the surface is not injured particularly by the fact that some one is mining under him. He is benefited in many instances by the establishment of the industry in his locality, an industry which will consume his products. The proposition is to utilize the surface and utilize the mineral, and to utilize each as rapidly as there is a demand for its utilization; not to postpone the agricultural development of those lands until a time in the hazy future, when some one will buy them as coal lands, and not to give away the coal value by passing the fee title to an agricultural settler. As I said a moment ago, I think the only real difference of opinion in regard to the bill—it seems to me the only real difference there ought to be—is along the lines of the question discussed at considerable length in committee as to the character of the surface patent, which we will discuss at length under the five-minute rule. On the general proposition it seems to me that we must all be agreed.

Mr. STAFFORD. Before the gentleman concludes, will he explain the scope of the committee amendment which gives to any coal claimant the right to prospect on this withdrawn land?

Mr. MONDELL. The gentleman will notice that the bill as originally introduced by myself left the lands free and open to exploration. The Secretary of the Interior in reporting on the bill called attention to the fact that there ought to be some restraint placed upon prospecting, and that was the view of a majority of the committee, therefore the committee adopted this provision, which is simply this, that any person desiring to prospect on the lands, being a qualified coal purchaser or entryman under the law, whatever that law may be, and thereby being an applicant of record, shall file with the Secretary of the Interior a prospecting bond covering the estimated damage to the crops and improvements on the land before he shall go upon the land to prospect.

Mr. STAFFORD. Is not the phraseology broader by extending not only to those who are applicants of record, but to any coal claimants?

Mr. MONDELL. If I were going to change it I would make it even broader, and I would say any citizen of the United States. I think there would be no objection to making it as broad as you please; I should say that any citizen of the United States, or I should say that anyone, desiring to make a coal purchase, the broader the opportunity to prospect, the better, I should say.

Mr. STAFFORD. This phraseology does not in any wise affect the rights of these coal claimants whose cases are being contested by the departments?

Mr. MONDELL. Not at all. Any person who has made a claim that there is coal upon the land and wants to go upon the land to prospect and to determine the extent and character of the coal—that is what that means, and it provides that he shall file a bond which will be a nominal bond in a majority of cases. We ought not to allow a man to run amuck in another's wheat fields and around among another's buildings prospecting or carrying on alleged prospecting operations.

This seemed to be the simplest arrangement that could be provided, that application should be made to the Secretary of the Interior and that he should issue a permit.

Mr. CRUMPACKER. If the gentleman will permit, there is a question arising in my mind from reading the bill, the same as suggested by the gentleman from Wisconsin. It says, "any coal claimant or applicant of record." Does that require a coal claimant to be an applicant of record?

Mr. MONDELL. Under the present coal-land law they file what is called a "declaratory" statement, and anyone filing such a statement would be an applicant of record. Anyone making an application for a right to prospect would be an applicant of record. My own thought is, if there is any question about that language I would make it even broader. In other words, anyone who applies for a right to prospect on these lands ought to be given a right, providing they will pledge themselves not to wantonly injure the improvements that are on it.

Mr. CRUMPACKER. What I want to know is, is there any difference between a coal applicant and an applicant of record?

Mr. MONDELL. I think not, legally or technically, but the two cover practically any person who, under the present law, or under any law we may have, would make an application for the right to prospect; in other words, anyone having the right to purchase coal lands or to secure a right to mine coal from the Government would receive a right to prospect.

Mr. CRUMPACKER. So that the provision is intended to mean that the prospector must have made application and become an applicant of record and given bond before he may go upon the land, the surface of which is owned by another, to prospect for coal.

Mr. MONDELL. That is it; he will do both at the same time.

Mr. CRUMPACKER. In section 1 of the bill, limiting the desert entry under the provisions of this act to 160 acres; has the gentleman discussed that provision?

Mr. MONDELL. The desert law limits an entry to 320 acres.

Mr. CRUMPACKER. Why is this limitation fixed in this bill for surface entry? Why should the man making a surface entry have as much as the one who takes the fee?

Mr. MONDELL. For some time past the trend of all our legislation is in the direction of smaller areas of irrigable land. One hundred and sixty acres of irrigated land is enough generally for the support of a family, and so we have limited desert-land entries to that area. My thought was to remove all possible criticism of the character of the entries provided for by this limitation to 160 acres to a man securing irrigable land.

Mr. CRUMPACKER. The desert land that is subject to entry is not irrigable land necessarily.

Mr. MONDELL. Entries under the desert-land law are entries on irrigable land, and they must be irrigated before the entryman obtains patent. In other words, the entryman under the desert-land law secures irrigable land and he irrigates it, and after irrigating it and he has paid $1.25 an acre in addition to the cost of the irrigation he secures title.

Mr. CRUMPACKER. With that explanation I understand the purposes of this limitation.

Mr. AMES. If the gentleman will permit, I would like to ask him a question or two. I assume from what the gentleman has stated that he is trying to protect the coal lands of the Government.

Mr. MONDELL. That is our thought.

Mr. AMES. Do you believe your bill, as worded, which provides for lands which have been surveyed as coal lands or are chiefly valuable for coal, will cover all coal lands now in the possession of the Government?

Mr. MONDELL. Oh, yes; because, in the first place, I will say to the gentleman, most of the coal lands have been now withdrawn and in the course of time will be classified. I think the last withdrawal in Montana probably takes in the last coal lands, so most of the coal lands are withdrawn. That other provision is simply this: If an entryman should go upon the public domain beyond the classified withdrawn area and

find an area of land which he thinks has coal values and he makes his same declaration——

Mr. AMES. Suppose at some future time it should be developed he was over good coal land not withdrawn or classified?

Mr. MONDELL. He can not get a patent in that event.

Mr. AMES. That would not protect the Government in its coal right on land it had not been determined to be coal land?

Mr. MONDELL. Oh, yes. Men make coal entries to-day on land that the Government does not know is coal land until they make their entry. Under this act, if the Government had not gotten its agents onto the land and made classifications, the entryman, knowing its coal character, would make his declaration for a limited entry. There may be small areas here and there that the government agents themselves have not discovered as being coal land, but where the settler himself knows of the coal value of the land. He realizes he can not get a fee patent. He does not want to make the nonmineral affidavit and can not do it without perjuring himself; so, although the land is not declared coal land by the agents of the Government, he declares it coal land by entry under this law. It covers classified lands and lands that are not cassified, that are valuable for coal.

Mr. STEPHENS of Texas. Why is it necessary to preserve and reserve to the Government the coal and not at the same time reserve to the Government other fuels, such as gas and oil?

Mr. MONDELL. Well, the gentleman has wandered off into a very large field, and there are a great many answers to that. One is, and the answer that really controls here, that coal crops out and comes to the surface, and its presence is therefore apparent. That coal extends under considerable areas of land is a matter beyond all dispute and controversy. Geological horizons, running unbroken through large areas of territory, carry with them unbroken, undiminished coal veins, so that it is not difficult to determine approximately the probable extent and area of coal lands.

Mr. STEPHENS of Texas. Is not the gentleman aware that oil is the same thing?

Mr. MONDELL. Oil is found here and there. It is wherever you find it. Gas is found here and there. Oil and gas present much greater difficulties, when we propose to separate the surface from the mineral, than coal. I question whether we should provide for surface entries of such lands.

Mr. STEPHENS of Texas. Is the gentleman aware that at the present time in eastern New Mexico, along the line of the Rock Island Railroad, there is a wonderful development of oil and gas?

Mr. MONDELL. Yes. And I went out to Great Falls yesterday and passed an alleged gold mine, but if we had been legislating as practical legislators we would not have felt it necessary to withhold mineral rights to all lands in Virginia because somebody here in these later days may be foolish enough to imagine there is some gold in the rose quartz over by the Great Falls. I hope there is gold there, as a matter of fact. Now, if there are no further questions that anybody desires to ask me at this time, I desire to reserve the balance of my time.

Mr. ROBINSON. Mr. Chairman, under the law as it now exists, there is no segregation of the surface from the coal beneath the surface. Coal lands are enterable only under the coal-land laws. This question as it is presented to the committee in the pending bill is an important one and involves a more radical and far-reaching change in the existing public-land laws than many of the gentlemen in the committee might at first imagine from a casual inspection of the bill. Waiving any objection to the principle of separating the surface from what lies under the surface, in the issuing of titles by the Government of the United States, I want to suggest to this committee what, in my judgment, is a practical objection to the bill in is present form, and ask the committee to give that objection very careful consideration.

I lay down this proposition, that if this bill is passed in its present form every foot of coal land in the United States the surface of which may be regarded as suitable for agriculture may be entered, in so far as the surface is concerned, under this bill, and notwithstanding the fact that the surface may be of very small value for agricultural purposes, and the coal itself of very great value, in the future disposition of the coal under the surface this Government is going to be embarrassed and hampered by the provisions of this bill, so as to make it necessary for the coal operator to acquire the ownership of the surface before practically operating the mine under the surface. Before any man can prospect for coal on land the surface of which has been entered under this bill, if it passes as reported, he must execute a bond to the surface entryman, conditioned that he pay him all damages that may accrue either to his crops or his improvements by reason of the prospecting.

The entryman takes the surface, with full knowledge that the land is chiefly valuable for coal, and yet he is given by this bill the right to require a bond from the coal prospector to indemnify him against all damages to crops and improvements occasioned by prospecting. If the improvements were very valuable, no mining would likely be done.

So long as there are coal lands, the surface of which has not been entered, the prospector is not going to execute that bond. So that as to the lands the surface of which has been entered for agriculture, no matter how valuable the coal deposits under the surface are, the prospector is not going to try to enter such land, because he is not going on lands to prospect when he must execute a bond the conditions of which are onerous.

But it does not stop there. If he should execute the prospector's bond, after he has done his prospecting and before he may reenter and operate a mine he must execute another bond, the conditions of which are exacting upon the coal claimant. So that there are two bonds required to be executed before a ton of coal can be mined by a coal claimant on land the surface of which has been entered under the provisions of this bill, if it passes.

I merely want to suggest to the committee at this time that the practical effect of this bill may be this: Instead of conserving to the Government and to future generations valuable coal deposits, the measure may have the effect, in all probability, of finally amassing the ownership of the surface in the hands of those who may design to secure the ownership of the coal; and under this very bill itself, which authorizes the agricultural entry of the surface of coal land and does not guard against frauds or combinations, it is possible most of the lands will go into the hands of the coal barons, and by that means they will be able to further monopolize the coal industry.

Mr. MONDELL. Will the gentleman permit me?

Mr. ROBINSON. Certainly.

Mr. MONDELL. I take it, then, that the President's conservation commission, President Roosevelt and President Taft, and Secretary Garfield have all been fooled?

Mr. ROBINSON. O Mr. Speaker, I hope the gentleman will not ask me a question like that.

Mr. MONDELL. And that the law we have proposed is actually a bill in the interest of the coal barons?

Mr. ROBINSON. Well, now I decline to yield to a question like that. I wish, however, to say this, in reply to the gentleman's question: When the gentleman from Wyoming, with the views that he is known to hold and known to have advocated, becomes the chief advocate of conservation on the floor of this House, I become very suspicious as to his conservation measure.

Mr. MONDELL. I submit that that statement scarcely goes——

Mr. ROBINSON. I decline to yield to that kind of an interruption.

Mr. MONDELL. It scarcely goes to the merits of the bill before the House.

Mr. ROBINSON. Neither does the question of the gentleman, as to my opinion of the wisdom or the motives of other gentlemen who may have made reports upon the subject, go to the merits of the bill. The gentleman must concede that his question, in the beginning, was an improper one. Now, Mr. Chairman——

Mr. SULZER. Will the gentleman yield to just a question? Is this bill approved by the department?

Mr. ROBINSON. I am unable to state whether it is approved by the department; but I do state that in its present form it is not approved by the chief conservationists. During the course of this debate it will be developed on the floor that when the gentleman from Wyoming undertakes to make it appear that I am opposing conservation he is mistaken; and I again state to him that the chief conservationists themselves do not approve of this measure in its present form.

Mr. HAMER. Will the gentleman state to the House whom he considers to be the chief conservationists?

Mr. ROBINSON. If the gentleman from Idaho will permit me, I will say that I regard Mr. Roosevelt as one of the chief conservationists of this country, and I am always glad to give the gentleman from Idaho information, for I know that he needs it. [Laughter.]

Now, Mr. Chairman, agricultural entries of the surface coal land will retard the development of the coal in the lands; that this is true seems quite probable, even if mining under the terms of this bill is not embarrassed by many requirements difficult to be complied with.

Our people have been accustomed to absolute titles, and they would be slow to avail themselves of this statute except for speculative purposes. As I have already stated, I could waive this objection and support the bill, with proper safeguards, if

its provisions did not so embarrass prospecting and mining as to materially lessen the value to the Government of the coal deposits reserved.

Now, another proposition that I think ought to be called to the attention of the committee is that this bill will encourage litigation. I can not imagine a more fruitful source of lawsuits than this bill as it is now worded. In case the surface entryman denies the right to the proposed prospector to prospect, the prospector will be compelled, in addition to filing the bond, to go to a court to secure his release before he can prospect; and the same is true in case the owner of the surface objects to the mining operation or to the manner of it. The same may be true as to determining the amount of the damages.

Mr. MONDELL. Will the gentleman yield to me for a question?

Mr. ROBINSON. I will.

Mr. MONDELL. I think the gentleman has made a slight misstatement, unintentionally, with regard to the prospector. The prospecting bond is to be filed with the Secretary of the Interior.

Mr. ROBINSON. I so stated.

Mr. MONDELL. You said that the prospector would have to go to court.

Mr. ROBINSON. If the gentleman will just do me the kindness to listen——

Mr. MONDELL. I have listened.

Mr. ROBINSON. I say that in addition to filing this bond, if the owner of the surface objects, with or without reason, to the making of a prospect after the prospector has filed his bond, the only relief that the prospector has then in order to exercise the right to prospect is to go to a court and get a mandatory injunction. While it may seem at first blush that few cases of this sort will arise, I want to say to you now that in my judgment you will find many cases arising of just this nature after the passage of this bill, the owner of the surface saying, "I object to your prospecting here," the prospector insisting upon his right after he has filed his bond. If the owner of the surface does object, the prospector must go to the court, and the same is true as to mining.

Mr. PARSONS. Under the conditions you mention could not the prospector have the settler arrested for assault if when he went there with the bond the settler would not let him prospect?

Mr. ROBINSON. If the settler assaulted the prospector, he could have him arrested for assault; but if he did not assault him, but insisted that the prospector had no legal right there, the prospector would have to assault him or go to a court and get the court to hold that the prospector was right, and not the owner of the surface.

Now, Mr. Chairman, reviewing briefly what I have stated, this bill will occasion great litigation and strife between the owner of the surface and the prospector or coal claimant, and the probable result of it will be that when title has passed to the surface under this law the coal claimant, in order to relieve himself of the antagonism of the surface owner and of the embarrassments arising by reason of the fact that the surface is owned adversely, will find it necessary to acquire the surface in great quantities with no intention of cultivating it; and I think in all fairness it may be stated that this bill may finally result in its practical operation in the passing of the remaining coal deposits in the public lands into the hands of a few individuals.

I now yield to the gentleman from Oklahoma [Mr. FERRIS] thirty-five minutes.

Mr. FERRIS. I regret very much that this bill should follow the railroad bill, which is perhaps thought to be the most important bill that this Congress will pass. I am inclined to the belief, and I think every gentleman who studies this bill will agree with me, that this is the most important bill that this Congress will consider. This bill, in my judgment, is the entering wedge, if not the entire wedge, that will lose to the United States of America all the coal lands within the United States and in Alaska.

Mr. MONDELL. Will the gentleman tell us how we lose the coal lands in Alaska when the bill does not apply to Alaska?

Mr. FERRIS. I will come to that. The bill on its face and its proponents say that this is true conservation and that it reserves to the United States all the coal as distinguished from letting it get away from them. If that were true I would support it heartily in its present form, and everyone else ought to do so.

The bill in its present form does not do that. On the contrary, it imposes cumbersome provisions on the Government, its successors and assigns, and so cumbersome that we might as well give the coal away along with the surface.

The gentleman has said that separation of the surface from the coal area was a true conservation proposition. I agree with him heartily in that. I think that is so, but I want to call the attention of the Members of this House that even though there be a recital in the fore part of the bill, in the original draft of the bill, reserving to the United States all the coal area, there can be an amendment formulated, and amendments are formulated and are in this bill so cumbersome that no one will ever elect to buy, purchase, mine, or lease the coal area.

The gentleman from Arkansas [Mr. ROBINSON], a member of the committee, has quite fully gone into that, but as this is a proposition that allows agricultural entries on all the coal lands of the United States, I think I may well reiterate some of the things he said, and urge you not to let a bill pass through labeled "conservation" when it fritters away all the coal we have. Some of these lands to be entered have been filed upon for prices ranging from $225 to $430 per acre.

Mr. BENNET of New York. Will the gentleman yield?

Mr. FERRIS. I will.

Mr. BENNET of New York. Have the government lands sold for anything like a price of $475 an acre?

Mr. FERRIS. They have. I will read from Bulletin 424, from the Geological Survey, published in 1910 by a board that has been sent out by the Interior Department, which states very conclusively what the coal is actually worth.

Let me read to the gentleman from New York what is going on out there, and I want this bulletin to be a reply to the gentleman from Wyoming to his proposition that the price is so high that it is prohibitive. It is not so. I read as follows:

> Thus, to take as a concrete illustration the land office in Salt Lake City, it is stated that when the new government prices were first announced there was a general expression of doubt as to the sale of the lands, and the prediction was freely made that the new prices would absolutely tie up their sale. It was not long, however, before coal lands began to sell at the new prices, and the actual acreage sold in a short time far exceeded previous sales within a similar period. The sales have increased rather than decreased. The writer visited the office in Salt Lake City October 1, 1909, and found that in the preceding month, September, 27 sales had been made, ranging from 40 to 160 acres, at an average price of over $48 an acre, bringing into the office during the month a total of over $200,000; that 50 coal declaratory statements had been made and five cash entries. A study of the sale of the highest priced lands reveals somewhat similar conditions. Thus in Wyoming coal declaratory statements have been made on four quarter sections in each of two townships, in one of which the prices range from $370 to $410 and in the other from $225 to $430 per acre.

This is not ancient history; it is from the department which gives the facts.

Mr. MONDELL. Will the gentleman tell us what the coal declaratory statement is?

Mr. FERRIS. Oh, I can not go into that now.

Mr. MONDELL. The highest price the Government has received up to this time is $75 an acre.

Mr. FERRIS. I am merely reading the facts from this bulletin.

Mr. BUTLER. Does the bulletin contain the sales made by the Government?

Mr. FERRIS. Oh, yes. I was just reading them, and the bulletin has them there at length, the very amounts taken in every month and the price per acre, and the whole proposition, and you can get it from George Otis Smith, Director of the Geological Survey.

Mr. BUTLER. Those figures were the figures of sales?

Mr. FERRIS. Yes; actual sales that transpired.

Mr. MONDELL. If the gentleman had taken the trouble to inquire, he would have known that those sales had never been made.

Mr. FERRIS. Oh, I can not yield to the gentleman.

Mr. BUTLER. Who wrote the bulletin?

Mr. FERRIS. It is Bulletin 424, by George H. Ashley, and he is one of the board that was out there and made the examination and classification of the lands and gave them the value they are now selling for.

Mr. BUTLER. That is an official document?

Mr. FERRIS. Yes.

Mr. BUTLER. And the statements are reliable?

Mr. FERRIS. Absolutely. They are on page 44, and I will state further that this is the only board that is classifying coal lands now.

Mr. PARSONS. But it does not say that the coal has been sold at that price.

Mr. FERRIS. It does.

Mr. MONDELL. Oh, on the contrary it says that declaratory statements are made.

Mr. BUTLER. I would like to read the paragraph, but I am satisfied with the gentleman's statement.

Mr. PARSONS. Making declaratory statements is not making a sale.

Mr. FERRIS. Page 44, bulletin 424. Read for yourself. There can be no mistake about it. It is the only source where you can get true information on the subject.

I want to follow right along and show you what this bill actually does. I come right back to the point that it is a good thing to separate the surface from the under strata. Why? Because in that way we can settle up the State of the gentleman from Wyoming and of the gentleman from Colorado and the gentleman from Idaho, and we will not have any more of this talk about running off to Canada. But I want to show you in the next breath—and the people ought to be impressed with it—that to let men enter the surface of the land that is actually selling for more than $400 an acre is something that we ought to safeguard very carefully indeed. Why? Because the gentleman from Wyoming [Mr. MONDELL], with a tear-stained, impassioned speech, told us a few moments ago that these lands were flinty, threadbare, dried out, no-account lands.

Now, if they are, we ought not to lose at the bung and save at the spigot. Here is what we are doing. We are allowing entrymen to enter lands worth from $10 to $20 an acre for agricultural purposes that are worth more than $400 an acre for coal purposes. Now, I will be criticised in the reply of some of these gentlemen from the fact that I have not any heart in me for the homesteader. Yes, I have. I have homesteaded and proved up a piece of land within the last ten years myself. I know more about it than some of the gentlemen who deny these statements, but until the homesteader's rights actually attach, until the homesteader is actually permitted to file on the land, I am one Representative and one citizen who believes that we have a right to indulge ourselves in common prudence and common sense and common justice and economy. If not, we better fold our arms and close up the conservation question and all walk away.

Mr. MARTIN of Colorado. Will the gentleman yield for a question?

Mr. FERRIS. Just a question.

Mr. MARTIN of Colorado. I would like to ask the gentleman where he gets this $400 an acre.

Mr. FERRIS. In bulletin 424, on pages 44 and 45.

Mr. MARTIN of Colorado. Does that show there has ever been a sale made at that price?

Mr. FERRIS. It does, and numerous sales, lots of them, and gives the land office, and the acreage, and the price per acre, and all that.

Mr. MARTIN of Colorado. I will say to the gentleman that I have statements here as to the coal values sold, but it shows that the highest price ever obtained for land by the Government was $180 an acre, and that only one sale was made.

Mr. FERRIS. Now, I want to make a few remarks on this bill itself. I hope if I have done nothing else I have impressed on this House that this is an important matter; that it involves every ton of coal in the United States. This bill in its original form was all right. They come in here; they introduce bills in this House, and say that Pinchot, Garfield, Roosevelt, and everybody else is for them, but they go into the committee and there they have interlineations, lines stricken out, and new paragraphs in italics that absolutely destroy anything that the bill stood for. Let me show you something here. The original bill said this. I am reading on page 3, in line 3:

The coal deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal-land laws in force at the time of such disposal, and the United States or its grantees shall at all times have the right to enter upon the land so patented for the purpose of prospecting for, mining, and removing the coal contained therein, but the owner under such limited patent shall be entitled to damages—

Now, this is the point—

the amount of which shall be determined by a court of competent jurisdiction for any damage to the surface or his improvement—

Now, watch the next sentence—

not necessarily or reasonably incident to the prospecting for, mining, and removal of such coal.

Now, let me make myself clear. The original bill said that if anyone came in to buy the coal or lease the coal from the Government or any of its successors or assigns, they should pay the surface entryman for all damages not necessarily incident to the mining of the coal. In other words, that the Government or its assigns could come in and mine the coal in an orderly way, rendering themselves liable for waste and damage not incident to mining and removal, but no more. This is manifestly correct. Now, let me read the amendment. The amendment does not say that; it says they shall be liable for all damages to the crops, all damages to the land and improvements; and, before they can even prospect, here is what they have to do: They have to journey down to Washington, D. C., and get the Secretary of the Interior to approve a bond, which is a cumbersome proceeding, which is a circuitous proceeding, and which is one that will very materially depreciate the price of the coal.

But that is not all. After they have prospected and before they can mine or remove one pound or one ton of coal they have to go into court and have an adjudication made as to what the probable damages are or that will be incurred by the mining and removing of the coal. The requirements imposed on the Government as an absolute owner of the coal area will destroy its value and fritter away the coal area that should be preserved.

Mr. AMES. Will the gentleman permit an interruption?

Mr. FERRIS. I will.

Mr. AMES. Might not the prospectors or miners going in necessarily destroy the entire surface of the homestead?

Mr. FERRIS. Oh, I think perhaps they might in isolated cases.

Mr. AMES. Then, do not you think he ought to pay for it?

Mr. FERRIS. In any event the homesteader takes the land knowing it is coal land.

Mr. AMES. Do not you think in equity such coal miners ought to pay for damages, even if necessary damages?

Mr. FERRIS. They ought to pay for the damages if necessarily incident to the mining and removal of the coal. That is my proposition; and if the homesteader does not want to enter the surface for land worth $10 an acre for agriculture that is worth $400 and $500 for coal, with the coal carefully reserved, this Government can very well let him stay off it altogether. There are 334,000,000 acres of agricultural land subject to entry that is not coal lands.

I do not need to criticise anybody, and I do not mean to criticise anybody, but I think in this respect we should look a little after the condition of our Treasury. That especially comes home to me in view of the fact that 900 rural routes in my State are held up, and we have been appealing to the Fourth Assistant Postmaster-General, and he sends me back a circular, a stereotyped letter, to the effect that owing to the condition of the Treasury they can not establish any more routes.

Mr. BUTLER. We will sell some coal lands.

Mr. FERRIS. That is what I want to do.

Mr. BUTLER. If it costs $400 or $500 an acre, we ought to pay for them.

Mr. FERRIS. If you pass this bill making the reservation of the coal and the operation of the coal so cumbersome that none will have the coal, you will not get any $400 or $500 an acre, or $4 or $5 either for the coal.

Now, I have a remedy. No one has a right to come in here and attack a bill unless they have something to offer. I will tell you what you had better do. You had better strike out all of these italics and put the bill back just exactly like it was introduced. It will not be perfect then, but it will be much improved. Then what will be the result? You would not find such conservationists as the gentleman from Wyoming [Mr. MONDELL], the Secretary of the Interior, and my good friend from Colorado advocating it so seriously as you do now.

I do not want to criticise anybody, and I am not going to criticise anybody, but when a bill comes in here and its proponents tell us over and over again that this is conservation just exactly of the kind that President Roosevelt wanted, that Garfield wanted, and Pinchot wanted, and everybody wanted. I want to call your attention to what the bill actually does, and it is nothing more than fair that I should do it.

Mr. BUTLER. Was not the Government liable to pay the surface owner for the damages that might be liable to be done in the prospecting for coal?

Mr. FERRIS. Clearly not, because this is government land, and the land is not subject to entry unless we make it so by this bill. If these lands are withdrawn, the homesteader could not enter unless we permit him to do so, and if we permit him to do so we have the undoubted right to surround the reservation of coal with reasonable restraint, so that the coal will not get away from us. We let these homesteaders go out there and take up this land in 320-acre lots, and with land that is worth $400 or $500 an acre for coal you will see that there will be little if any more coal lands sold.

You will find the gentleman from Wyoming [Mr. MONDELL] and other conservationists in here saying that we might as well give them the coal; that the coal is not worth very much anyway, and it will not be worked for several hundred years, and that we might as well give it to them. I am not in favor of giving them the coal this year or next year, neither during the Sixty-first, the Sixty-second, or the Sixty-third Congress, and

I do not believe we ought to pass a bill here that will give them a chance to come in and get it away from us from the fact that we have passed a law under which no one can successfully operate. It is always a fair proposition for a man to ask, "What would I do under similar circumstances?" For instance, suppose I wanted to acquire from the Government of the United States coal lands; what would I have to do? The first question I would ask would be, "What will I have to do to enjoy my rights and mine the coal?" The first thing I would have to do would be to come down to get the Secretary of the Interior to approve the prospecting bond. That would take from one to four years, judging the future by the past. What is the next thing I would have to do? After I got the right to prospect, before I could mine or remove a single pound of coal, I would have to go into court and get the court to adjudge what the probable damages might be, and I submit that no court in the United States could tell in advance what they would be. In any event this plunges the claimant into a lawsuit expense, attorneys fees, costs, and so forth, all tending to destroy the value of the coal area and drive away development of the coal.

But, following that, and what is even more vicious, too, than all the rest, is that the party has to pay the settler not only for the damages not incident to coal mined, but all damages to land, crops, and improvements that he has to pay him for the right to go in. While the coal itself may by this bill be reserved, still if we can not go in and enjoy it without greater expense than it is worth, we have lost our coal indirectly when no one would countenance such a thing directly. My good friend, if I own a piece of land and I owned the title of the surface to the center of the earth, if a man will come and pay me all the damages I would suffer I will let him go in without the coal being reserved at all, and so will you. The reservation of the coal under circumstances that are provided for in this bill amounts to nothing. We might as well give them the coal while we are giving them the surface unless this bill be amended.

I have studied this matter a great deal. I have filed quite a lengthy minority report. I would like to ask some of the gentlemen to read my minority report on that proposition. I think in that report I have stated it fairly, and I hope when this matter comes up next Thursday that the gentlemen who are here who have heard the debate will help amend this bill so that we do not give the coal all away at one breath when we think we are conserving it.

Now, I want to repeat one proposition here, and that is, that if we make the operation of the coal so cumbersome it destroys its value.

Mr. MARTIN of Colorado. I would like the gentleman to explain one statement in his minority report. You state in your minority report that one reason why this coal land has not been opened to agricultural entry is the 320-acre homestead act. I would like you to explain to this House, if we do not have this grant of 320 acres, how those naked territories will ever be settled up in the Rocky Mountains that have any coal on them.

Mr. FERRIS. The gentleman is assuming that the only place where there is coal land is in the Rocky Mountains. That is not true. We have plenty of coal in the Plains as well as in the Rocky Mountains, and the gentleman knows it.

Mr. MARTIN of Colorado. The gentleman further goes on with the affirmative proposition that a man ought not to be allowed to enter 320 acres of land worth between $400 and $500 an acre. Does not that take away from the value of the land?

Mr. FERRIS. And if the coal is preserved by such a cumbersome provision as that, I think that this bill absolutely destroys its value.

Mr. MARTIN of Colorado. Will the gentleman give one instance where the land was sold for $400 an acre?

Mr. FERRIS. I hope the gentleman will not consume all of my time.

Mr. MARTIN of Colorado. Will the gentleman produce to this committee a single sale of coal land for $400 an acre, or $200 an acre?

Mr. FERRIS. I did not yield to the gentleman for a speech. I hope the gentleman will not interrupt me further, but I will read again page 45 of Bulletin 424.

Thus in Wyoming coal declaratory statements have been made on four quarter sections in each of two townships, in one of which the prices range from $370 to $410, and in the other from $225 to $430 per acre.

That is a concrete illustration. The gentleman knows they tell the truth; that is made by the board that went out there to investigate what the value was.

Mr. MARTIN of Colorado. I was stating figures as well as you; and they do not lie, either.

Mr. FERRIS. For all I know, the gentleman from Colorado has taken his figures from a newspaper.

Mr. MARTIN of Colorado. They do not come from a newspaper, either. I got them down at the Land Office. Does the gentleman know of a single sale at $200 or $400; or does he know of a single sale at over $100, or a sale of $20 or $30 or $40, not one-fourth of the value that he is undertaking to show?

Mr. FERRIS. The gentleman is persisting in reading into the body of my speech. He is giving his figures.

Mr. MARTIN of Colorado. I produced records of the General Land Office.

Mr. FERRIS. I do not see that you have any such record. You are reading from a piece of typewritten record. I read from the official report.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROBINSON. I yield the gentleman from Oklahoma five minutes more.

Mr. BENNET of New York. I should like to ask the gentleman from Oklahoma a question purely for information, and that is whether a coal declaratory statement fixes the price?

Mr. FERRIS. They are a little different. They are more onerous even than that.

Mr. BENNET of New York. Does the coal declaratory statement mean simply a declaration of the amount that a man will pay for the coal, $420 an acre?

Mr. FERRIS. It is an entry, or filing, which must be coupled with further compliance with law and a payment of the fixed price.

Mr. MONDELL. But they did in this case the gentleman refers to.

Mr. FERRIS. Oh, well, the book speaks for itself. There is no difficulty about that. I have talked to the officials of the Geological Survey, and I read that page to them; and they go even stronger than that. I have a statement here that I will put in the RECORD that will stop these gentlemen from trying to dispute a thing that can not be disputed successfully. I do not care anything about a lot of printed stuff. Here is the report from the board that is actually classifying these lands. It is not an old, antiquated report, but a new one. It is gotten out this year, in 1910.

Mr. PARSONS. The gentleman refers to his minority report. The arguments in the minority report seem to me to be against separating the surface from the coal in any event.

Mr. FERRIS. I think not.

Mr. PARSONS. Is that the attitude which the gentleman takes?

Mr. FERRIS. I do not. The gentleman has not properly read the report; and if I may, I want to add a little further, for the benefit of these gentlemen who seek to attack these figures. The gentleman from Colorado [Mr. MARTIN] was very exuberant over some figures that he has obtained no one knows where. I want to read something for his benefit:

As two of the public-land States have now in operation a leasing system for the coal under their own public lands it may be of value and interest to examine the system in use in those States. Wyoming has had a leasing law since 1907 and Colorado for a much longer period.

In Colorado, on November 30, 1908, there were 18,275 acres under lease, and these leaseholds yielded $104,456.42 in the biennial term ending November 30, 1908.

These gentlemen say it does not bring in any revenue, and that they hold them at prohibitive prices, when the facts and figures show that even on a leasing basis the revenue has about doubled in each one of the last three biennial periods, being $27,012.83 for 1902–1904, $49,077.05 for 1904–1906, and $104,456.42 for 1906–1908; and I gave you the figures here from 1908 to 1910.

Mr. RUCKER of Colorado. Will the gentleman yield for one question?

Mr. FERRIS. I will.

Mr. RUCKER of Colorado. Is not the gentleman trying to show that the coal prospector will not undertake to mine the coal underneath this land? If it was of so much value as that, could he not afford to pay to go through this proceeding in order to get the right to mine the coal?

Mr. FERRIS. He could; but while he was doing it, you would be giving away and depreciating a value that it is our duty to protect. The American people have the right to assume we will do so.

Mr. RUCKER of Colorado. Then the gentleman thinks that the coal would not be mined, although it might be worth from $200 to $400 an acre, because the entry had been made upon the surface?

Mr. FERRIS. If it necessitated a trip to Washington and getting the Secretary of the Interior first to approve a bond

before a coal claimant could proceed, and, second, if such claimant had to go into court and incur a lawsuit and an adjudication by the court before he could mine or remove, I would say in all probability "No!"

Mr. MONDELL. Where does the gentleman find anything in the bill about a trip to Washington?

Mr. FERRIS. I will read the gentleman what appears in the bill.

Mr. MONDELL. The gentleman is familiar with this business. Why does he make such a statement as that?

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

Mr. ROBINSON. I yield to the gentleman five minutes more.

Mr. FERRIS. I now read from the italics, on page 3, the part that was not in the bill originally. I read, beginning on line 14:

Any coal claimant or applicant of record under the laws of the United States shall have the right, at all times, to enter upon the lands selected, entered, or patented, as provided by this act, for the purpose of prospecting for coal thereon upon the approval by the Secretary of the Interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting.

Now, just a moment.

Mr. MONDELL. What does the gentleman propose in lieu of that?

Mr. FERRIS. I decline to yield further, Mr. Chairman. My time is so limited and I want to cover a few more topics of the bill. This language speaks for itself. The meaning of that provision is this, and nothing more: It says if you can get the Secretary of the Interior to approve your bond—for what? For all damages to all lands, to all improvements, and all crops, you can prospect. Now, pause a moment and let me show what you have got to do in order to remove the coal, the ultimate object to be obtained. I again quote and read from the amendments in italics:

Any person who has acquired from the United States coal deposits in any such land, or the right to mine or remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining and removal of the coal therefrom, and mine and remove the coal, upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action—

What is an action? A suit in court—

instituted in any competent court to ascertain and fix said damages.

I want to tell you that when a man, before he can prospect, has to proceed to Washington or get the Secretary of the Interior to approve his bond, and then before he can mine has got to go into court, pay attorney fees, and pay the costs of having an adjudication made, it is going to destroy the value of the coal. I say that all of that provision in italics ought to be stricken out. If it can be made clear to the House, it will be done by an overwhelming majority, and I have no fears of that at all.

Mr. GILLESPIE. Will the gentleman yield?

Mr. FERRIS. Certainly.

Mr. GILLESPIE. Under this provision if the entryman makes improvements, however valuable, he has to be paid for them. If a miner or the coal man goes in and it becomes necessary to remove the improvements or interfere with them, he must pay their value. He might put up a valuable water irrigating plant there, and the miner would have to pay for it.

Mr. FERRIS. Yes; he might put up so valuable improvements that they never could mine the coal at all.

Mr. GILLESPIE. And the right to the coal would be entirely destroyed by reason of the cost of getting the coal. Under the original provision he could get the coal, and would only be liable for such damage as necessarily flowed not incident to the mining of the coal.

Mr. FERRIS. That is all he ought to have under the conditions here presented, as he takes the land subject to the rights of the Government.

Mr. GILLESPIE. I think so, too.

Mr. REEDER. I think that is all this bill provides for—the damages that necessarily come from mining the coal.

Mr. FERRIS. The gentleman from Texas believes just as I do, that you have a right to go in and mine coal on your own property which we seek to reserve and as long as we do not commit waste we should not be liable.

Mr. REEDER. Under the provisions of the bill he does not pay unless the waste occurs; the man will not make waste unless it is absolutely necessary, and if he does make waste on anybody's property he ought to pay for it.

Mr. FERRIS. The gentleman from Kansas has the version of the old bill correct, but he has the version of the new bill incorrect. The new bill not only provides for the damage not necessarily incident to the removal of the coal, but for all damages to improvements, crops, lands, and all. Right there is the crux of the whole proposition. If the gentleman from Kansas owned 160 acres of land underlaid with coal, and if I came along and paid him all damages that the mining would create on his land he would let me go in and mine the coal no matter whether I had a scintilla of title. This bill says that we reserve the coal, but in the provisions of the amendment it makes it so cumbersome that we in truth do not reserve the coal.

Mr. REEDER. I do not think the gentleman's statement is true. I do not think I would consent to a man's going on and mining coal unless he paid me for the actual damages. I do not see how you could permit a man who did not own the surface to mine coal unless he paid the actual damage.

Mr. FERRIS. Well, the gentleman has led me off into a side discussion and perhaps I am to blame for it.

Mr. HAMER. Will the gentleman yield?

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROBINSON. Mr. Chairman, I yield three minutes more to the gentleman.

Mr. HAMER. I would ask the gentleman if the measure of damage provided for in this bill is not confined to the damage that may accrue to the crops and improvements of the surface only?

Mr. FERRIS. Oh, no. The gentleman has not stated it right, because it says all damages in each case, so that would include damages to the land and damages to the buildings and houses and damages to the improvements, and that will deteriorate the value of the coal until you will have little, if any, value left; and the gentlemen who have time to study it will come to that conclusion when this bill is read under the five-minute rule.

Mr. HAMER. I just wanted to read the language of the bill.

Mr. FERRIS. Oh, I have just read it, so that it would be repetition. The bill not only does that, but it permits the homesteader to go in and use all of the coal that he wants for himself. I do not object to that, because I presume the homesteader ought to have the right to mine such coal as he may need, but to those gentlemen who appear here in sackcloth and ashes, pleading for these homesteaders, I wish to say that they have all that they are entitled to, and if they have not, let them keep off the land. There are 334,000,000 acres of land they can enter that is not coal land where they can get a fee title and leave the coal alone. Why, each year they come in here and say that if we do not pass a 320-acre homestead law everybody is going to Canada. That is a good deal like the war we have every year with Japan, when the naval bill comes up. Every year we get scared to death thinking Japan is going to come over here and sweep up off the face of the earth, when the naval bill comes up, and every year when the gentleman from Wyoming [Mr. MONDELL] and these gentlemen from the Rocky Mountain States want 320-acre homesteads, and so forth, they tell us everybody is going to Canada.

I myself am one citizen who says that for all the citizens who want to go to Canada and leave land behind that is worth $300 and $400 an acre for coal, let them go. Boys and girls are born here every day who would like to enter land worth $300 and $400 an acre. Yes, and in a few years they will rejoice to enter land worth $300 or $400 per acre in order to get a little home they can call their own.

Mr. HAMER. I would like to ask the gentleman if there are any unpatented lands remaining in Oklahoma at this time.

Mr. FERRIS. Yes; some.

Mr. HAMER. Are there any lands upon which filings have not been made at this time?

Mr. FERRIS. No; I think not.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MONDELL. Mr. Chairman, the gentleman has been exceedingly adroit and exceedingly forceful and does not intend, I know, to mislead, and yet he has a way of stating half truths and of phrasing statements so that they appear different from what one had understood them prior to his statement.

Mr. FERRIS. If I may be permitted, I think the gentleman from Wyoming enjoys that distinction rather than myself.

Mr. MONDELL. Occasionally his alleged arguments seem to have some force, when, as a matter of fact, they have not. The gentleman goes into spasms because we are proposing to let the homesteader settle on the surface of land that is classified at $300 and $400 an acre. I do not understand that it makes a particle of difference how thick the coal veins under the land may be, if it is fit for agricultural purposes it ought to be farmed, and the fact that it is valued at a high price per acre does not affect the situation from that which exists where the land is valued at only $10 an acre; but the fact is that but little of the coal land has been valued at over $300 an acre, and most of it has been valued at from $10 to $30 per acre, and in my discussion I called attention to the fact that in my own State, and in neighborhoods that I know of, land has been valued at $200 an acre that would not sell at auction to-day

for $10 an acre, and I doubt if it would sell for $5 an acre, the coal-land price having been put on the land to measure the amount of coal in the veins at so much per ton, the idea being to put a price high enough so as to prevent speculative coal entries and to prevent coal from passing into private ownership until it shall pass into the hands of those actually desiring to develop it for mining. Now, the gentleman talked about and quoted figures from the Geological Survey with regard to sales. It does not prove anything, if it were a fact, that some of the high-valued land had sold, but as a matter of fact the statement he read was a statement to the effect that in Wyoming certain "declaratory statements" had been made on lands which had been valued at a certain high price. Now, a declaratory statement costs $2.50, and it does not place any responsibility upon the man who makes it, and in these cases, I presume, somebody made a declaratory statement before the coal was classified, and when they found the classified price was high they did not buy it; and I have the figures, which I received from the department this morning, showing all the coal sales for the last eighteen months above $20 an acre, every one of them.

I propose to put them in the RECORD. There has been one sale made of 40 acres at $180 an acre. There has been 160 acres sold out of 70,000,000 we own at $75 an acre. There has been nearly 2,000 acres sold at $50. However, the question of whether any amount of coal land has been sold at high valuations does not in any way affect the question before the House, the purpose of which is to allow the agricultural entryman to go on and improve the surface and develop it and settle up the country, while we retain in the Government the coal values, and, in my opinion, we have surrounded the agricultural entryman with no more protection than he ought to have.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, May 10, 1910.

Hon. F. W. MONDELL,
House of Representatives.

MY DEAR SIR: Referring to your verbal request, I hand you herewith statistical data showing the sales of coal lands at a price of $20 and above per acre, from July 1, 1908, to December 31, 1909, inclusive.

Very respectfully,

S. V. PROUDFIT,
Assistant Commissioner.

Coal lands sold from July 1, 1908, to December 31, 1909, at an appraised value of or above $20 per acre.

Office.	Quarter ended—	Number of entries.	Acres.	Rate per acre.	Receipts.
Oakland	Sept.30,1909	1	320.00	$20.00	$6,400.00
Durango	Mar. 31,1909	1	40.00	50.00	2,000.00
Do	Sept.30,1909	1	49.96	20.00	999.20
Montrose	Dec. 31,1909	7	1,116.27	20.00	23,325.40
Do	do	1	80.00	50.00	4,000.00
Halley	Sept.30,1909	2	240.00	30.00	2,400.00
Billings	Sept.30,1908	1	80.00	30.00	2,400.00
Do	do	1	40.00	25.00	1,000.00
Do	Sept.30,1909	9	1,668.80	20.00	33,372.00
Do	Dec. 31,1909	8	1,160.00	20.00	23,200.00
Bozeman	Sept.30,1908	1	240.00	45.00	10,800.00
Do	do	1	80.00	40.00	3,200.00
Lewistown	June 30,1909	1	160.00	25.00	4,000.00
Do	do	1	40.00	25.00	1,000.00
Do	Dec. 31,1909	8	1,307.40	20.00	26,148.00
Do	do	1	80.00	30.00	2,400.00
Miles City	Dec. 31,1909	1	40.00	20.00	800.00
Santa Fe	Sept.30,1909	1	40.15	20.00	803.00
Do	Dec. 31,1909	2	639.14	20.00	12,782.80
Dickinson	Sept.30,1909	1	40.00	20.00	800.00
Minot	do	1	34.99	20.00	699.80
Lemmon	do	1	160.00	20.00	3,200.00
Salt Lake City	Sept.30,1908	5	800.00	25.00	20,000.00
Do	Dec. 31,1908	4	681.88	50.00	34,094.00
Do	do	10	1,366.83	25.00	34,171.75
Do	do	1	320.00	20.00	6,400.00
Do	Mar. 31,1909	4	640.00	25.00	16,000.00
Do	June 30,1909	3	360.00	25.00	9,000.00
Do	do	2	240.00	50.00	12,000.00
Do	do	1	161.23	75.00	12,092.25
Do	Sept.30,1909	31	320.00	30.00	
Do	do		4,117.78	50.00	215,489.00
Do	Dec. 31,1909	7	910.18	50.00	45,509.00
Seattle	Sept.30,1909	2	320.00	20.00	6,400.00
Do	Dec. 31,1909	3	958.75	20.00	19,175.00
Buffalo	Sept.30,1908	1	40.00	40.00	1,600.00
Do	do	2	240.00	30.00	7,200.00
Do	Dec. 31,1908	4	519.57	30.00	15,587.10
Do	Mar. 31,1909	1	159.38	35.00	5,587.10
Do	do	2	280.00	30.00	8,400.00
Do	Dec. 31,1908	1	160.00	40.00	6,400.00
Do	do	1	40.24	30.00	1,207.40
Do	Sept.30,1909	1	640.00	20.00	12,800.00
Do	Dec. 31,1909	1	160.00	30.00	4,800.00
Evanston	Sept.30,1909	1	40.00	180.00	7,200.00
Lander	Dec. 31,1909	1	80.00	40.00	3,200.00
Total		141	21,211.45		670,042.80

Mr. CAMPBELL. I desire to ask the gentleman, and purely for information, if the entryman settles on the land for agricultural purposes and gets a title to the surface?

Mr. MONDELL. Yes.

Mr. CAMPBELL. And the Government retains the mineral or coal rights?

Mr. MONDELL. Yes.

Mr. CAMPBELL. How will these minerals or coal be disposed of?

Mr. MONDELL. They are to be disposed of under the law, whatever it may be—under the law as it is now or under any law that may be enacted.

Mr. CAMPBELL. Is there any law now that would inaugurate a process by which this could be done?

Mr. MONDELL. Oh, yes; under the present law.

Mr. CAMPBELL. A method by which the coal could be mined?

Mr. MONDELL. Coal lands are being sold, I presume the gentleman knows.

Mr. CAMPBELL. Coal lands; yes.

Mr. MONDELL. The deposit could be sold under the same law after the surface was entered.

Mr. CAMPBELL. To whom?

Mr. MONDELL. To classified entrymen, citizens of the United States, or those who have declared their intention to the extent of 160 acres, and to the extent of 640 acres to four qualified persons.

Mr. CAMPBELL. Could you purchase that coal or mineral right under your land?

Mr. MONDELL. I have no doubt but what you could if you had never purchased any coal lands. Unquestionably you could, but at the classified price, which is a high price.

Mr. MANN. That would not authorize the sale of coal lands at present where the lands have been withdrawn from sale.

Mr. MONDELL. Oh, no.

Mr. MANN. Where these lands were suspended from sale on the ground that it is coal land under this bill, could they sell and enter it as surface——

Mr. MONDELL. I do not think it could be entered until classified and restored. The Government's land is quite rapidly being classified and restored; besides, the entryman would not know until classification has been made whether he would want to file under this bill, because the classification might indicate noncoal land.

Mr. BUTLER. The gentleman from Oklahoma offered some criticism as to the changes that had been made in this bill.

Mr. MONDELL. The gentleman from Oklahoma did the gentleman from Wyoming the honor of suggesting that the bill introduced by him was a better bill than the one presented by the committee.

Mr. BUTLER. Then, why did the committee make the change?

Mr. MONDELL. The committee almost unanimously took the view that the original bill did not sufficiently protect the homestead entryman—the farmer—and the Secretary of the Interior took that view and recommended amendments to further protect the surface entryman.

Mr. BUTLER. Does the gentleman feel sure that the value of this coal land to the Government will not be reduced by the amendment which has been made?

Mr. MONDELL. On the contrary, the amendments, in my opinion, do not in any way affect the value of the coal lands. Under the original bill the surface entryman was entitled to no damages except where there were damages inflicted, not necessarily incident to the mining of coal. In other words, under the original bill, if a man planted an orchard or a cornfield and it was necessary for the prospector to go in his orchard or cornfield, he could not collect damages unless an injury was inflicted not incident to the recovery of the coal.

Mr. BUTLER. Why did not the gentleman so write the bill as not to interfere with the rights of the surface owner?

Mr. MONDELL. The gentleman believed the legislation ought to be had. He worked upon it for months and could not draft language as to the relative rights of the surface entryman and the coal prospector and entryman that was entirely satisfactory to himself or anyone else, so he did the best he could, and passed the legislation up to the committee for its consideration. I have no doubt but that the gentleman himself has introduced bills before now that he thought perhaps could be improved.

Mr. BUTLER. I do not know whether I thought so. Other people did. One thing is quite sure, namely, that I always drew the bill as I thought it should be passed, and it was in my mind

to ask the gentleman, as I did ask him, why he changed the bill after he drew it.

Mr. MONDELL. The gentleman did not change the bill. A committee of twenty changed the bill.

Mr. BUTLER. The gentleman agreed with the committee of twenty?

Mr. MONDELL. The gentleman agreed, in the main, with the members of the committee, and the gentleman is of the opinion that the amendments bettered the bill and improved it.

Mr. MARTIN of Colorado. I would just like to interrupt the gentleman in connection with the showing he made about the sales that have been made in the State of Wyoming——

Mr. MONDELL. My statement here contains all sales in the entire United States, and I propose to put it in the RECORD.

Mr. MARTIN of Colorado. I wanted to inform the committee in connection with that statement with reference to the difference in Wyoming and Colorado, where over 9,000,000 acres of land are now withdrawn as coal lands. I have the statement here from the General Land Office, showing that up to this time only 90 acres of classified coal lands have been sold in the State of Colorado; and out of this more than 9,000,000 acres, 50 acres of this land sold at only $20 per acre and 40 acres of it at only $50 an acre.

Mr. BUTLER. How does the gentleman account for the statement that appears in the circular?

Mr. MARTIN of Colorado. That was conservation enthusiasm.

Mr. MONDELL. That statement is to the effect that some declaratory statements were made.

Mr. FERRIS. Just a moment. I have here a statement showing the comparison of sale prices and government prices.

Mr. MONDELL. Now, Mr. Chairman, my time——

Mr. FERRIS. I will not take a moment of time. The sale price in northern Colorado is $187.30, and the government price is $103; in southern Colorado the sale price is $187.30 and the government price is $135, showing that the Government clearly is selling coal too low at the present price.

Mr. MONDELL. The gentleman from Oklahoma [Mr. FERRIS] is again trying to muddy the waters. The question of whether the government price is higher than the individual price is a matter that does not in any way affect this legislation. And the gentleman stated two or three times during his discussion that some one was insisting that these government prices were altogether too high. But no one has made such a statement on this side during the discussion, that I have heard. My personal opinion is that it will be a long time before some of these lands are sold, but the proposition of the price fixed by the classification board is not one that in any way affects legislation. If the land is fit for agricultural purposes, there is all the more reason why the surface should be entered if the coal value is so high that no one can afford to buy it for a generation from now, when possibly the development of the country will make it possible to utilize that particular area. In the meantime, the surface ought to be utilized.

Mr. BENNET of New York. Will the gentleman take about a minute to amplify the difference between a sale and a declaratory statement, for my benefit, if for no one's else, particularly where they give the figures of $470 in this report?

Mr. MONDELL. A declaratory statement is a simple declaration, that "I, Bill Jones, or John Smith, believe a certain tract of land has some coal in it, and I am willing to give the Government $2.50 for the purpose of having the right to prospect on that land for thirteen months, and at the end of thirteen months to buy it if I desire to do it." That is all there is in the declaratory statement.

Mr. BENNET of New York. The $70 an acre is the price fixed by the Government?

Mr. MONDELL. At the time these particular declaratory statements were made I presume the land was probably not classified, and after the declaratory statements were made the parties probably found they could not afford to pay that price, and did not buy it.

Mr. BENNET of New York. The declaratory statement is something like an option?

Mr. MONDELL. It is not an option, because the Government will give a hundred of them the same day to a hundred different people.

Mr. BENNET of New York. For the same land?

Mr. MONDELL. For the same land.

Mr. BUTLER. It imposes no liability?

Mr. MONDELL. Not on the Government or on the entryman.

Mr. WICKERSHAM. Does this law apply to Alaska?

Mr. MONDELL. It does not.

Mr. WICKERSHAM. Why not?

Mr. MONDELL. The committee did not care to go into the question of coal in Alaska in view of the situation there.

Mr. WICKERSHAM. I am asking you as a legal proposition.

Mr. MONDELL. Personally, I doubt whether it would be wise to separate the mineral from the surface in Alaska.

Mr. WICKERSHAM. I am asking you, as a legal proposition, whether this bill does not apply to Alaska.

Mr. MONDELL. Because legally the bill does not apply to Alaska.

Mr. WICKERSHAM. Why?

Mr. MONDELL. Because when we refer to the public lands we do not include Alaska. But inasmuch as on a bill that we passed the other day the question was raised as to the form of the language in that bill, and as to whether it included Alaska or did not include Alaska, at the proper time I expect to offer an amendment for the committee to make it clear this does not apply to Alaska.

Mr. WICKERSHAM. That will exclude Alaska?

Mr. MONDELL. That it does exclude Alaska. So as to make it plain, the committee will offer an amendment excluding Alaska definitely.

Mr. KEIFER. Does this bill apply to any lands not surveyed?

Mr. MONDELL. It does not apply.

Mr. KEIFER. Would it affect lands not yet surveyed?

Mr. MONDELL. I think not.

Now I yield ten minutes to the gentleman from Oklahoma.

Mr. MORGAN of Oklahoma. Mr. Chairman and gentlemen of the committee, this bill is a new departure in the method of disposing of our public domain. It is very natural that there should be differences of opinion about the details of such legislation. When we enter upon a new and untried field, we will have differences of opinion as to what is wise and as to what is best.

As we have had this bill under consideration before the Committee on Public Lands, to my mind the proposition presented is this: The Government here is disposing of public domain which is valuable for two purposes. It is valuable for agriculture, and it is valuable for mining. It is valuable for the minerals beneath, and it is valuable for the rich and fertile soil above.

The principle incorporated in this bill is this: Rather than have these lands unoccupied, unused, uncultivated; rather than have them contributing nothing for the benefit of individual citizens, nothing for the advancement of the State in which they are situated, nothing for the upbuilding of the Nation at large, not doing the citizens of this country any good, we propose here a new policy that devotes the surface of the land to the interests of agriculture and devotes that which is underneath to the industry of mining.

In combining these two purposes we serve more successfully the interests of both the farmer and the miner, the settler and prospector. By this policy we aid agriculture and our mineral resources. By giving the man who wants to engage in agriculture the surface for a home, and the man who wants to engage in mining the minerals beneath for development, we have aided two individuals in becoming independent and useful citizens; we have contributed to the material growth and development of our country, and thereby added to the wealth and greatness of the Nation. This is a new proposition, and some difficulties naturally arise. But we may add amendment after amendment, we may discuss it until next January, and still we would not have all these difficulties solved. When you provide that two men may each have certain rights and privileges on the surface of the same tract there will necessarily be some conflict, some controversy, some clashing of interests. This can not be avoided. But in this bill, although brief in its terms, we have a measure of the utmost importance, and that will be far-reaching in its influence in the development of our country.

My colleague from Oklahoma [Mr. FERRIS] is especially opposed to the amendment offered by the committee. Some way he seems to be suspicious of anything which he sees printed in italics, the type in which committee amendments are printed. But the objections which the gentleman has presented here, in my judgment, do not have any real weight or importance. I want to discuss those objections, because they are largely objections with which I am perfectly familiar. On page 3 of the bill the words stricken out by the committee provided that the homesteader shall be entitled to damages "for any damage to the surface or his improvements not necessarily or reasonably incident to the prospecting for, mining, and removal of such coal."

The committee have reported in favor of striking out those words and have offered an amendment which provides that—

Any coal claimant or applicant of record under the laws of the United States shall have the right at all times to enter upon the lands selected, entered, or patented, as provided by this act, for the purpose of prospecting for coal thereon upon the approval by the Secretary of

the Interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting.

In my opinion it would be very unwise to pass this bill without a provision similar to that. In enacting this law to segregate the coal from the surface, we must not have in mind merely the development of our mineral resources and the protection of the miner. We must also have in view the development of agriculture and the protection of the homesteader, because after all, agriculture is the very basis of our wealth, the great source of our prosperity, and the foundation upon which rests our greatness as a nation. In disposing of our public land we must not forget the great benevolent and yet useful purpose, the founding of homes. After all, the real strength of this Government is the homes of our country. This amendment has been reported with a view to giving to miner and homesteader the same rights, the same encouragement, and the same opportunities. The amendment gives equal encouragement to both mining and agriculture. The gentleman says that if we adopt the amendments offered by the committee it will result in depreciating the value of the coal. I do not think that this will be the result.

The gentleman apparently thinks that there is a hidden purpose in this amendment, and that this purpose is to depreciate the value of the coal and prevent its sale and development. There is nothing of that kind. On the other hand, if we should follow the advice of the gentleman from Arkansas [Mr. ROBINSON] and the gentleman from Oklahoma [Mr. FERRIS], who have spoken against this bill, we would depreciate the value of the surface of the land. I do not believe any man would make a homestead upon these lands if we should fail to make such provisions as would protect him in his rights and guarantee him compensation for property destroyed by the owner of the coal.

The clause in the original bill, which is stricken out and for which this amendment is a substitute, provides only for damages which are not necessarily or reasonably incident to the prospecting for and mining and removal of coal. In other words, unless the prospector or miner went out of his way, unless he was guilty of malicious trespass, unless he wantonly destroyed property, the homesteader could not get one cent of damages. This would be a gross violation of every principle of right and justice. Such a law would prohibit the entry of the surface of these lands under the homestead law. No man would go out on these public lands, take his money that he had earned somewhere else, and devote it to the establishment of a home, to the making of improvements, with the understanding that some man could come along after a while and appropriate those improvements without paying damages.

Mr. MONDELL. Mr. Chairman, I yield twenty minutes to the gentleman from Colorado [Mr. TAYLOR].

[Mr. TAYLOR of Colorado addressed the committee. See Appendix.]

Mr. PRAY. Mr. Chairman, I desire to say a few words touching the general features of this legislation. It will not be necessary to occupy very much time of the committee, for the subject has been pretty thoroughly discussed by gentlemen who have preceded me, and aside from that there does not appear to be any very widespread opposition to the measure, and thus far none at all has developed on this side of the Chamber. I think we are all fairly well satisfied over here that the bill ought to become a law. Some question has arisen as to the measure of damages, but it occurs to me that that point is a matter of detail that can be determined when the bill comes up for examination and amendment under the five-minute rule.

I think there can be no serious question raised as to the merit of this legislation. It is not the first time that this subject has been up for consideration. President Roosevelt said that to protect the homesteader the public-land laws should be amended so as to enable the homestead entryman to get the use of the surface and at the same time give the miner a full opportunity to mine coal. President Taft has made practically the same recommendation, and, furthermore, there is a general demand throughout the West for this legislation. Without going further into the matter at this time, I will state that I have received a great many letters and petitions in favor of the passage of this bill from citizens of Montana and elsewhere, and at this point in my remarks I should like to include two letters I have received from citizens of my State who are familiar with present conditions, which will disclose a necessity for a modification of the public-land laws as proposed in this bill. The letters referred to are as follows:

WIBAUX, MONT., *February 18, 1910.*

Hon. CHARLES N. PRAY, *Washington, D. C.*

DEAR SIR: I desire to call your attention to the situation of the homesteaders in the lignite districts of eastern Montana. At the present time hundreds of settlers are upon lands which have been classified as coal lands and who do not know the present status of their entries. Some of them have in good faith entered upon the land subsequent to its classification as coal land, believing that the land was worthless as coal land. It is common knowledge here that the larger portion of the lands which have been classified as coal in character are now, and probably for all time will be, worthless for the coal that is in them, and yet in some instances some indications of the presence of a poor quality of lignite are to be found on these lands. That these are chiefly valuable for agriculture and grazing can not be questioned by a reasonable person who knows the conditions.

The question which has come to this community is this: Shall these lands lie idle and unoccupied, awaiting a possible, but improbable, discovery of some process whereby the after generations may use the coal, which now is practically worthless, or shall the settlers be encouraged to go upon this land, till the soil, and develop it in a reasonable manner for the good of themselves at this time?

Settlers are upon the land; they are tilling it and improving it and helping to build up eastern Montana. The poor quality of lignite coal known to generally exist here is of some use and an advantage to the settler on the prairie, who has no other available fuel, but it is a common opinion of our people that we would be better off if this poor coal were not to be found, for the reason that our settlers are put to trouble, annoyance, worry, and uncertainty in consequence of the coal being here.

I have not yet found a settler who cares anything for the coal. They would be glad, of course, to receive fee-simple title, but they are all willing that the United States should reserve the coal for its future generation if they may acquire title to the surface and an arrangement be made whereby they may proceed to proof with assurance and security. As it now is, those who desire to make entry on these classified coal lands are obliged to go through the anxiety of some months with their applications suspended, and those who desire to make proof who are upon these lands have their proof suspended until examination can be made, so that the situation is nearly unbearable.

Under these circumstances a law, general in its effect, which reserves the mineral to the Government, together with a bill providing for the classification and sale of this lignite coal at a figure somewhat commensurate with its known value, will be greatly desired.

Permit me to urge that this Congress make legislation along this line, and if any measures are now pending before Congress along the line suggested herein, I would be pleased to hear regarding them.

Respectfully,

E. F. FISHER.

CULBERTSON, MONT., *January 7, 1910.*

Hon. CHARLES N. PRAY, *Washington, D. C.*

MY DEAR SIR: I am addressing a letter to you and Montana's other two Representatives in Congress relative to a matter of legislation which I believe is of vast interest to many of the settlers on the public domain in this locality, as well as in many other parts of the State. It is in regard to the present status of the law classifying certain lands as having workable deposits of coal.

The lands in this vicinity have all been practically designated under the "enlarged homestead" law. Many of the settlers have availed themselves of the privileges of the law and have made settlement on the additional quarters, building fence and breaking and cultivating the land.

Others have contested entries, where there were good grounds for doing so, have been successful, paying the fees necessary to bring the contests to successful termination, only to find that since the initiation of the contest the tract had been included in lands classified as "coal land." Their applications have been rejected, causing additional expense of taking an appeal which will take time to decide.

This latter case of course applies where direct entry is allowed. But the greatest injustice, it seems to me, is where squatters are on the land and will be compelled to follow the course laid out in the circular dated September 7, 1909, modifying the circular approved April 19, 1909, which is in part as follows:

"You will advise any person presenting a nonmineral application or filing for lands classified in schedules or on maps as containing workable deposits of coal subject to disposal at prices fixed that he will be allowed thirty days in which to submit such evidence as he can, preferably the sworn statements of experts or practical miners, showing that the land is in fact not coal in character, together with a request that the same be reclassified," etc.

All this takes time, as the department considers these things slowly, perhaps for the reason that many such things are coming before it every day. If they are compelled to make application, have their entries (applications) suspended until such time as they can submit evidence in the form of affidavits, ask for reclassification, and perhaps be compelled to ask for a hearing, and pay the expense of same, there is no question that much time is consumed, and if the settler finally loses out, he has not only lost much time but has lost an opportunity to have gotten another homestead.

Much of this land that has been classified as containing coal has not the slightest external indications of coal. For instance, the lands in the Culbertson Valley; and, again, on the bench land over the divide north of Culbertson, where some of the land has been classified as containing workable coal.

It seems to me that if the Government wants to reserve the coal, it could be settled by amending the law in some manner which would give the applicant a title to the surface and reserve to the Government any coal contained therein. The final proof blanks could be amended by adding a question something like the following:

"Do you consent to accept a patent conveying to you a surface right, or title, and reserving to the United States all coal contained therein?"

I think I have stated the matter in such a way that you can readily see what the result of the present law will compel many of the settlers in this locality to go up against in order to fight their way through an attempt to avail themselves of the enlarged homestead law.

There are many good quarters of agricultural land in all of the townships classified in this locality that could ordinarily be entered under either the general or the enlarged homestead law that can only be entered by fighting every step of the way under the rules now laid down where the lands are classified as "coal."

If you can consistently bring about a modification of the law where it will not put the settler so long on the anxious seat with indefinite delays, I am sure that you will receive the everlasting thanks of the settlers of Valley County.

Believe me, yours, most respectfully,

G. H. COULTER,
United States Commissioner.

It will be seen from the foregoing letters, which are samples of many that have been received from all parts of the West, that there exists, unquestionably, a real necessity for the legislation proposed by this bill. In pursuance of the policy of conservation, millions of acres of timber lands in the Western States have been placed in forest reserves, and millions of acres of agricultural lands have been withdrawn as containing deposits of coal. Not all the lands classified as chiefly valuable for timber and included within forest reserves are such; some of these lands are more valuable for agricultural purposes, as Members from the Western States have had occasion to know from time to time as instances have been brought to their notice, and when this is known to be the case every facility should be accorded the settlers to make an agricultural entry. The lands withdrawn as containing valuable deposits of coal are not subject to any form of agricultural entry, and consequently vast tracts of land are withheld from settlement and cultivation. These conditions should be changed, and I believe the pending bill affords an adequate remedy.

To illustrate the point, I will refer to conditions in Montana, and it is my understanding that the facts are the same generally throughout the West. In Montana about 20,000,000 acres are underlaid with coal, and 13,000,000 acres have been withdrawn as coal lands. Probably not one-tenth of 1 per cent of these lands will be actually utilized for coal mining in the next fifty years, and yet, under present conditions, no matter how valuable these lands may be for agriculture, none of them can be entered for that purpose. This legislation will give the farmer an opportunity to take the surface and cultivate it, reserving to the Government and its grantees the right of reentry for the purpose of mining the coal, if any should ever be found therein. In other words, the Government retains the coal and grants a title to the surface. But the farmer reserves the right to contest the claim of the Government as to the coal character of the land embraced within the agricultural entry, and, if he is successful in his contest, title will pass to him as in other cases of homestead entry.

The need of legislation of this character has been urged upon Congress for many years. It was strongly recommended by the public lands commission, by the national conservation commission, by President Roosevelt in two annual messages, and by President Taft. The passage of such a measure has also been urged by Secretaries of the Interior Hitchcock, Garfield, and Ballinger. It is especially urged in my State in view of the unprecedented growth and development of the State during the past few years. Thousands of farmers have settled in Montana during the past season, and although the winter during short intervals has been unusually severe, there appears to have been no cessation in locating and filing on public lands. Every opportunity should be accorded these home builders to enter lands wherever they so desire, and the millions of acres now withdrawn as coal lands should be thrown open to settlement. This is what will be accomplished if this pending bill becomes a law.

Mr. ROBINSON. Mr. Chairman, I yield twenty-five minutes to the gentleman from Alabama [Mr. CRAIG].

Mr. CRAIG. Mr. Chairman, in the beginning when homestead laws were first enacted, the one idea that seems to be adhered to, so far as I can gather from history, was that men should be encouraged to go upon the public domain and build homes. To that end they were given fee-simple title to land on the public domain if they would live upon it and cultivate it for a certain length of time. Time has justified that policy. This country has been developed under the homestead laws very largely. While great tracts of land were taken up under the preemption laws, undoubtedly the homestead laws have been most beneficial in settling all parts of the country; and it was successful, according to my notion, because it gave to the settler something which was permanent in its nature, something that he could hand down to his children from generation to generation, and which instilled in him a love of his country and an attachment for the soil.

It gave him an interest that he would not have had unless he did own some of the soil of his native land, and it passed down to the following generation that same feeling. But I ask this House, Will the same feeling be passed down if, when a settler goes upon a piece of land under this proposed law, he knows that he can hand down to his children, no matter what improvements and expense he has put upon the land, nothing but the surface of the land, which will be left to them, and that they are liable to have the right of eminent domain exercised against them at any time and be kicked off of even the surface by a coal baron? That is one side of the proposition. I differ from some of my colleagues about this bill. I think it is wrong from both sides of the case. I think it is wrong from the standpoint of the settler, and I think it is also wrong from the standpoint of the miner; and while the gentleman from Wyoming very confidently asserted that he was sure no gentleman would arise on this floor and declare that he was against separating the surface from the coal, I desire to say that I am against that policy, because I do not believe it is treating the settler right, in the first place, to invite him upon the public domain to build his home—not to build a tenement house or a business structure, but to build his home—and at the same time say to him, "What you get is——

Mr. MONDELL. Will the gentleman yield——

Mr. CRAIG. I must decline to yield, Mr. Chairman. I would like to do so, but my time is very limited and the gentleman from Wyoming has consumed over an hour already. I say it is wrong to invite a settler upon the public domain and give him nothing more than a leasehold in the surface. Oh, but, say gentlemen who favor the bill, he knows that when he goes upon it. Yes; he knows it, and therefore the stable, reliable citizen is not going there; but the man who wants to speculate, the man who wants to build a shack for a home and hold up some coal company for big damages when it purchases the coal under his land and wishes to begin mining operations—these are the men who are going to homestead this surface, except in the case where they homestead it in the interest of the coal companies themselves.

Mr. MONDELL. The gentleman says——

Mr. CRAIG. Mr. Chairman, I must decline to yield because of the lack of time.

Next, is it a good proposition from the miner's standpoint? I submit that there was not a member of the Public Lands Committee that knew anything about mining. I submit that there are a very few Members of this House that know anything about mining, and not one single coal operator was brought before that committee to testify as to whether or not this would be a desirable measure. Realizing that I was grossly ignorant on the subject, and that I ought to have information from sources from which such information should come, I wrote to a number of coal operators in two different States, and I received uniformly replies that this bill would either tie up the surface or it would tie up the mineral under it. I see gentlemen smile, especially the gentleman from Wyoming [Mr. MONDELL], and I know what is in his mind. "Of course a coal miner," he will say, "does not want this bill to pass." But, mark you, they were not Wyoming coal miners; they were miners in the East, who have no interest in the West, and who already have coal to mine, and do not have to mine low-grade lignite that can not be burned anywhere except 10 feet from the mouth of the mine.

Mr. MONDELL. Will the gentleman yield?

Mr. CRAIG. I decline to yield.

Mr. MONDELL. The gentleman says it is a bad thing for the miners and a bad thing for the farmers. What are we going to do? Are we going to allow these thousands of acres of land there to be unoccupied?

Mr. CRAIG. Since the gentleman insists upon interrupting me against the rules of the House, I will say in answer to him that the only thing to do is what he himself would do if he owned the land; that is, to find out what part of it is coal land and what part is agricultural land, and dispose of it accordingly. That is the one thing to do; and that brings me to the point that while this bill may, perhaps, be a conservation measure—I do not know about that, because I do not believe any living man can, to the satisfaction of the House, define a conservationist—while it may be a conservation measure, I know that it is mighty poor business to open to homestead entry the surface of a piece of land when it is not known whether it is agricultural land or not. And, mark you, this bill does not require that the land to be homesteaded shall be agricultural in character; not at all.

The gentleman from Oklahoma [Mr. MORGAN] says the coal beneath the land is valuable and the surface is valuable. I deny that that proposition is altogether sound, and I expect to show by a letter from the Director of the Geological Survey that 75 per cent of this land can not produce anything whatever, or, rather, is not agriculture in character. So we are asked to open 100 per cent of land to agricultural entry when only 25 per cent of it will produce something else besides the native grasses. And why are we asked to do it? This bill, Mr. Chairman, is just one of the answering cries to the great stir and hue that have been going on in this country about conservation and about frauds in the public domain. But, mark you, this bill does not even attempt to provide against future frauds in the entry of coal lands, but says that although you may pass this law and let the surface go, the remaining coal must be entered under the coal-land laws then in force. So you do not provide against such frauds as have arisen in the Cunningham

claims in Alaska. You do not provide against such a case as the United States *v.* The Trinidad Coal and Coke Company, where fraud was alleged and proven.

It does not do one single thing toward stopping the frauds which have been alleged from time to time in the entry of coal lands in this country. It does not meet the situation in any way. It simply comes in under the guise of meeting a demand, seemingly made by public sentiment, for a change, but, in fact, it does not come up to the demand. The people of the West say that we ought to have the legislation in order to settle up their country. That is the only argument that has any real force whatever, if it were necessary. In getting back to the question as to what we ought to do and as to whether I have any remedy to offer, I desire to say that when the proper time comes I shall offer a substitute for this bill, providing that the lands shall be properly classified and graded, and that Congress shall then, after being furnished with full information, say what shall be done with them. And, Mr. Chairman, if anything were necessary to drive home the argument that this one thing is absolutely needed in the disposition of our public domain, the controversy on this floor to-day, which shows that nobody here, and practically nobody anywhere else, knows what these lands are or what they are worth, ought to impress on our minds the fact that we ought to at once pass a classification bill and let Congress have reported to it, by experts, what these lands really are, and then we should assume the duty of saying what shall be done with them.

Mr. MONDELL. Now will the gentleman yield?

Mr. CRAIG. Mr. Chairman, I decline to yield, because I have not the time. The gentleman from Wyoming [Mr. MONDELL] consumed over an hour, and here I have only twenty-five minutes to answer him and many other gentlemen.

I say that my position is possibly different from some of my colleagues of the minority on the committee, because I think the bill is wrong in principle and that a sale of the surface separate and apart from the underlying coal is bad policy and that we ought to know more about the character of the mineral under the lands before we pass legislation changing the whole policy of the Government on the subject. Gentlemen from the West say they know a great deal about it now. Perhaps they do. But we find on the floor to-day one set of figures concerning the value of coal lands quoted by one gentleman and another set of figures quoted by another; and now, Mr. Chairman, I have another set of figures, published by the United States Geological Survey, in what is known as Press Bulletin 418, March, 1910, and it goes on and gives the value of some of these coal lands. It says:

Under the old regulations the maximum price per acre for coal land was fixed at $75; under the new regulations the maximum price per acre thus far fixed for any particular area is $465. The maximum valuation of a single township under the old regulations was $949,600; under the new regulations it is $9,206,894. Special efforts have been made to release from existing withdrawals all noncoal areas, and of the total area classified during the year, amounting to 17,200,000 acres, much the larger part, or about 14,000,000 acres, has been classed as noncoal land. The sale price of the 3,436,000 acres classed as coal land has been fixed at $191,490,000. The same land, if sold at the minimum price fixed by law, would have yielded $62,477,000.

Now, Mr. Chairman, when these particular tracts of land which have been discussed here are worth $191,490,000 for coal alone, we ought to be mighty careful how we let homestead entrymen go on them and take them for homesteads, because these lands are going to be mined, and it will not be two thousand years from now either. It will not be very long in the future. It may be, as the gentleman from Wyoming says, that you can not sell that land now at public outcry for that price. Possibly not. The gentleman says you can not sell it for $10 an acre. Probably not; because railroad facilities are far distant from some of that land. But, as a business man, I can not see that we must value these lands according to whether or not a railroad runs through them, because we are not offering them for sale to-morrow. The Government will be here for many years yet, and no doubt future generations will have to deal with these same coal lands. And we should not put them in such a condition that they can not deal with them intelligently and with justice to themselves as well as to the people of the United States. I dare say if the lands which the gentleman from Wyoming says would not bring $10 an acre had a surface entryman on every 160 acres they would not bring $1 per acre for coal.

I say the lands ought to be classified. The President of the United States says they ought to be classified, although he seems to think that before we classify them we ought to jump in and do a great many other things that I will not discuss at this time. He says, in his conservation message:

One of the most pressing needs in the matter of public-land reform is that lands should be classified according to their principal value or use. This ought to be done by that department whose force is best adapted to that work. It should be done by the Interior Department through the Geological Survey. Much of the confusion, fraud, and contention which has existed in the past has arisen from the lack of an official and determinative classification of the public lands and their contents.

That is just what is the matter here to-day. We can not find out how much these lands are worth, because we have not had an intelligent report on which to base our judgment.

Mr. MONDELL. Well, every 40-acre tract of these classified lands has been examined by the Government. What more does the gentleman want?

Mr. CRAIG. Was the gentleman addressing me? I was under the impression that I had the floor and had declined to yield.

The CHAIRMAN. The gentleman from Alabama declines to yield.

Mr. CRAIG. Now, in order to get authentic information as to the practicability of the provisions of this bill, I wrote to some of the men best posted in coal matters, and I want to quote one communication I got from Mr. George T. Watson, of Fairmont, W. Va. I understand, while not knowing him personally, he is an able mining engineer of experience and a man of absolute integrity. He says, in reply to a letter written by me to the Fairmont Coal Company:

FAIRMONT, W. VA., *January 24, 1910.*

Hon. W. B. CRAIG,
Member of Congress, Washington, D. C.

MY DEAR SIR: A letter from you, dated January 20, 1910, and directed to the Fairmont Coal Company, on the subject of separating the surface from the coal deposits in all public coal lands, has been handed to me, and I have been requested to make you a reply.

I note that the land under consideration and under the present laws can not be homesteaded and is subject to sale only under the coal-land laws.

From the standpoint of a coal operator, in purchasing coal lands I think it would be advantageous to the purchaser to own the surface as well, unless he was the possessor of such mining rights granted by the surface owner as would permit him to mine and recover practically all of the coal contained in the lands under consideration without being liable for any damages to the overlying surface caused by removing the coal.

My experience has been only with coal where the mineral rights were owned in conjunction either with the surface itself or with sufficient mining rights to permit of the removal of the coal. Sufficient mining rights granted with the purchase of coal or minerals is perfectly satisfactory without buying the land, providing there is granted with the coal the right to take it all out without being liable for injury to the overlying surface from so doing, and a release for such damages as may result from so doing.

In reply to your question regarding the mining of coal in a case where the homesteader would be given title that would warrant and protect him in making valuable improvements, I think probably only a certain amount of the coal could be mined where the surface is not to be broken; say, on an average of 50 per cent. Of course, the actual amount of coal that might be mined with the above-described surface rights overlying would depend considerably upon the location of the coal and the amount of cover overlying; also the stratifications between coal and surface. It has been found in the recovery of coal that in a certain character of overlying strata it may be possible to mine as high as 60 per cent of the coal without damaging the surface, and in other cases, where the strata is weaker or thinner, a much smaller percentage of coal may be mined with safety to the surface.

It is not necessarily a fact that the operations and buildings necessary to the mining of coal practically destroy the land for agricultural purposes.

I do not think there is any practical or feasible way of estimating in advance the damage which will accrue to the surface of the land in the prospecting for and mining of the underlying coal. In many coal fields where the entire seam of coal has been removed, the farms may have been injured for a time immediately following the removal of the coal, but, after the cracks in the surface fill up, became and remained as good as before the coal was mined. This feature is more or less dependent upon above-mentioned strata and distance between coal seam and surface; and, of course, depends in direct proportion upon the amount of coal that may be removed.

Please do not consider this a trespass upon the time of the writer, and you may feel assured that I will be glad to furnish you with any information at my command at any time you may advise me.

Very sincerely,

GEO. T. WATSON.

Then I have another letter from Mr. G. F. Peter, of my district, the president of the Southern Coal and Coke Company. It is as follows:

SOUTHERN COAL AND COKE COMPANY,
Maylene, Ala., January 24, 1910.

Hon. W. B. CRAIG,
House of Representatives, Washington, D. C.

DEAR SIR: I am in receipt of your favor of the 20th instant asking for my views on the proposition to separate the surface from the coal deposits in all public lands, and to allow the surface to be settled under the homestead laws as agricultural land, the coal being reserved for the Government and its assigns.

I do not believe that you would find this to be practical, for the reason that whoever buys the right to mine coal must, of necessity, have the privilege of, at least, building houses for machinery on the surface and rights of way for roads and railroads in preparing and transporting the mineral. In addition to this it is generally understood that they must have the privilege of building houses for their employees and of dumping any refuse. These latter privileges might be curtailed, but by doing so cases would necessarily arise where the mineral would either be mined under a hardship or not at all.

If these rights are not reserved to the purchaser of the mineral, the mineral probably would not be mined; and if they are reserved, the surface probably would not be homesteaded; and for this reason I

would not consider this wise legislation. In addition to the privileges that I have mentioned there are generally other privileges reserved to the person buying the mineral right with which you, as a lawyer, are doubtless familiar.

If there is any further information that I can give you in regard this matter, I will be glad to do so.

With kind regards, very truly, yours, G. F. PETER.

These letters coming from well-qualified disinterested parties, certainly ought to convince anyone that this bill will prevent either settlement or mining, one or the other, and that the result can not but be disastrous from a mining point of view.

Now, is this legislation necessary? I say it is not necessary.

Mr. MONDELL. Will the gentleman yield?

Mr. CRAIG. I am pressed for time. How much time have I remaining, Mr. Chairman?

The CHAIRMAN. The gentleman has six minutes remaining.

Mr. CRAIG. I can not possibly finish in that time. I hope the gentleman's question will be a short one.

Mr. MONDELL. The gentleman does not think it is necessary to settle the western country?

Mr. CRAIG. Oh, no; I said this bill was not necessary, and I say this bill will not settle the West.

Mr. MONDELL. What has the gentleman to offer in the way of a bill that will settle these lands?

Mr. CRAIG. The gentleman from Wyoming represents a western district and I do not. I do not attempt to answer for his constituents. Now, in the States that will be affected by this legislation, namely, Colorado, Montana, New Mexico, North Dakota, Oregon, Wyoming, Utah, and Washington, there were entered last year under the public-land laws 6,338,279 acres. That does not look like there was any scarcity of land. That statement is on page 60 of the commissioner's report.

The unappropriated, unreserved public land in these States is 201,551,242 acres. There does not seem to be any particular scarcity of land, judging from those figures. The unappropriated public land in the United States is now over 50,000,000 acres more than all the land patented under the homestead laws, the timber and stone act, the desert-land laws, timber-culture laws, coal-land entries, and railroad and wagon-road grants combined (see pp. 40 to 45 of the commissioner's report), this amount being 292,116,327 acres, while the unappropriated public land of the United States amounts to practically 363,000,000 acres. There does not seem to be any great scarcity of land yet.

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

Mr. RUCKER of Colorado. I should like to ask the gentleman a question.

Mr. CRAIG. I decline to yield. I should like to; but I decline because of the shortness of my time.

The CHAIRMAN. The gentleman from Alabama declines to yield.

Mr. GRAIG. In the last Congress the western Congressmen came here and said they needed a 320-acre homestead act to settle the West, and we gave it to them. Under the 320-acre homestead act 172,632,642 acres have been withdrawn.

Mr. MONDELL. The gentleman does not mean "withdrawn." He means "opened to entry."

Mr. CRAIG. I mean "designated."

Mr. MONDELL. That is a very different thing from "withdrawn."

Mr. CRAIG. I am much obliged to the gentleman for the correction. I am talking of the acreage that the Secretary of the Interior, under the 320-acre homestead law, has designated to be entered. Under that law 3,125,760 acres had been entered up to February 8, 1910. According to that, it will take fifty years to take up the land that is enterable alone under the 320-acre homestead act, and yet the gentlemen from the West come here and say they can not settle their country, and the gentleman from Colorado read an editorial saying that people are going to Canada. I have heard in the Public Land Committee discussions on that subject, and I understand that they are coming back from Canada. In the New York American dated March 5 of this present year is a dispatch from Spokane, Wash., which says:

The movement into Montana is now from the Canadian Northwest—

Not from the United States to Canada.

A few years ago conditions were reversed and 300,000 Americans went to Canada to engage in farming. Now thousands of them are returning to the United States.

The Great Northern "high line" from Cut Bank to Havre is getting the best of the incomers. Sidetracks that have blistered in the sun for ten years without a house or anything near them are now cumbered with lumber piles and shacks. Towns are springing up in a night, and the "hotels" in these hamlets are full of guests.

Mr. PRAY. Will the gentleman yield?

Mr. CRAIG. I should like to, because I like the gentleman from Montana, but I have only a minute remaining, and I want to read something else, from the pen of the gentleman from Montana himself. The gentleman from Montana wants a new land office in his district, and I voted to report his bill. In the report on that bill he says:

The nearest land office is at Great Falls, 120 miles from the proposed site of the new land office. From recent authentic information received, it appears that on January 13, 1910, there were in the Great Falls land office over 3,000 applications for entry upon public lands which had not been acted upon. New applications are coming in at the rate of 1,000 to 1,500 per month. The nearest land office on the east is about 155 miles and on the west about 250 miles. Owing to the great influx of home seekers in this section of the State, which is the greatest in its history, it appears to be necessary that this office should be established at the earliest possible date for the better accommodation of the settlers.

I certainly will be pardoned for observing that, with such conditions existing as described in the dispatch from Spokane and in the report of the gentleman from Montana, there can be no scarcity of land, and good land at that, in his State.

[The time of Mr. CRAIG having expired, Mr. ROBINSON yielded five minutes more.]

Mr. CRAIG. Mr. Chairman, how much land would this bill open up to settlers? It would add two-thirds of 1 per cent to the land now open to entry by farmers. Now, I wanted to find out, as nearly as I could, what the real facts concerning the coal land were, so I wrote to George Otis Smith, Director of the Geological Survey, and one question I asked him was, "How many acres of land are now reserved exclusively as coal land?" and I want you to see how different his figures are from those of the gentleman from Wyoming. George Otis Smith says, in answer to that question:

The area now covered by withdrawals from all entry is 10,200,000 acres. The area classified as coal land is 8,427,000 acres.

Now, I do not attempt to say which is right, the gentleman from Wyoming or the Director of the Geological Survey; but I dare say that the director has given more recent and close application to the subject than has the gentleman from Wyoming.

Another question I asked in the letter was, "How much is agricultural land—I mean how much of it is suitable for cultivation?" and his reply to that is: "Of this area approximately 25 per cent of it is land having dry farming and irrigation possibilities," leaving 75 per cent of it that is not even fit for dry-farming purposes.

Mr. MONDELL. Then, what harm is done if you open to entry land that people will not enter?

Mr. CRAIG. No sensible, stable citizen is going to enter a piece of land as a homestead which he knows will not support his family.

Mr. MONDELL. And therefore there is no objection to this law.

Mr. CRAIG. Then, why open it up to him?

Mr. MONDELL. I see no harm in it if it will not be entered.

Mr. CRAIG. It will not be entered by any except men who do not want homes, but who want coal, or possibly damages from the coal companies that purchase the mineral rights. A man is not going to settle on a bare rock for a homestead; a man is not going to settle on land that will not raise anything but native grasses and expect to raise a family; but a man with an ulterior motive might settle on a bare rock and wait patiently for five years, making his false affidavits as to cultivation, for an opportunity of holding up some coal company that gets the right from the Government to mine coal. That is the harm the bill can do. Why should anybody homestead an outcropping of coal? Does anybody maintain that you can live on coal? Hardly.

Now, I call your attention again to the fact that only 25 per cent of the lands which this bill will open to agricultural entry is really agricultural. And, mark you, this bill does not say land which is agricultural in nature shall be opened to such entry, but it says all lands chiefly valuable for coal.

Mr. PARSONS. Will the gentleman yield?

Mr. CRAIG. I decline to yield, for I have only a minute left. So, Mr. Chairman, it seems to me, taking it from the view point of the honest settler, because he is the only settler entitled to consideration—taking it from his view point it is a bad bill, because he never will use it; taking it from the view point of the man who proposes to purchase the coal it is a bad bill, because he is liable to get something which will never amount to anything.

Now, one other thing: There is a clause in the bill which allows homestead settlers to mine coal for domestic use. You let them settle on 8,000,000 acres of the public domain and begin to mine coal for domestic purposes and it will take an army of men to keep up with them and see that they are not shipping coal for commercial purposes; and, furthermore, it will not be six months before men will be coming to the Committee on

Public Lands of the House with bills saying that somebody has gotten the coal out from under their land, that there is no coal there, that there is nothing but the old, dry surface left, and that we ought to give them a fee-simple title in the land. No doubt the bills will pass, and undoubtedly the Government will lose large quantities of coal in that way.

If we are to apply this law to the United States, why not apply it to Alaska? The answer comes back, "It is too cold to raise anything in Alaska." Well, I say, on the authority of George Otis Smith, that it is too dry or rocky on these lands that are in the United States and classified as coal lands to raise anything, except on 25 per cent of it. If you wish to open 75 per cent of this land for agricultural purposes, which is not agricultural in character, which will not support even one man, let alone a family, then go ahead and do it; but you will never settle up the West in that way. And, mark you, there is a difference of opinion as to whether people are going from this country to Canada to settle or whether they are coming back from Canada to this country.

This bill ought not to pass, but we ought to pass a thorough classification bill and get down to business principles in the administration of the public domain.

Mr. ROBINSON. Mr. Chairman, with a very brief statement I will yield to the gentleman from Wyoming [Mr. MONDELL] to move that the committee rise. I want to call attention to one or two statements the gentleman from Wyoming made in his argument. He said, "No matter how valuable land may be for coal, if the surface is valuable for cultivation it ought to be cultivated." That statement, I think, requires modification. I sincerely doubt whether the surface of lands which are of great value for coal ought to be entered under agricultural entries. I am not greatly experienced in mining, but I have observed in many localities where mining is now being conducted that much of the surface of the lands under which mines are operated is required for facilitating the mining operations. You can go into the various communities where great mining industries have been developed, where the lands are exceedingly valuable for mining purposes, and observe that such a thing as cultivating them for agricultural purposes is hardly practicable.

I do not want to restrain the arm of the man who goes forth to cultivate the soil in this country, but, as I stated in the opening argument on our side of this case, I believe that the practical effect of this bill, if the committee amendments are agreed to, may be to amass, through agricultural entries of the surface, in the hands of a few men or corporations who may purchase from the surface entrymen, after they have acquired the ownership of the surface, the remaining public lands most valuable for coal. If the lands are not really desirable for agricultural purposes, entrymen might be induced to make agricultural settlement for the purpose of acquiring the surface of lands valuable for coal, and finally passing them into a common ownership.

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

Mr. ROBINSON. Yes.

Mr. PARSONS. Is it not a fact that in Illinois and Ohio the surface of coal land is put under cultivation?

Mr. ROBINSON. It is a fact that in many localities the surfaces of lands which are mined are cultivated, but I repeat my statement in order that the gentleman from New York may have the advantage of whatever is in it, and that is that, as to lands that are highly valuable for coal, in many localities such a thing as cultivating them for agricultural purposes is impracticable; and I do not believe that the Congress ought to pass a bill indiscriminately permitting the surface of lands known to be very valuable for coal to pass through other than the coal-land laws and run the risk of having the surface pass in large areas into a common ownership, for we know that the man who controls the surface can greatly embarrass and hinder the development of mines. A man who has the surface has the opportunity of prospecting, it is true, but the man who has to file a bond in order to prospect and to also file another bond in order to mine is placed under such difficulties and embarrassments, I repeat, that he will go around lands the surface of which has been entered for agricultural purposes, and the practical effect of this bill will be to prevent entry of the coal deposits, especially under the provisions of this bill as reported.

The gentleman from Kansas asked a very pertinent question a while ago. This bill does not make definite provision for the disposition of coal deposits. The language of the bill is this:

> The coal deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal-land laws in force at the time of such disposal.

Mr. Chairman, there are no coal-land laws now that provide for the disposition of deposits of coal. The only coal-land laws we have now provide for a disposition of the lands themselves, and as a lawyer I desire to suggest to the gentleman from New York if he does not think that the subject presents some difficulty; whether a law that is enacted providing for the disposition of lands themselves can, without further modification, be made applicable to the disposition of coal deposits after the surface of the land has been finally disposed of.

Mr. PARSONS. I will answer the gentleman. I do not see any difficulty in that except it will conserve the coal deposits until we pass a law for their disposal. I hope we will pass a law providing for the leasing of coal deposits and——

Mr. ROBINSON. The gentleman from New York contradicts the gentleman from Wyoming. The gentleman from New York now says the sole effect of this bill will prevent the passing of deposits of coal under any law until we pass some other law. The gentleman from Wyoming says that under existing laws these coal deposits would pass. The very fact that gentlemen of the ability of the gentleman from New York and the gentleman from Wyoming differ on so important a subject shows it is worthy of very serious consideration by this committee.

Mr. MONDELL. I do not think there is any difference of opinion between the gentleman from New York and the gentleman from Wyoming. The gentleman from New York thinks we may have a different law some time, under which these deposits will pass. I agree with the gentleman in regard to that. I think we will have some changes of the coal-land laws. In the meantime, deposits of coal can unquestionably be disposed of under the present law.

Mr. ROBINSON. I have much doubt of that, because the present law does not provide for the disposing of coal deposits. It only provides for the disposal of coal lands, and it is a very grave question in my mind whether a coal deposit could be passed under the general coal-land laws without making some further provision.

Mr. SMITH of California. Will the gentleman permit a question?

Mr. ROBINSON. Certainly.

Mr. SMITH of California. Is there, after all, a serious objection to this legislation? At the present time there is a demand for the use of the surface by home seekers, and there is no demand for the coal under it.

Mr. ROBINSON. If the gentleman will permit, in the minute I have left, I will answer by saying I do not think that is an insurmountable objection, because, in theory, Congress can hereafter pass a law providing for the disposal of coal deposits; but let me call the attention of this House to the fact that the present coal-land law was passed long ago, I think in 1878——

Mr. MONDELL. In 1874.

Mr. ROBINSON. I thank the gentleman—and that this law has been declared by the Secretary of the Interior, the Commissioner of the General Land Office, and by many other gentlemen charged with its enforcement to be absolutely obsolete, or at least wholly unsatisfactory. They say that the coal law ought to have been changed long ago. Yet Congress has not acted on the subject. Gentlemen, I again reiterate the statement that we ought to be careful when we are passing this legislation not to make it possible for entries to be made of the surface under such conditions that they will in the end tie up valuable deposits of coal.

Mr. MOSS. I would like to ask one question, and that is, I want to know if a person who obtains a homestead by a surface right would be cut off from becoming a coal claimant by the fact that he happens to have a right to the surface.

Mr. MONDELL. I should say not. Mr. Chairman, I move that the committee do now rise.

The question was taken, and the motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. LONGWORTH, 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. 13907) to provide for agricultural entries on coal lands, and had instructed him to report that it had come to no resolution thereon.

RAILROAD BILL.

Mr. MANN. Mr. Speaker, in the railroad bill (H. R. 17536) as passed this afternoon there was an amendment to the title, which inadvertently was not agreed to, and I ask unanimous consent that the title be amended in accordance with the recommendation of the committee.

The SPEAKER. Without objection, the title will be so amended. [After a pause.] The Chair hears no objection.

The title was amended so as to read: "A bill to create a commerce court, and to amend the act entitled 'An act to regulate commerce,' approved February 4, 1887, as heretofore amended, and for other purposes."

UNDERGROUND LIFE-SAVING STATIONS IN COAL MINES.

[Mr. TENER addressed the House. See Appendix.]

Mr. SULZER. Mr. Speaker, at this time I want to reiterate what I have frequently said before, that I am now, always have been, and always will be in favor of the election of Senators in Congress by the people. The election of United States Senators by the direct vote of the people will be a live question in the coming campaign. I favor this change in the Federal Constitution, as I will every other change that will restore the Government to the control of the people. I want the people, in fact as well as in theory, to rule this great Republic and the Government at all times to be directly responsible to their just and reasonable demands.

In my opinion, the people can and ought to be trusted. They have demonstrated their ability for self-government. If the people can not be trusted, then our Government is a failure, and the free institutions of the fathers doomed. We must rely on the wisdom and the judgment of the people, and we must legislate in the interests of all the people and not for the benefit of the selfish few.

We witness to-day in the personnel of the United States Senate the supplanting of representative democracy by representative plutocracy. Here Mammon is intrenched. Here the criminal trusts take their stand and defy the people. Here is the last bulwark of the predatory few. Here is the citadel of the unscrupulous monopolies. And more and more the special interests of the country, realizing the importance of the Senate, are combining their forces to control the election of Federal Senators through their sinister influence in state legislatures. Forty-six United States Senators can prevent the enactment of a good law or the repeal of a bad law. The United States Senate is the most powerful legislative body in the world, and its members should be elected by the people of the country just the same as the Representatives in Congress are elected. This is of the utmost importance to the rank and file, because when the Senate is directly responsible to the people they will control it; and then, and not till then, will that august body respond to the will of the people.

This is a government of the people. The people seldom err. The people can be trusted. I am opposed to delegating away the rights of the people, and where they have been delegated away I would restore them to the people. I trust the people, and I believe in the people. I believe that governments derive their just powers from the consent of the governed, and hence I want to restore to the people the right now delegated to the legislatures by the framers of the Constitution, so that the Senate as well as the House will be directly responsible to the people and the Government become more and more a representative democracy, where brains, fitness, honesty, ability, experience, and capacity, and not ostentatious wealth and corporate subserviency, shall be the true qualifications for the upper branch of the Federal Legislature.

The plain people all over this country favor this reform and demand this much-needed change in the Federal Constitution, so that they can vote directly for Senators in Congress, and they appeal to us to enact this law to give them that right. It is not a partisan question; neither is it a sectional issue. The demand reaches us from all parts of the land and from men in all political parties with a degree of unanimity that is as surprising as it is reassuring. It is our duty to respect the wishes of the people and to give them a uniform law allowing them to vote for Senators in Congress just the same as they now vote for Representatives in Congress.

The right to elect United States Senators by a direct vote of the people is a step in advance and in the interest of the general welfare. I hope it will speedily be brought about. It is the right kind of reform, and I hope it will be succeeded by others, until this Government becomes indeed the greatest and the best and the freest Government the world has ever seen, where the will of the people shall be, as it ought to be, the supreme law of the land.

Mr. Speaker, ever since I have been a Member of this House—for nearly sixteen years—I have advocated and worked faithfully to bring about the election of Senators in Congress by the direct vote of the people. In every Congress in which I have served I have introduced a joint resolution to amend the Constitution to enact into law this most desirable reform, and the record will show that I have done everything in my power, in Congress and out of Congress, to secure its accomplishment. On several occasions this joint resolution has passed the House, only to fail in the Senate, because the Senate would not allow the question to come up for action. At the beginning of this session of Congress I reintroduced my joint resolution to amend the Constitution so that United States Senators shall be elected by the direct vote of the people. It is similar to the resolution I introduced in all previous Congresses of which I have been a Member. I now send this joint resolution to the Clerk's desk and ask to have it read in my time, so that it will be printed in the RECORD as a part of my remarks.

The Clerk read as follows:

Joint resolution (H. J. Res. 32) proposing an amendment to the Constitution providing for the election of Senators of the United States by direct vote of the people. [By Mr. SULZER.]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following amendment be proposed to the legislatures of the several States, which, when ratified by three-fourths of said legislatures, shall become and be a part of the Constitution, namely: In lieu of the first and second paragraphs of section 3 of Article I of the Constitution of the United States of America the following shall be proposed as an amendment to the Constitution:

"SEC. 3. First. The Senate of the United States shall be composed of two Senators from each State, who shall be elected by a direct vote of the people thereof for a term of six years, and each Senator shall have one vote. A plurality of the votes cast for candidates for Senator shall elect, and the electors shall have the qualifications for electors of the most numerous branch of the legislature.

"Second. When vacancies happen, by resignation or otherwise, in the representation of any State in the Senate, the same shall be filled for the unexpired term thereof in the same manner as is provided for the election of Senators in paragraph 1: *Provided*, That the executive thereof shall make temporary appointment until the next general or special election held in accordance with the statutes or constitution of such State."

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as a part of the Constitution.

Mr. SULZER. Mr. Speaker, that joint resolution speaks for itself. It has been favorably reported, and is now awaiting the action of this House. It needs no apology and no explanation. I believe it is right. I know the people favor it. I want to see it a part of the fundamental law of the land. I want to make the Senate less aristocratic and more democratic; I want to make it more obedient to man and less responsive to Mammon. I want to make it pay more heed to the appeals of the people and listen less to the demands of plutocracy. I want the Senate to be the people's Senate, in the interest of the many and for the benefit of all the people, and its accomplishment will keep the Government nearer the masses and herald the dawn of a better and a brighter day in the onward march of the Republic.

It may be said that it will be useless, and a waste of time, for the House to again pass this joint resolution, as the Senators will not willingly consent to a change in the method of their selection. That may be true in regard to some of the Senators, but I know it is not true in regard to all of them. Many of them favor this change. If we pass this resolution, it is true it may fail again, as it has failed before, to meet the approval of the Senate, but those who believe in this change will not give up the struggle to bring it about until it is accomplished, and, mark my words, sooner or later it will be accomplished. The election of Senators in Congress by the people is a reform in the right direction and just as sure to come as the night follows the day.

Do not be deceived; make no mistake; this reform is growing in favor with the people every year and is destined to become more and more popular until in the near future it will be adopted. Already 27 States have passed joint resolutions through their respective legislatures demanding this change in the Federal Constitution. These States are Pennsylvania, Indiana, Texas, California, Nevada, Missouri, Nebraska, Arkansas, Wyoming, North Carolina, Illinois, Colorado, Louisiana, Kansas, Montana, Wisconsin, Oregon, Michigan, Tennessee, Idaho, South Dakota, Washington, Utah, Kentucky, Minnesota, Iowa, and Oklahoma.

The action of these 27 States of the Union demanding this change in the Federal Constitution, so that the people shall have the right to vote directly for Senators in Congress, should be conclusive, and must impress Senators who are doing all in their power to prevent the enactment of this law that patience has almost ceased to be a virtue, and unless they take heed in time these States and some of the other States favorable to this reform will ere long call a constitutional convention on their own initiation to amend the Constitution in accordance with the wishes of the people. The people are in earnest in this matter and any attempt to thwart their will in this reform will only hasten its consummation.

The adoption of this joint resolution providing for the election of Senators in Congress by the people will prevent corruption in state legislatures, stop scandal, and end to a great extent the temptation of political parties to gerrymander legislative districts for partisan purposes. Let me say to this House that this legislative gerrymandering has been carried further by the Republican bosses in my own State of New York than perhaps in any other State in the Union. In the State of New York, under the present outrageous Republican apportionment, the people can not secure a Democratic legislature unless the Democratic party carries the State by at least a majority of 150,000 votes. And hence I believe the change in our Federal

Constitution sought to be made by my joint resolution will almost entirely prevent these unfair and outrageous apportionments and at the same time give the worthy man the same opportunity under the law as the corporation's man to submit his cause and his candidacy to the judgment and the decision of the people for the high and honorable office of a Senator in Congress.

[Mr. BENNET of New York addressed the House. See Appendix.]

CHANGE OF REFERENCE.

By unanimous consent, change of reference was made of the bill (H. R. 20581) to amend an act approved February 6, 1909, entitled "An act relating to affairs in the Territories, and for other purposes," from the Committee on the Judiciary to the Committee on the Territories.

LEAVE OF ABSENCE.

Mr. HUBBARD of West Virginia, by unanimous consent, was granted leave of absence for two weeks, on account of important business.

ENROLLED BILLS SIGNED.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 24150. An act transferring Oregon County to the southern division of the western judicial district of Missouri;

H. R. 23095. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain widows and dependent relatives of such soldiers and sailors;

H. R. 23906. An act to authorize and direct certain extensions of the City and Suburban Railway of Washington, and for other purposes; and

H. R. 23371. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain widows and dependent relatives of such soldiers and sailors.

ADJOURNMENT.

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

The motion was agreed to.

Accordingly (at 6 o'clock and 3 minutes p. m.) the House adjourned.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. OLMSTED, from the Committee on Insular Affairs, to which was referred the bill of the House (H. R. 25290) to authorize the President to convey to the people of Porto Rico certain lands and buildings not needed for purposes of the United States, reported the same without amendment, accompanied by a report (No. 1327), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. GOOD, from the Committee on the Territories, to which was referred the bill of the House (H. R. 24833) to provide for the care and support of insane persons in the Territory of Alaska, reported the same with amendment, accompanied by a report (No. 1328), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. BRANTLEY, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 25192) to amend section 11, act of May 28, 1896, reported the same with amendment, accompanied by a report (No. 1330), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. DENBY, from the Committee on Foreign Affairs, to which was referred the bill of the Senate (S. 7158) authorizing and directing the Department of State to ascertain and report to Congress damages and losses sustained by certain citizens of the United States on account of the naval operations in and about the town of Apia, in Samoan Islands, by the United States and Great Britain in March, April, and May, 1899, reported the same without amendment, accompanied by a report (No. 1321), which said bill and report were referred to the House Calendar.

Mr. KNOWLAND, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the Senate (S. 7916) authorizing the construction of a bridge across the Columbia River near the mouth of the San Poil River, in the counties of Ferry and Lincoln, Wash., reported the same with amendment, accompanied by a report (No. 1322), which said bill and report were referred to the House Calendar.

Mr. HAMER, from the Committee on the Post-Office and Post-Roads, to which was referred the bill of the Senate (S. 7995) to amend section 3928 of the Revised Statutes, to provide for receipts for registered mail, and for other purposes, reported the same without amendment, accompanied by a report (No. 1323), which said bill and report were referred to the House Calendar.

Mr. FASSETT, from the Committee on the Post-Office and Post-Roads, to which was referred the bill of the Senate (S. 7994) to repeal section 4035 of the Revised Statutes, providing for the issuance of money-order notices, and for other purposes, reported the same without amendment, accompanied by a report (No. 1324), which said bill and report were referred to the House Calendar.

Mr. MOON of Pennsylvania, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 25553) to amend section 45 of the act entitled "An act to codify, revise, and amend the penal laws of the United States," approved March 4, 1909, reported the same with amendment, accompanied by a report (No. 1329), which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. PRINCE, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 5085) to correct the military record of E. D. Judkins, reported the same without amendment, accompanied by a report (No. 1318), which said bill and report were referred to the Private Calendar.

He also, from the Committee on Claims, to which was referred the bill of the House (H. R. 19499) for the relief of George Drake and Lillie Nelson, reported the same without amendment, accompanied by a report (No. 1319), which said bill and report were referred to the Private Calendar.

Mr. SULZER, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 1028) to appoint Warren C. Beach a captain in the army and place him on the retired list, reported the same without amendment, accompanied by a report (No. 1320), which said bill and report were referred to the Private Calendar.

Mr. PRINCE, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 15543) to correct the military record of William H. Smith, reported the same with amendment, accompanied by a report (No. 1325), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 25414) for the relief of John Ridenbaugh, alias Henry Ridenbaugh, reported the same with amendment, accompanied by a report (No. 1326), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 13714) granting a pension to Andrew J. Ritchie—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 25079) for the relief of A. J. Sampson—Committee on Military Affairs discharged, and referred to the Committee on War Claims.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. SIMS: A bill (H. R. 25707) to authorize the construction of a railroad siding to the United States navy-yard, and for other purposes—to the Committee on the District of Columbia.

By Mr. COUDREY: A bill (H. R. 25708) providing for the removal of the fence now inclosing the National Botanic Garden—to the Committee on the Library.

By Mr. BYRD: A bill (H. R. 25709) to prohibit in the District of Columbia the intermarriage of whites with negroes or Mongolians—to the Committee on the District of Columbia.

Also, a bill (H. R. 25710) to amend an act entitled "An act to provide revenue, equalize duties, and encourage the industries

of the United States, and for other purposes," approved August 5, 1909, so as to place building material, earthen and glass ware, bagging and other manufactures of jute, agricultural machinery and implements, and other manufactured products on the free list—to the Committee on Ways and Means.

By Mr. ANDREWS: A bill (H. R. 25711) authorizing the Territory of New Mexico to sell and transfer certain school lands to the village of Deming, N. Mex.—to the Committee on the Territories.

By Mr. TAYLOR of Ohio: A bill (H. R. 25712) to amend the act of Congress approved July 16, 1894, providing that publications of societies be rated as second class—to the Committee on the Post-Office and Post-Roads.

By Mr. SMITH of California: A bill (H. R. 25713) to repeal a portion of section 5 of an act approved May 20, 1900, relative to the return of civil process and the trial of offenses in the southern division of the southern district of California—to the Committee on the Judiciary.

By Mr. CALDER: A bill (H. R. 25714) to reorganize and increase the efficiency of the commissioned grade of chief carpenter in the Navy of the United States—to the Committee on Naval Affairs.

By Mr. SMITH of Texas: A bill (H. R. 25715) authorizing the Kansas City, Mexico and Orient Railway Company of Texas and the Kansas City, Mexico and Orient Railway Company to build two bridges across the Rio Grande River—to the Committee on Interstate and Foreign Commerce.

By Mr. MARTIN of Colorado: Resolution (H. Res. 690) directing the Secretary of War to furnish certain information to the House—to the Committee on Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS.

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

By Mr. ANDERSON: A bill (H. R. 25716) granting an increase of pension to Julius L. Goff—to the Committee on Invalid Pensions.

By Mr. ANDREWS: A bill (H. R. 25717) granting a pension to Eli Newson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 25718) granting an increase of pension to Charles R. Gentner—to the Committee on Invalid Pensions.

Also, a bill (H. R. 25719) for the relief of the heirs of John Lemon, deceased—to the Committee on Claims.

By Mr. AUSTIN: A bill (H. R. 25720) granting an increase of pension to James P. Hollingsworth—to the Committee on Invalid Pensions.

By Mr. BARTLETT of Georgia: A bill (H. R. 25721) for the relief of the heirs of H. L. Lowe, deceased—to the Committee on War Claims.

By Mr. BENNET of New York: A bill (H. R. 25722) granting a pension of Miranda C. Thompson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 25723) for the relief of Augustus H. F. Hain—to the Committee on Military Affairs.

By Mr. BURLEIGH: A bill (H. R. 25724) granting an increase of pension to John Kennedy—to the Committee on Pensions.

By Mr. CALDERHEAD: A bill (H. R. 25725) granting an increase of pension to John T. Lamb—to the Committee on Invalid Pensions.

Also, a bill (H. R. 25726) granting an increase of pension to Augustus A. Nauman—to the Committee on Invalid Pensions.

By Mr. CAPRON: A bill (H. R. 25727) granting an increase of pension to Augustus A. Law—to the Committee on Invalid Pensions.

By Mr. CHAPMAN: A bill (H. R. 25728) granting an increase of pension to Charles Smith—to the Committee on Invalid Pensions.

By Mr. CROW: A bill (H. R. 25729) granting an increase of pension to Ezra Wilson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 25730) granting an increase of pension to John Smith—to the Committee on Invalid Pensions.

By Mr. SIMMONS: A bill (H. R. 25731) for the relief of James Davy—to the Committee on Claims.

By Mr. FLOOD of Virginia: A bill (H. R. 25732) for the relief of the estate of Robert J. Hope, deceased—to the Committee on War Claims.

Also, a bill (H. R. 25733) granting an increase of pension to Frank H. Thomas—to the Committee on Pensions.

By Mr. FLOYD of Arkansas: A bill (H. R. 25734) to correct the military record of Bennett D. Cline—to the Committee on Military Affairs.

By Mr. FORNES: A bill (H. R. 25735) for the relief of Robert W. Hilliard—to the Committee on Claims.

By Mr. HAWLEY: A bill (H. R. 25736) granting an increase of pension to Wesley A. Baird—to the Committee on Invalid Pensions.

Also, a bill (H. R. 25737) granting an increase of pension to David A. McKee—to the Committee on Pensions.

By Mr. HOLLINGSWORTH: A bill (H. R. 25738) granting an increase of pension to Lindley Watson—to the Committee on Invalid Pensions.

By Mr. HULL of Tennessee: A bill (H. R. 25739) granting a pension to Sarah Stafford—to the Committee on Pensions.

Also, a bill (H. R. 25740) granting an increase of pension to Jesse Bolles—to the Committee on Invalid Pensions.

Also, a bill (H. R. 25741) for the relief of the firm of McMurray & Donnell—to the Committee on War Claims.

By Mr. JONES: A bill (H. R. 25742) for the relief of the heirs of Granville Gilman, deceased—to the Committee on War Claims.

By Mr. KENNEDY of Ohio: A bill (H. R. 25743) granting an increase of pension to Lyman H. Milner—to the Committee on Invalid Pensions.

Also, a bill (H. R. 25744) granting an increase of pension to John Bash—to the Committee on Invalid Pensions.

Also, a bill (H. R. 25745) granting an increase of pension to Alexander T. McCord—to the Committee on Invalid Pensions.

Also, a bill (H. R. 25746) granting an increase of pension to David M. Kirkstetter—to the Committee on Invalid Pensions.

Also, a bill (H. R. 25747) granting an increase of pension to Samuel Johnston—to the Committee on Invalid Pensions.

Also, a bill (H. R. 25748) granting an increase of pension to James A. Morrow—to the Committee on Invalid Pensions.

Also, a bill (H. R. 25749) granting an increase of pension to Daniel Bushong—to the Committee on Invalid Pensions.

By Mr. LANGLEY: A bill (H. R. 25750) for the relief of Randolph Holbrook—to the Committee on Military Affairs.

By Mr. LATTA: A bill (H. R. 25751) granting an increase of pension to Jacob P. Maple—to the Committee on Invalid Pensions.

By Mr. LLOYD: A bill (H. R. 25752) granting an increase of pension to John M. Swallow—to the Committee on Invalid Pensions.

By Mr. LONGWORTH: A bill (H. R. 25753) for the relief of Isaac Dulhagen—to the Committee on Military Affairs.

Also, a bill (H. R. 25754) for the relief of George Rimpler—to the Committee on Military Affairs.

Also, a bill (H. R. 25755) for the relief of Enoch E. Staten—to the Committee on Military Affairs.

By Mr. McCREARY: A bill (H. R. 25756) granting an increase of pension to Kate C. Cornog—to the Committee on Invalid Pensions.

By Mr. McKINNEY: A bill (H. R. 25757) granting an increase of pension to Caswell Endicott—to the Committee on Invalid Pensions.

By Mr. McLACHLAN of California: A bill (H. R. 25758) granting a pension to Edward L. French—to the Committee on Invalid Pensions.

Also, a bill (H. R. 25759) granting an increase of pension to Austin Warner—to the Committee on Invalid Pensions.

By Mr. MADDEN: A bill (H. R. 25760) granting an increase of pension to Jacob Bolles—to the Committee on Invalid Pensions.

By Mr. PADGETT: A bill (H. R. 25761) granting an increase of pension to W. W. Heath—to the Committee on Invalid Pensions.

By Mr. A. MITCHELL PALMER: A bill (H. R. 25762) granting an increase of pension to Louis E. Seurat—to the Committee on Pensions.

Also, a bill (H. R. 25763) granting an increase of pension to Isaiah Snyder—to the Committee on Invalid Pensions.

By Mr. PARSONS: A bill (H. R. 25764) for the relief of Henrietta Lonsdale Fellowes, Little Brockett Comer, and Edward, John, and Lonsdale Scannell, surviving heirs at law of Edward P. Johnson—to the Committee on War Claims.

By Mr. PUJO: A bill (H. R. 25765) for the relief of the heirs of Francois Pitre, deceased—to the Committee on War Claims.

Also, a bill (H. R. 25766) for the relief of the heirs of Dalicourt Pitre, deceased—to the Committee on War Claims.

Also, a bill (H. R. 25767) for the relief of W. T. Maddox and others—to the Committee on War Claims.

By Mr. RUCKER of Colorado: A bill (H. R. 25768) granting an increase of pension to Mary Walker—to the Committee on Invalid Pensions.

By Mr. RUCKER of Missouri: A bill (H. R. 25769) granting an increase of pension to Henry Bryan—to the Committee on Invalid Pensions.

By Mr. TAWNEY: A bill (H. R. 25770) granting an increase of pension to George W. Hammel—to the Committee on Invalid Pensions.

Also, a bill (H. R. 25771) granting an increase of pension to William B. Norman—to the Committee on Invalid Pensions.

By Mr. TENER: A bill (H. R. 25772) for the payment of certain money to Zanetta Thompson for flour and wood furnished during the civil war—to the Committee on War Claims.

PETITIONS, ETC.

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

By Mr. ADAMSON: Petition of Oglethorpe Chapter, Daughters of the American Revolution, of Georgia, for retention of the Division of Information in the Bureau of Immigration and Naturalization of the Department of Commerce and Labor—to the Committee on Immigration and Naturalization.

By Mr. ALEXANDER of New York: Petition of the Ladies of the Maccabees of Middletown, Conn., in relation to postage on fraternal publications—to the Committee on the Post-Office and Post-Roads.

By Mr. ANDERSON: Papers to accompany bills for relief of Victor Wiesse, Isaac Kobel, and Abiah Richards—to the Committee on Invalid Pensions.

By Mr. ANDREWS: Petition of board of trustees of Deming, N. Mex., for Congress to amend and pass House bill 23536, authorizing the Territory of New Mexico to sell and transfer to the village of Deming school-land section 36, in township 23 south, range 9 west of the New Mexico principal meridian, for cemetery and park purposes—to the Committee on the Territories.

By Mr. ASHBROOK: Paper to accompany bill for relief of Samuel Hirst—to the Committee on Invalid Pensions.

By Mr. BARTLETT of Georgia: Paper to accompany bill for relief of heirs of H. L. Laws—to the Committee on War Claims.

By Mr. BENNET of New York: Paper to accompany bill for relief of Miranda C. Thompson—to the Committee on Invalid Pensions.

By Mr. CALDER: Paper to accompany bill for relief of J. M. O'Rourke—to the Committee on Pensions.

Also, paper to accompany bill for relief of William Nuttal—to the Committee on Invalid Pensions.

By Mr. CASSIDY: Petition of P. Ludwig and 22 others, J. F. Mallory and 22 others, and H. Benhoff and 16 others, for the boiler-inspection bill (H. R. 22066)—to the Committee on Interstate and Foreign Commerce.

By Mr. COOPER of Wisconsin: Petition of Local Union No. 35, Amalgamated Sheet Metal Workers' International Alliance, and the Federal Trades Council, of Milwaukee, against federal interference in relation to the water supply of San Francisco—to the Committee on the Public Lands.

By Mr. DALZELL: Petition of citizens of Allegheny County, Pa., for House bill 21836, to secure greater safety to passengers on steam vessels—to the Committee on the Merchant Marine and Fisheries.

By Mr. FINLEY: Paper to accompany bill for relief of John G. Brice (H. R. 19134)—to the Committee on War Claims.

By Mr. FITZGERALD: Paper to accompany bill for relief of William H. Foley—to the Committee on Invalid Pensions.

By Mr. FOSS of Illinois: Petition of Military Order of the Loyal Legion of the United States, Commandery of Illinois, favoring House bill 25154, making the anniversary of Ulysses S. Grant a national holiday—to the Committee on the Judiciary.

By Mr. HAMMOND: Petition of N. J. Disch Company and 3 others, of Minnesota Lake; New Ulm Hardware Company and 13 others, of New Ulm; and Scheatter & Alvey and 4 others, of Winnebago, all in the State of Minnesota, against parcels-post legislation—to the Committee on the Post-Office and Post-Roads.

By Mr. HANNA: Petition of Ladies of the Maccabees of the World, of Lisbon, N. Dak., for amendment to House bill 21321, relative to rate of postage on fraternal periodicals—to the Committee on the Post-Office and Post-Roads.

By Mr. HARDWICK: Petition of bishop of the Colored Methodist Episcopal Church, asking for passage of the bill to reimburse depositors of the Freedman's Savings and Trust Company—to the Committee on Claims.

By Mr. HOLLINGSWORTH: Paper to accompany bill for relief of Lindley Watson—to the Committee on Invalid Pensions.

By Mr. HOUSTON: Paper to accompany bill for relief of Alexander Scott—to the Committee on Invalid Pensions.

By Mr. HOWELL of New Jersey: Petition of residents of Cream Ridge, N. J., favoring Senate bill 6931, extension of work of the Office of Public Roads—to the Committee on Agriculture.

By Mr. HOWELL of Utah: Petition of citizens of Utah, favoring House bill 22066, the boiler-inspection bill—to the Committee on Interstate and Foreign Commerce.

By Mr. JAMES: Petition of citizens of Paducah, Ky., for House bill 22066, boiler-inspection bill—to the Committee on Interstate and Foreign Commerce.

By Mr. LLOYD: Petition of Ladies of the Maccabees of the World residing in Hannibal, Mo., for amendment of House bill 21321, in the interest of fraternal periodicals as second-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. MARTIN of Colorado: Petition of Ladies of the Maccabees of the World, of Delta and Lamar, Colo., for amendment of House bill 21321, in the interest of fraternal periodicals as second-class mail matter—to the Committee on the Post-Office and Post-Roads.

Also, petition of the Brotherhood of the First Presbyterian Church, of Fort Collins, Colo., favoring the passage of Senate bill 6049, creating a federal bureau of public health, etc.—to the Committee on Interstate and Foreign Commerce.

By Mr. MARTIN of South Dakota: Petition of Charles C. Haas and others, for Senate bill 6931, for an appropriation of $500,000 for extension of the work of the Office of Public Roads of the United States Department of Agriculture—to the Committee on Agriculture.

By Mr. PADGETT: Paper to accompany bill for relief of W. W. Heath—to the Committee on Invalid Pensions.

By Mr. A. MITCHELL PALMER: Petition of Packer Council, No. 988, Royal Arcanum, for the passage of House bill 17543 by Congress—to the Committee on the Post-Office and Post-Roads.

By Mr. PUJO: Petition of New Orleans Board of Trade, against House bill 21669 and Senate bill 6469, concerning shipment of supplies for the Panama Canal—to the Committee on Foreign Affairs.

Also, papers to accompany bills for relief of heirs of François Pitre, heirs of Dalicourt Pitre, T. H. Maddox, R. C. Hynson, and G. W. Compton—to the Committee on War Claims.

By Mr. REEDER: Petition of citizens of Kansas, for legislation against shipment of intoxicants into prohibition States—to the Committee on the Judiciary.

By Mr. REYNOLDS: Paper to accompany bill for relief of Andrew J. Ritchie—previously referred to Committee on Invalid Pensions, to the Committee on Pensions.

By Mr. RUCKER of Colorado: Memorial signed by Rev. W. A. Philips, pastor, and C. S. Harper, of the First United Presbyterian Church, of Greeley, Colo., praying for the submission of a constitutional amendment to the people providing for acknowledging Almighty God as the source of all authority, etc.—to the Committee on the Judiciary.

Also, resolution from Castlewood Grange, No. 159, Patrons of Husbandry, of Englewood, Colo., signed by William G. Fauker, master, and Mrs. Anna E. Marshall, secretary, praying for the establishment of a national health bureau by the United States Government—to the Committee on Interstate and Foreign Commerce.

By Mr. SHARP: Petition of Ladies of the Maccabees of the World, for amendment to House bill 21321—to the Committee on the Post-Office and Post-Roads.

By Mr. SHEFFIELD: Petition of Exeter (R. I.) Grange, favoring Senate bill 4676, providing for a small federal appropriation to land-grant colleges for extension work—to the Committee on Agriculture.

By Mr. SIMMONS: Petition of Ladies of the Maccabees of the World, of Oakland, N. Y., for amendment of House bill 21321, in the interest of fraternal periodicals as second-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. SMITH of Michigan: Petition of Epworth League of Washington, D. C., against House bill 21475, declaring it lawful to play harmless athletics on Sunday—to the Committee on the District of Columbia.

By Mr. SULZER: Petition of German-American Typographia, No. 7, of New York City, against the action of the Secretary of the Interior in the matter of water rights for the city of San Francisco, Cal.—to the Committee on the Public Lands.

By Mr. TAYLOR of Colorado: Petition of Ladies of the Maccabees of the World, of Delta, Colo., for amendment of House bill 21321, in the interest of fraternal periodicals as second-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. TILSON: Petition of J. R. Rooke and others, for enactment of Senate bill 6931, to make an appropriation of $500,000 for extension of the work of the Office of Public Roads—to the Committee on Agriculture.