

Also, petition of Tracy Towing Line of New York, against passage of House bill 8036, relative to tugboats; to the Committee on the Merchant Marine and Fisheries.

By Mr. SNELL: Petition of Maxfield & Needham, Horace N. Clark, Henry Wells Co., Smith & Smith, W. T. Hinman, R. J. Sanford, Duffy Rives & Co., and C. E. Haywood, of Potsdam; F. M. Strickland, Wiley & Burtrand, Mrs. William Paquette, Oliver La Fontaine, jr., and Milo Lewis, of Champlain; H. D. Creble, Josephson & Solomon, and Andrew Robinson Co., of Malone; G. W. Foster, H. C. Rodgers, G. S. Franklin, W. D. Ryan & Co., and Duffy Bros., of Chateaugay; J. W. & T. W. Fray, the F. W. Lawrence Co., the Hyde Drug Co., Mrs. H. A. Kane, Grimes Specialty Co., Malone Hardware Co., F. P. O'Connor, Guy C. Dewey, Dewey & Smith, H. D. Thompson & Co., Mullarney & Holland, Stockwell & Flanagan, Lansing Donaldson, and Ernest E. Muller, of Malone; E. E. Bullis and William J. Lawars, of Rouses Point; F. F. Woodruff and L. M. Deyo, of Moriah Center; John G. Hutchinson, F. H. Peck, F. L. Brust, S. A. Weaver, D. Rothschild, L. A. Clements, Holmes & Wilcox, and M. J. Wilcox, of Ticonderoga; Colligan Bros., Foote Bros., W. H. Martin, J. T. Bradshaw, G. L. Merrihew, C. V. Dery, and Gilbo & Swartz, of Port Henry; O. F. Burno, H. W. Berry & Co., W. H. McIntyre, P. A. Deyo, Plattsburgh Furniture Co., Gilbert's Drug Store, Walker-Sherman Co., O. Larkin, Schiff, Quinette & Haley, F. E. Byrnes, A. Sharron, and R. O. Barber & Sons, of Plattsburgh; W. A. Bond, E. F. Stone, and J. B. Mace, of Keeseville; F. F. Woodruff, of Mineville; G. E. Evans, the Scofield, W. H. Gardner, and B. F. Kent, of Philadelphia; Fred A. Roper, G. S. Blackmon Co., Edward M. Wheeler, and C. A. Giltz, of Theresa; A. G. Franklin, G. H. Wyllis, W. T. Stiles, W. R. Wilson, and W. A. Laidlaw, of Hammond; J. L. Smith and J. V. Crawford, of Morristown; F. G. Mann, S. J. Hosley & Co., Edwin Aitchison, E. E. McKnight, and E. B. Watson, of Madrid; J. L. Cumming, W. P. Warner, and Crabbe & Curry, of Norfolk; W. A. Daniels, J. E. McKee, George A. Martin, L. A. Cole, and H. D. Wilson, of Waddington; A. E. Pearson, J. C. Tolson, and Haley & Capell, of Winthrop; W. N. Montross and A. L. Sayles, of Moira; L. G. Rice, B. F. Harris & Sons, and Conger Bros., of Brushton; Burt F. Kinney, M. E. Loveland, F. Erwin Cox, F. C. Mead, Harvey Smith, C. R. Rodger, George M. Frazier, Henry H. Ryan, W. R. Perrin, Hutton & Rutherford, F. W. Sprague, N. E. Marsh, G. C. Donald, and Freeman Bros., of Gouverneur; W. E. Dunn & Son, E. M. Kirkland, Canton Clothing Co., C. H. Goodmough, F. C. Heaton, and C. S. Cook, of Canton; L. C. Rice, John H. Gilmour, and E. M. Cole, of DeKalb Junction; H. H. Preston, of Heuvelton; L. McGillis Furniture Co., Herwell & Fraser, and Fleming & Sovie Co., of Ogdensburg; Gibbs & Phillips, Paul Lemieux, A. E. Cooley, Douglass & Southworth, and C. E. Forkey, of St. Regis Falls, all in the State of New York, in support of the Hinebaugh bill (House bill 5308); to the Committee on Ways and Means.

By Mr. TILSON: Petition of Floyd A. Beecher and 57 others, of New Haven, Conn., opposing House bills 6468 and 491; to the Committee on the Post Office and Post Roads.

By Mr. WINSLOW: Petition of citizens of Worcester, Mass., protesting against any bills to restrict activities on Sunday in the District of Columbia; to the Committee on the District of Columbia.

## SENATE.

WEDNESDAY, April 12, 1916.

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

Almighty God, we come before Thee calling upon Thy name that the spirit of our counsel and the expression of our deliberation may be the result of the inflowing of Divine truth through the hearts and minds of men. In the higher range of life Thou dost rule us with Thy love. Thou dost appeal to the hearts of men. Thou that didst command the light to shine out of darkness, Thou hast shined in our hearts Thy truth to give the knowledge of Thy glory. May the vision of God's face never fade from our hearts. Grant us this day grace to do and to say as Thou wouldst have us, that we may glorify Thy name and help perpetuate the blessings of our free institutions. For Christ's sake. Amen.

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

### NATIONAL DEFENSE.

Mr. JONES. Mr. President, I gave notice that I would submit some remarks to-day on the preparedness issue. I am not quite ready to do that, and so I desire to give notice that to-

morrow, upon the assembling of the Senate, if a recess is taken, or after the routine morning business, if there is an adjournment, I shall submit some remarks on the matter of preparedness.

### NITROGEN FERTILIZERS.

Mr. SMITH of Georgia. I desire to present to the Senate and have printed in the Record a letter from Mr. Bower in which he discusses briefly the question of potash and nitrogen as it applies to agriculture.

In connection with the letter I have two or three memoranda prepared by the author of that letter with reference to the use of cyanamide or air nitrogen which I wish to have printed just below the letter in the Record.

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

THE FARMERS' EDUCATIONAL AND  
COOPERATIVE UNION OF AMERICA,  
NATIONAL UNION,  
Washington, D. C., April 11, 1916.

HON. HOKE SMITH,  
United States Senate, Washington, D. C.

SENATOR: I write to you as a Senator from the cotton-growing Southern States.

The annual requirement and bill of the South for fertilizers amount in value to about \$100,000,000. At the present time neither potash from Germany nor nitrates from Chile can be had by southern farmers at all, and we are paying for phosphoric acid about twice the price paid before the European war. Ocean freight rates on Chilean nitrates have increased since 1914 from \$3.75 and \$5 to \$18.75 and \$20 a ton.

German farmers have the advantage of having a supply of potash at home, and now Germany is producing within her own borders 600,000 tons of air nitrogen annually, whereas before the European war less than 60,000 tons were produced, and now German authorities boast that Germany is now independent of the Chilean nitrate monopoly, both for military and agricultural purposes, whereas the farmers of the United States are still dependent upon Germany for potash and still dependent upon Chile for nitrates.

We are told that we should depend upon private enterprise and capital for our air nitrate developments, but we press upon you as strongly as possible the fact that the farmers of the South can no more rely upon private capital to develop the necessary water power to provide our needed nitrogen fertilizers than the farmers in the arid States of the West could have relied upon private capital and enterprise to have developed the great irrigation projects of the West, to provide for which the United States Government has appropriated and spent more than \$116,000,000. The Roosevelt Irrigation Dam in Arizona, costing nearly \$13,000,000, and the Arrowrock Dam in Idaho, costing more than \$5,000,000, never would have been built by private capital; and if they had been built by private capital, the cost of water for irrigation, owing to higher rates of interest that private enterprise would have had to pay, would have made the cost of irrigation so high the farmers could not have used the water.

Likewise, if the southern farmers are to depend upon private capital, the cost of air fertilizers will be so high they can no more use air-nitrogen fertilizers than they can to-day use Chilean nitrate fertilizers at the present exorbitant and prohibitive costs.

Suppose a dam costs \$10,000,000, and that the power at this dam would produce 300,000 tons of nitrogen-phosphorus fertilizers, and that 3 per cent is paid upon the \$10,000,000. This would be \$1 per ton fixed charge. If the interest was 6 per cent, it would be \$2 per ton, and if 9 per cent it would be \$3, and we are informed that few power companies can secure capital for less than 9 per cent, when all costs of capital are paid.

Therefore, the southern farmer is asking Congress to do for him what Congress has done for the farmers in the arid States of the West in providing water for irrigating western arid lands—the cost of water for irrigation measures, the cost of crop production in the arid States of the West, and the cost of fertilizer measures, the cost of food products and cotton products in the Southern States.

As an example of this will you please read the little pamphlet I am inclosing, showing the comparative use of cottonseed-meal nitrogen as a fertilizer against air nitrogen as a fertilizer.

If the Government builds dams for providing nitric acid for national defense, the power at these dams can be used for manufacturing cheap fertilizers in times of peace, and the little comparison I am inclosing you between cottonseed meal and air-nitrogen fertilizers illustrates what cheap water power will do and how cheap electricity will contribute to decreasing the cost of southern cotton and food crops.

We appeal to you to do for the farmers of the South what you have done for the farmers of the West.

Yours, very truly,

R. F. BOWER.

### HOW CYANAMIDE OR AIR NITROGEN IS MADE.

The greatest heat and the greatest cold obtainable are utilized in making cyanamide. By the intense heat of the electric furnace—6,000° F.—lime and coke are fused together to make calcium carbide. This is powdered and placed in large drum-like ovens and again brought by electricity to a white heat.

In the meantime, wonderful machines are making liquid air by compressing and cooling over and over again clear, pure air until, at 330° below zero, the air liquefies. Air is four-fifths nitrogen and one-fifth oxygen. When the liquid air is warmed a little, only pure nitrogen gas is given off. This is pumped into the drum-shaped ovens containing the white hot carbide, by which it is absorbed, and in which it is permanently fixed, to be released only when in the soil, and for the feeding of the plants. This product, when cooled, ground, and processed with special machinery, is cyanamide.

Cyanamide is a bluish-black, odorless, powdered material. It contains from 20 per cent to 22 per cent ammonia, about 12 per cent carbon or lampblack, and the equivalent of about 70 pounds of slaked lime.

### HOW AMMONIUM PHOSPHATE IS MADE.

Ammo-phos—pronounced am-mo-phos—is the registered trade name for a patented chemical compound consisting principally of phosphate of ammonia. This product is the result of several years of research to develop an ideal fertilizer material utilizing atmospheric nitrogen.

The cheapest method of fixing nitrogen from the air in unlimited amounts is the lime-nitrogen process. Lime nitrogen is a compound

made electrically from lime, coke, and liquid-air nitrogen. A plentiful supply of water power, at low cost, is an important factor in the operation of the process. It is quite easy to obtain ammonia gas from lime nitrogen by treatment with superheated steam in specially designed equipment. The ammonia gas so obtained is then fixed in highly concentrated phosphoric acid. The latter is obtained from phosphate rock by extraction with sulphuric acid, or by electric-furnace treatment. After the ammonia gas has been fixed in the phosphoric acid the moisture in the solution is evaporated and the residue is dried and ground. The resulting material, known as Ammo-phos, is a dry, granular substance, gray in color, and to all appearances very much like ordinary acid phosphate. Ammo-phos contains about 12 per cent ammonia and 48 per cent available phosphoric acid. Both constituents are almost entirely water soluble. The ammonia (nitrogen) content can be increased to 20 per cent and the phosphoric acid reduced to give any desired proportion of ammonia (nitrogen) to phosphoric acid. The product is perfectly neutral, pleasant to handle, and will keep indefinitely.

#### IMPORTANCE OF NITROGEN AND PHOSPHORIC ACID.

One hundred and seventy-seven million dollars was expended for commercial fertilizers in the United States during the year 1914. Of this amount \$78,000,000 was paid for nitrogen and \$65,000,000 for phosphoric acid, a total of \$134,000,000 for both, or over 80 per cent of the entire bill. Only \$43,000,000 was paid for potash. Germany is smaller than the State of Texas, yet she uses more fertilizer than the entire United States—about \$200,000,000. Her crop yields are approximately 80 per cent greater per acre than the yields in this country. If the United States had available an adequate, cheap supply of fertilizer, and used it at the German rate per cultivated acre, and secured thereby the same increase in production credited to the use of fertilizer in Germany, there would be a net gain in crop yields to the United States, over and above the cost of the fertilizer, of \$1,000,000,000 per year.

#### MERITS OF AMMO-PHOS.

Ammo-phos has been tested on 23 different farm crops in all parts of the United States. These tests have demonstrated that it is the equal or superior to ordinary fertilizers furnishing the same amount of plant food constituents. The material contains more than 60 per cent of plant foods, and is therefore three to five times as rich in fertilizing value as ordinary fertilizer mixtures, which usually contain only 12 per cent to 20 per cent plant foods. Hence, only one-third to one-fifth as much Ammo-phos need be applied to the crops as is generally applied in the form of mixed fertilizers.

A plant and equipment for making Ammo-phos would be available, in times of war, to furnish great quantities of nitric acid and sulphuric acid. The various kinds of gunpowder, explosives, and primers used in cartridges, grenades, shrapnels, bombs, torpedoes, and the like require for their production large amounts of both the acids named. In this respect the immediate establishment of one or more Ammo-phos factories in the United States would be an excellent preparedness measure.

Ammo-phos factories could be advantageously located near the large beds of phosphate rock in the United States, and thus assist in the development of this very important resource.

If Ammo-phos were made in sufficient quantities to furnish the farmers of the United States all the nitrogen and phosphoric acid necessary to fertilize their cultivated acreage at the same rate that the Germans fertilize, the total expenditure for fertilizers would be only \$580,000,000 instead of \$740,000,000, which would be the cost for the grades now obtainable. Whatever the amount used, Ammo-phos would effect a saving of more than 50 per cent on the present average cost of nitrogen, and fully 20 per cent on the phosphoric acid.

#### SOME IMPORTANT NITROGEN FACTS.

The problem of the cost of living must be solved by increasing the food-crop production per acre on our farm lands without increasing labor costs, and this can only be accomplished with cheap fertilizers.

#### NITROGEN.

##### EXPLOSIVES.

Air over each acre of ground contains 33,880 tons of nitrogen.

Two great dangers threaten the American people: (1) The introduction of new engines of destruction in war; (2) the high cost of living. War has abandoned the isolated projectiles; has adopted streams of projectiles making a curtain of fire.

The necessary quantity of explosives has increased one hundredfold.

They require nitrogen universally in their manufacture as their chief constituent.

The chief sources of nitrogen supply are from the high plateaus of northern Chile and from the atmosphere.

#### SUPPLY OF NITROGEN FROM CHILE.

The first shipment of sodium nitrate from Chile was made in 1838.

Records of the Department of Commerce show the imports of sodium nitrate from Chile into the United States from the year 1867 to May, 1915, was 8,040,271 tons, costing \$261,990,054.

The importations have been constantly increasing and amounted in the year 1913 to 589,136 tons, costing \$20,718,968.

The Government of Chile levies an export tax on sodium nitrate that equals in our money \$11.60 a ton, which would amount to \$6,833,977 on the imports coming into the United States in 1913.

The Government of Chile has collected on sodium nitrate coming into the United States all told approximately \$90,000,000.

Germany's present use of explosives is estimated to be \$1,000,000 a day.

Germany had on hand at the beginning of the present European war approximately 630,000 tons of Chilean nitrate, valued at \$30,000,000.

The United States has been endeavoring to accumulate a reserve supply of 65,000,000 pounds (32,500 tons) of sodium nitrate from Chile, which represents about 5 per cent of what Germany had on hand when the war began. The United States has a sufficient supply to conduct a war on the scale of this conflict in Europe from 8 o'clock in the morning to half past 10 the same day.

#### FOOD.

Cost of food in the United States increased from 1896 to 1912, 80 per cent. The advance in the general cost of living during this period was 59 per cent in the United States and approximately 40 per cent in Europe.

The Bureau of Labor has just reported that the cost of living is now 15 per cent higher than it was two years ago.

From 1900 to 1910 the population of the United States increased 21 per cent and the crop production only 10 per cent. The importation of foodstuffs and live animals doubled and the exportation of wheat and flour dropped from 31 per cent of their production to 13 per cent.

Cost of living and food crop yields per acre are the same problem. Take Germany as an example of European agricultural practice.

She has increased in 20 years her grain crop 15 bushels to the acre; the United States, 3 bushels.

Potato crop increased 80 bushels; United States, 24 bushels.

Germany's acre yields 80 per cent more than for the corresponding crops in the United States. Germany uses four or five times as much fertilizer per acre cultivated as we use. If the farmers of the United States had a cheap fertilizer and used it over the cultivated area of the United States at the rate Germany uses fertilizer, there would be a net gain above the cost of the fertilizer of \$1,000,000,000 a year.

The sure and safe way to obtain cheap fertilizer is to use the water power of America that is going to waste to make nitrogen out of the air.

#### QUOTATIONS FROM GERMAN AUTHORITIES.

If we needed any testimony to reconcile every misgiving or to repel distrust of all uncertainty as to the soundness of these conclusions, it would be found in the late utterances of some of the economists of Germany. Prof. Lemmermann, in his recommendations to the German Government at the outbreak of the war to take immediate steps for the erection of Government nitrogen factories, says:

"We are short 850,000 tons of nitrogen salts, compared with the usual consumption. \* \* \* If one calculates this quantity to its grain equivalent, the resulting crop shortage will amount to 3,300,000 tons of grain."

This has a value of approximately \$110,000,000.

And, further, he says:

"The nitrogen question and nitrogen demand is not only of significance from the standpoint of food production \* \* \* but it also has great importance from the military standpoint."

The following is extracted from a letter written by senior professor of economics in the University of Berlin, Dr. Max Seering, dated July, 1915:

"The complete cutting off of the supply of Chile saltpeter during the war has been made good by our new nitrogen taken directly out of the air in large factories built during and before the war. With extraordinary rapidity the question has been solved how the enormous quantities of the needed ammunition were to be produced, a question which in England still meets with difficulties in spite of the help from America. It is, however, not only for the needed explosives that we take nitrogen from the air, but also for the nitrogen-containing fertilizers which we formerly imported in the form of Chile saltpeter."

The following is an article by Dr. Hugo Schweitzer appearing in the Review of Reviews, August, 1915:

"Nitric acid is generally prepared from Chile saltpeter and sulphuric acid, but in Norway, as described above, it is made from nitrogen of the air, and in Germany from ammonia and calcium cyanamide, which themselves are obtained from the nitrogen of the air. With this cheap power Germany has been able to produce new nitrogen compounds which threaten to revolutionize our present system of fertilization. This industry, to which the war has given the impetus, has assumed such dimensions and has given such unexpected results that the Government requested the German Parliament to grant an imperial nitrogen monopoly. From the official documents it appears that chemical compounds have been discovered which allow the production of a universal fertilizer."

The following is from an address of Prof. Gerlach before the German Agricultural Society on September 18, 1915:

"There was a great scarcity of nitrogen product at the beginning of the war, but cyanamide factories have been put into operation since then, and although a large part of the product has been needed for military purposes, still the worst of the famine has now been overcome."

It is estimated by the United States Department of Agriculture that fully 1,000,000 tons per annum of cottonseed meal is used for fertilizer purposes in the United States.

#### AIR NITROGEN AGAINST COTTONSEED NITROGEN—YIELDS PROVE AGRICULTURAL VALUE.

##### POUNDS SEED COTTON PER ACRE.

Air-nitrogen mixture.	Cottonseed mixture.
2,398	2,030
2,032	2,048
1,995	2,100
1,850	1,745
1,800	1,800
1,300	1,300
1,282	1,337
1,250	920
1,200	1,200
Average 1,679	Average 1,609

The mixtures used were identical in analysis, both containing 4 per cent ammonia, 8 per cent phosphoric acid, and 4 per cent potash. In the one case all the nitrogen was derived from air nitrogen; in the other all the nitrogen was derived from cottonseed meal. The air nitrogen mixture cost \$33 per ton, while the cottonseed meal mixture cost \$38.50 per ton. A thousand pounds per acre of each was applied. Hence the saving with the air nitrogen mixture was \$2.75 per acre. The air nitrogen mixture produced 70 pounds more of seed cotton per acre, worth, at 10 cents for lint cotton and \$28 per ton for seed, \$2.95, or a total saving with the air nitrogen mixture of \$5.70 per acre. Moreover, by the use of air nitrogen as a source of nitrogen the equivalent amount of cottonseed meal was released for use as a stock food, for which purpose it returns much better profits than when used as a fertilizer.

The cotton acreage in the United States for the year 1914 was estimated at 36,000,000 acres. Assume that one-half of this acreage, 18,000,000 acres, could save the farmers and the country \$5.70 per acre by the use of air nitrogen mixture instead of cottonseed meal fertilizer mixture and the saving would have been to the southern farmers and to the country for the year 1914, \$102,000,000. Even suppose that one-fourth the acreage, 9,000,000 acres, could have received air nitrogen as a fertilizer instead of cottonseed meal as a fertilizer, and the saving would have been \$51,000,000.

"If these are not facts, if a ton of cottonseed meal fed on the farm to good cattle and the manure saved is not worth from \$50 to \$60 a ton, then we are paying too much for plant foods, or corn is not worth 50 cents to 65 cents a bushel to feed." (Mr. Tate Butler, editor Progressive Farmer.)

WORLD PRODUCTION OF AIR NITROGEN BY THE CYANAMIDE PROCESS.  
BEFORE THE WAR (1914).

	Net tons.
Norway	80,000
Sweden	17,500
Canada	64,000
Italy	30,800
France	21,450
Japan	17,600
Germany	57,000
Switzerland	16,500
Austria	23,100
Total	327,950

INCREASED SINCE THE WAR (1915-16) TO—

Norway	200,000
Sweden	17,500
Canada	64,000
Italy	37,400
France	21,450
Japan	17,600
Germany	600,000
Switzerland	16,500
Austria	23,100
Total (equals 200,000 tons of nitrogen)	997,550

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed a bill (H. R. 12193) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, in which it requested the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED.

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

H. R. 9923. An act granting the consent of Congress to the county of Mitchell, or to the county of Baker, both of the State of Georgia, acting jointly or separately, and their successors and assigns, to construct a bridge across the Flint River;

H. R. 10139. An act to authorize the city of Fairmont to construct and operate a bridge across the Monongahela River at or near the city of Fairmont, in the State of West Virginia; and

H. J. Res. 171. Joint resolution to continue in effect the provisions of the act of March 9, 1906.

PETITIONS AND MEMORIALS.

Mr. SHAFROTH presented petitions of sundry citizens of Porto Rico, praying for prohibition in the island of Porto Rico, which were referred to the Committee on Pacific Islands and Porto Rico.

Mr. SMITH of South Carolina presented petitions of sundry citizens of South Carolina, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. GALLINGER presented petitions of 47 citizens of New Hampshire, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. SHERMAN presented petitions of sundry citizens of Illinois, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. MYERS. I present a resolution adopted by the women voters of Silver Bow County, Mont., in favor of the Susan B. Anthony constitutional amendment. I ask that the resolution be printed in the RECORD, together with the signatures.

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

Resolution passed by women voters of Silver Bow County, Mont.:

"Resolved, That we, the women voters of Silver Bow County, assembled in a county conference at Butte, April 7, 1916, demand that the national administration give facilities for the passage of the Susan B. Anthony amendment during the present session of Congress; and be it further

"Resolved, That a copy of this resolution be sent to the administration leader in our National Capitol and the members of the Montana congressional delegation."

Unanimously adopted.

Mrs. JENNINGS,  
113½ West Platinum, Butte, Mont.,  
Mrs. HUGH McLODE,  
846 West Mercury, Butte, Mont.,  
Mrs. J. C. PYLE,  
1135 West Platinum, Butte, Mont.,  
Mrs. J. S. CASEY,  
1062 West Platinum, Butte, Mont.

Officers of Silver Bow County Branch of the Congressional Union.

Mr. BURLEIGH presented petitions of sundry citizens of Maine, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. SAULSBURY presented petitions of sundry citizens of Delaware, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. SHEPPARD presented memorials of sundry citizens of Dallas and Keene, in the State of Texas, remonstrating against the enactment of legislation to limit the freedom of the press, which were referred to the Committee on Post Offices and Post Roads.

Mr. LIPPITT presented petitions of sundry citizens of Rhode Island, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented a memorial of the Washington Park Yacht Club, of Providence, R. I., remonstrating against certain proposed regulations for the operation of motor boats, which was referred to the Committee on Commerce.

Mr. OLIVER presented petitions of sundry citizens of Pennsylvania, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented petitions of sundry patriotic societies in the State of Pennsylvania, praying for the enactment of legislation to further restrict immigration, which were ordered to lie on the table.

He also presented petitions of sundry citizens of Pittsburgh, Erie, and Greenville, all in the State of Pennsylvania, praying for the enactment of legislation to grant pensions to employees of the Postal Service, which were referred to the Committee on Post Offices and Post Roads.

He also presented memorials of Local Grange No. 1569, Patrons of Husbandry, of Macungie; and of Pocono Grange, No. 1415, Patrons of Husbandry, of Farmersville, in the State of Pennsylvania, remonstrating against any change being made in the parcel-post law, which were referred to the Committee on Post Offices and Post Roads.

He also presented a petition of the New Century Club, of Philadelphia, Pa., praying for the enactment of legislation to prohibit interstate commerce in the products of child labor, which was referred to the Committee on Interstate Commerce.

He also presented a petition of sundry citizens of Pittsburgh, Pa., praying for Federal censorship of motion pictures, which was referred to the Committee on Education and Labor.

He also presented a petition of the York County Lutheran Ministerial Association, of York, Pa., praying for prohibition in the District of Columbia, which was ordered to lie on the table.

He also presented memorials of sundry citizens of Pennsylvania, remonstrating against the enactment of legislation to limit the freedom of the press, which were referred to the Committee on Post Offices and Post Roads.

He also presented petitions of sundry granges of Pennsylvania, praying for Government ownership of telephone and telegraph systems, which were referred to the Committee on Post Offices and Post Roads.

He also presented memorials of sundry granges of Pennsylvania, remonstrating against an increase in armaments, which were ordered to lie on the table.

Mr. PHELAN presented a petition of Local Branch, Bakers and Confectionery Workers' Union, of San Diego, Cal., praying for the enactment of legislation to further restrict immigration, which was ordered to lie on the table.

He also presented a petition of the Friday Morning Club, of Los Angeles, Cal., praying for an appropriation for the improvement of the Yosemite National Park and for the creation of a national park service, which was referred to the Committee on Appropriations.

He also presented a petition of the executive council of the San Francisco Association for the Study and Prevention of Tuberculosis of California, praying for an investigation of conditions surrounding the marketing of dairy products, which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of the Alaska Fishermen's Union, affiliated with the Labor Council of San Francisco, Cal., praying for the enactment of legislation to regulate the mesh in gill nets in the catching of red salmon in the Bering Sea, which was referred to the Committee on Fisheries.

Mr. LANE presented petitions of sundry citizens of Oregon, praying for Federal censorship of motion pictures, which were referred to the Committee on Education and Labor.

REPORTS OF COMMITTEES.

Mr. SMITH of South Carolina. From the Committee on Immigration I report back favorably with amendments the bill (H. R. 10384) to regulate the immigration of aliens to, and the residence of aliens in, the United States. With the consent of the Senate, I shall in a few days submit a report to accompany the bill.

The VICE PRESIDENT. The bill will be placed on the calendar.

Mr. HARDING, from the Committee on Commerce, to which was referred the bill (H. R. 449) to provide for the appointment of 11 supervising inspectors, Steamboat-Inspection Service, in lieu of 10, reported it without amendment and submitted a report (No. 344) thereon.

Mr. CLARK of Wyoming, from the Committee on Public Lands, to which was referred the bill (H. R. 177) authorizing the Secretary of the Interior to accept the relinquishment of the State of Wyoming to certain lands heretofore certified to said State, and the State of Wyoming to select other lands in lieu of the lands thus relinquished, reported it without amendment and submitted a report (No. 346) thereon.

#### DESERT-LAND ENTRIES IN NEVADA.

Mr. PITTMAN. I should like to present a report from the Committee on Public Lands and ask for its consideration. From the Committee on Public Lands I report back favorably, without amendment, the bill (S. 5466) to open abandoned military reservations in the State of Nevada to homestead entry and desert-land entry, and to amend an act entitled "An act to open abandoned military reservations in the State of Nevada to homestead entry," approved October 1, 1890, and I submit a report (No. 345) thereon. This is simply an amendment to existing law providing for desert-land entries in addition to homestead entries on abandoned military reservations in Nevada. It is very short, Mr. President, and I ask unanimous consent for the present consideration of the report and the bill.

Mr. SMOOT. Mr. President, yesterday I gave notice to the Senate that I would object to the consideration of any bills until the calendar under Rule VIII can be taken up. I think it is very unfair to the bills that are upon the calendar—18 pages of them now—to allow bills to be taken up in the morning hour and passed. There are only 18 pages of those bills, and it would not take more than two or three hours to pass them if the Senate would give that time to the calendar. I expressed the hope that there would be enough bills placed on the calendar to get enough Senators interested in them that we might have the calendar taken up for consideration. I still hope that. I wish the Senator from Nevada would not ask for the consideration of the bill, but help us to get up the calendar and have it considered at some time to-day.

Mr. PITTMAN. Mr. President, I agree entirely with the Senator from Utah, but I will state that this particular case is an emergency. It has been called to my attention by wire.

It is this: There was an attempt made to homestead some land on a military reservation in Nevada. It proved to be an utter failure by reason of the lack of water. These settlers have acquired water near the military reservation which will enable them to perfect desert-land entries, and it is an attempt to obtain the benefit of the spring flow which is starting that constitutes the emergency requiring immediate action.

That is the only reason for it; and if they are going to have the benefit of these water developments, the bill will have to pass now.

Mr. SMOOT. Is it a Senate bill or a House bill?

Mr. PITTMAN. It is a Senate bill.

Mr. SMOOT. I shall not object to this, it being an emergency matter; but I still believe the only way we can get the calendar considered is by objecting to the consideration of bills when reported.

The VICE PRESIDENT. Is there objection to the consideration of the bill reported by the Senator from Nevada?

There being no objection, the bill was considered as in Committee of the Whole. It provides that all the agricultural lands embraced within the military reservations in the State of Nevada which have been placed under the control of the Secretary of the Interior for disposition be disposed of under the homestead and desert-land laws, and not otherwise.

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

#### COURTS IN WASHINGTON.

Mr. OVERMAN. From the Committee on the Judiciary I report back favorably without amendment the bill (S. 3723) providing for the holding of terms of the district court for the southern division of the western district of the State of Washington at Aberdeen.

Mr. JONES. That is a very short bill, and I ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that hereafter terms of the district court for the southern division of the western district of the State of Washington shall be held at Aber-

deen on the first Tuesdays in June and December, and the clerk for the western district shall maintain an office in charge of himself or deputy at that place.

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

#### BILLS INTRODUCED.

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

By Mr. PAGE (by request):

A bill (S. 5502) to establish courts of arbitration; to the Committee on the Judiciary.

By Mr. SAULSBURY:

A bill (S. 5503) to provide for the purchase of a site for the erection of a Federal building at Georgetown, Del.; to the Committee on Public Buildings and Grounds.

By Mr. WADSWORTH (for Mr. GRONNA):

A bill (S. 5504) for the relief of Louis Blanchette, alias Lewis Blanchard, alias Louis White (with accompanying papers); to the Committee on Military Affairs.

By Mr. OLIVER:

A bill (S. 5505) granting an increase of pension to Thomas J. McBride (with accompanying papers);

A bill (S. 5506) granting an increase of pension to Mary A. Goodsell (with accompanying papers); and

A bill (S. 5507) granting an increase of pension to Elizabeth S. Reess (with accompanying paper); to the Committee on Pensions.

By Mr. OLIVER (for Mr. PENROSE):

A bill (S. 5508) granting an increase of pension to Marion L. Wilson; to the Committee on Pensions.

By Mr. DILLINGHAM:

A bill (S. 5509) granting a pension to John W. Erwin (with accompanying papers); to the Committee on Pensions.

By Mr. CHAMBERLAIN:

A bill (S. 5510) granting a pension to James Cunningham (with accompanying papers); to the Committee on Pensions.

By Mr. JAMES:

A bill (S. 5511) granting an increase of pension to George Hinds (with accompanying papers); to the Committee on Pensions.

By Mr. SMOOT:

A bill (S. 5512) for the relief of Hannah Nelson Lundegren; and

A bill (S. 5513) for the relief of Marion B. Patterson; to the Committee on Claims.

A bill (S. 5514) granting an increase of pension to Lucy Cole (with accompanying papers); to the Committee on Pensions.

By Mr. LANE:

A bill (S. 5515) to consolidate certain forest lands in the Oregon National Forest, in the State of Oregon; to the Committee on Agriculture and Forestry.

By Mr. SMITH of Maryland:

A bill (S. 5516) for the relief of the heirs of Richard Butt and Sarah A. Butt; to the Committee on Claims.

By Mr. GORE (by request):

A bill (S. 5517) to increase the efficiency of the United States Cavalry and Artillery; to the Committee on Agriculture and Forestry.

#### BLACK CANYON IRRIGATION PROJECT, IDAHO.

Mr. BORAH submitted an amendment proposing to appropriate \$10,000 for the investigation and survey of what is known as the Black Canyon irrigation project, in the counties of Canyon, Gem, and Ada, Idaho, 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.

#### NATIONAL DEFENSE.

Mr. TILLMAN submitted an amendment, intended to be proposed by him to the bill (H. R. 12766) to increase the efficiency of the Military Establishment of the United States, which was ordered to lie on the table and be printed.

Mr. LEWIS submitted an amendment, intended to be proposed by him to the bill (H. R. 12766) to increase the efficiency of the Military Establishment of the United States, which was ordered to lie on the table and be printed.

#### THE NAVY.

Mr. LODGE submitted the following resolution (S. Res. 169), which was read, considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Navy is hereby directed to send to the Senate of the United States the following documents:

1. A communication dated August 3, 1914, from the General Board of the Navy warning the Navy Department of the necessity of bringing the Navy to a state of preparedness.

2. A communication dated November 9, 1914, from Rear Admiral Bradley A. Fiske, senior adviser to the Secretary, warning the Navy Department of the unprepared state of the Navy.

HOUSE BILL REFERRED.

H. R. 12193. An act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, was read twice by its title and referred to the Committee on Commerce.

SALE OF ARMY RIFLES.

Mr. WORKS obtained the floor.

Mr. ASHURST. Will the Senator from California yield to me for three or four minutes?

Mr. WORKS. I yield to the Senator from Arizona.

Mr. ASHURST. Mr. President, I wish to take three or four minutes on a question of the state of the Union. I think Congress ought to know something about how its laws are being enforced. Congress is busily engaged and probably will be engaged for some time in making laws. Congress has a right to assume that its laws are executed by another branch of the Government. It is my duty, however painful it may be, to call attention this morning to one of the laws passed in 1905 and another one in 1914 which one of the departments arbitrarily refuses to execute, and I shall, although laboring under a severe stress of feeling preserve a calm exterior and shall briefly and accurately lay before the Senate and the country the arbitrary action of the present Secretary of War.

In chapter 1416, of an act approved March 3, 1905, it is provided:

Chapter 1416: An act to promote the efficiency of the reserve militia and to encourage rifle practice among the members thereof.

*Be it enacted, etc.*, That the Secretary of War is hereby authorized to sell, at the prices at which they are listed for the Army, upon the request of the governors of the several States and Territories, such magazine rifles belonging to the United States as are not necessary for the equipment of the Army and the Organized Militia, for the use of rifle clubs formed under regulations prepared by the National Board for the Promotion of Rifle Practice and approved by the Secretary of War.

Sec. 2. That the Secretary of War is hereby authorized in his discretion to sell to the several States and Territories, as prescribed in section 17 of the act approved January 21, 1903, for the use of said clubs, ammunition, ordnance stores, and equipments of the Government standard at the prices at which they are listed for the Army. The practice of the rifle clubs herein provided shall be carried on in conformity to regulations prescribed by the National Board for the Promotion of Rifle Practice, approved by the Secretary of War, and the results thereof shall be filed in the office of the Military Secretary of the Army.

Approved, March 3, 1905.

I will now read from chapters 72-74 of an act approved April 27, 1914:

*Provided further*, That the Secretary of War is hereby authorized to issue, without expense to the United States, for use in target practice, United States magazine rifles and appendages therefor not of the existing service model and not necessary for the maintenance of a proper reserve supply, together with 40 rounds of ball cartridges suitable to said arm, for each range at which target practice is had, not to exceed a total of 120 rounds per year per man participating in target practice, to rifle clubs organized under the rules of the National Board for the Promotion of Rifle Practice and to schools having a uniformed corps of cadets and carrying on military training, in sufficient number for the conduct of proper target practice.

The National Board for the Promotion of Rifle Practice on the 8th of this month, under the direction, or, at least with the implied consent, of the Secretary of War, issued its pamphlets to the newspapers, to be released, it states, on or after April 10, 1915. It proceeds among other things to say:

From a national-defense standpoint the training in rifle practice of the unorganized militia is of as vital importance to our country as the training of the Regular Establishment and the Organized Militia. The volunteer who can hit what he shoots at is 80 per cent efficient as a soldier.

The United States Government has stored away in its arsenals approximately 300,000 Krag United States magazine rifles, model 1908, and 30,000,000 ball cartridges for same. Uncle Sam will issue these rifles and the ammunition free to organized rifle clubs affiliated with the National Rifle Association of America for use of members at small-arms practice.

During the first quarter of 1916 just ended the Ordnance Department issued to clubs 316 rifles and 1,438,974 ball cartridges.

President Woodrow Wilson must have had in mind the rifle-club movement when he wrote his message to Congress, in which he said: "We must depend in every time of national peril in the future as in the past, not upon a standing army, nor yet upon a reserve army, but upon a citizenry trained and accustomed to arms. It will be right enough, right American policy, based upon our accustomed principles and practices, to provide a system by which every citizen who will volunteer for the training, may be made familiar with the use of modern arms."

To teach the citizenry the use of the modern arm requires organization of rifle clubs and small-arms practice under capable instructors. Ten or more citizens of the United States in any town or county near which or in which a rifle range could be constructed, are eligible to organize a civilian rifle club and affiliate with the National Rifle Association of America. Blank forms and copy of

by-laws prescribed by the National Board for Promotion of Rifle Practice in the United States and instructions how to form a rifle club may be secured from Maj. Fred H. Phillips, Jr., assistant recorder National Board for Promotion of Rifle Practice and secretary National Rifle Association of America, Washington, D. C.

The object of the National Rifle Association is to encourage marksmanship throughout the United States, particularly in the direction of qualifying as finished marksmen those individuals who may be called upon to serve in time of war; to encourage competition in marksmanship between teams and individuals; to encourage legislation for the establishment and maintenance of ranges; to secure the issue of military rifles and ammunition to those practicing on these ranges; and to create a public sentiment in respect to the necessity of rifle practice as a means of national defense.

The association membership on December 31, 1915, as reported by the secretary, was: Twenty-three State rifle associations, 63 regiments, 47 separate military organizations, 639 civilian rifle clubs, 64 college and university rifle clubs, 129 school rifle clubs, 9 boys' rifle clubs, 549 life members, and 943 annual members.

During the past three months—January 1 to March 31, 1916, inclusive—the National Rifle Association has gained in membership as follows: One State association, 1 regiment, 170 civilian rifle clubs, 4 college and university rifle clubs, 19 school rifle clubs, 4 boys' rifle clubs, 24 life members, and 137 annual members.

The National Rifle Association was incorporated in 1871, and since that time has been the one active agent in promoting rifle practice in the United States.

Official from the National Board for Promotion of Rifle Practice in the United States.

F. H. PHILLIPS, Jr.,  
Assistant Recorder.

The secretary of this National Rifle Association, under the implied supervision of the Secretary of War, issued the above statement to the newspaper editors in the United States in the following manner:

To the EDITOR:

Will you assist me in the organization of rifle clubs by telling your people the United States Government will issue free rifles and ammunition? We should have at least one rifle club in every town and county in the United States.

Since January 15, 1916, I have organized 38 rifle clubs, with a membership of 4,800, in Washington, D. C., alone. These clubs will start active outdoor rifle practice April 10 on the Marine Corps rifle range at Winthrop, Md.

F. H. PHILLIPS, Jr.,  
Secretary National Rifle Association.

WAR DEPARTMENT,  
NATIONAL BOARD FOR PROMOTION OF RIFLE PRACTICE,  
1108 Woodward Building, Washington, April 8, 1916.

Hon. HENRY F. ASHURST,  
United States Senate, Washington, D. C.

DEAR SIR: The inclosed news item, released April 10, 1916, no doubt will cause many of your constituents to make inquiry of you regarding the formation of civilian rifle clubs.

I will be pleased to forward the necessary literature to parties interested in the formation of rifle clubs upon receipt from you of names and addresses.

I herewith inclose a tabulation showing the development of interest in rifle practice among civilians.

Very truly, yours,

FRED H. PHILLIPS, Jr.,  
Assistant Recorder National Board,  
Secretary National Rifle Association.

WAR DEPARTMENT,  
NATIONAL BOARD FOR PROMOTION OF RIFLE PRACTICE,  
Washington.

Tabulation showing growth of National Rifle Association since 1901.

Year ending Dec. 31—	State associations.	Regiments.	Military organizations.	Civilian rifle clubs.	Schools and boys' clubs.	Life members N. R. A.
1901.....	2	2	1	5	.....	60
1902.....	3	10	5	6	.....	65
1903.....	7	12	10	9	.....	77
1904.....	5	16	14	12	.....	96
1905.....	7	25	15	28	.....	199
1906.....	12	35	23	47	.....	139
1907.....	21	56	28	60	15	226
1908.....	29	79	39	72	29	293
1909.....	32	87	53	81	56	319
1910.....	30	94	57	98	76	383
1911.....	26	81	48	93	50	323
1912.....	25	85	58	130	67	414
1913.....	24	81	52	171	87	519
1914.....	22	80	50	276	93	533
1915.....	23	63	47	639	128	549
Mar. 31, 1916.....	24	64	47	799	151	572

FRED H. PHILLIPS, Jr.,  
Assistant Recorder National Board,  
Secretary National Rifle Association.

Mr. President, various rifle clubs in the State of Arizona have been formed, and the gentlemen composing the rifle clubs of Arizona will compare most favorably with the honorable Secretary of War in ability, patriotism, and resolution of character. Some citizens of the town of Bisbee, Ariz., composed of as reliable, as clear-headed citizens as any man who ever

held the office of Secretary of War, organized themselves into a rifle club. I will mention the names of but a very few of the members, to wit, Mr. I. C. E. Adams, the mayor of Bisbee, a prominent merchant; Mr. J. J. Bowen, a prominent merchant; Mr. Arthur Notman, a prominent officer of the Calumet & Arizona Mining Co.; Mr. M. J. Cunningham, cashier of the Bank of Bisbee; Mr. L. R. Bailey, the postmaster at Bisbee; Mr. M. J. Brophy, manager of the Copper Queen Store at Bisbee; Mr. M. Newman, formerly mayor of Bisbee and a prominent merchant; Mr. J. F. McDonald, a prominent citizen and deputy United States marshal; and Mr. V. W. Marshall, a reliable citizen, who is secretary of the club. These gentlemen complied with the law respecting the acquisition of arms and ammunition; this I know, first, because they have advised me that they have done so, and, secondly, because I telephoned to the War Department about 30 minutes ago to make sure of that fact, and was advised by an official in that department that this club had complied with the law, but that for reasons which the War Department thought were good unto itself, it would suspend the law and refuse to issue arms to this club. I wish in this connection to state that on last Saturday, the 8th of this month, I had a personal interview with the Secretary of War and Chief of Staff and urged them to comply with the law, but the Secretary stated he felt he would be obliged to suspend the law.

Mr. President, one of the Stuart Kings of England lost his head, and, I believe, another lost his crown because he was too much attached to the dispensing power. These monarchs dispensed or attempted to dispense with statutes which Parliament had made, and when any department of our Government declines to carry out any existing law, sets up its ipse dixit and says, in effect, "I am greater than the law," it is then the duty of a Senator to call attention to such arbitrary conduct, and impeachment proceedings sometimes teach arbitrary gentlemen in departments that they are executing and not making the laws.

The reason given by the honorable Secretary of War for declining to issue these arms is that he said he feared some damage might be done or some action might be taken by some hot-headed member of the club which would precipitate a great deal of trouble. Mr. President, I resent that statement. All the citizens whose names I have read, and the members of the club generally, are cool-headed, thoughtful, representative American citizens. They are not men who are likely to involve our country and her laws and institutions in any difficulty. They are citizens who wish to obey the letter and the spirit of the law.

Mr. SMITH of Georgia. Mr. President—

Mr. ASHURST. Just a moment, if the Senator please; I will yield to him in a moment. I desire at this point to read a letter from Brig. Gen. Crozier, Chief of Ordnance. It is as follows:

WAR DEPARTMENT,  
OFFICE OF THE CHIEF OF ORDNANCE,  
Washington, April 8, 1916.

Hon. HENRY F. ASHURST,  
United States Senate.

MY DEAR SENATOR: Referring to your personal call at this office and to your inquiry as to the possibility of issuing or selling to the Bisbee Rifle Club, in accordance with law, a number of rifles which, from previous correspondence, is assumed to be 200, I can answer you that a direct request came from this rifle club several weeks ago, and was answered by The Adjutant General of the Army to the effect that no more rifles could be sold than one for each member of the club, and that application should be made through the usual channel for the purchase. Since this letter was written, however, the subject of the issue or sale of rifles to parties near the Texas border has been more markedly brought to the attention of the War Department by additional applications for considerable numbers of rifles, and the Secretary of War has concluded that it would not be wise to place arms in the hands of citizens near the border who are not subject to strict military discipline, and that, in order to present some unfortunate incident which might precipitate trouble, which we all wish to avoid, it would be more prudent to suspend action for a time under the law which permits the sale or issue of rifles to clubs. It is for this reason that the request of the Bisbee Rifle Club has not been complied with.

Sincerely, yours,

WILLIAM CROZIER,  
Brigadier General, Chief of Ordnance, U. S. A.

I wish to read at this point the following telegram signed by the gentlemen to whom I have already referred:

BISBEE, ARIZ., April 7, 1916.

Hon. HENRY F. ASHURST,  
United States Congress, Washington, D. C.:

Bisbee Rifle Club made requisition through the regular channels for ordnance stores for bona fide members to the Benecia Arsenal. Order held up by order of Chief of Ordnance at Washington. Use your influence to have same approved; seeing President, if necessary, and have approval. Wire to the Benecia Arsenal. Following residents of district join in request:

V. W. Marshall, secretary Bisbee Rifle Club; I. C. E. Adams, mayor; J. J. Bowen; Arthur Notman; M. J. Cunningham; L. R. Bailey; M. J. Brophy; M. Newman; J. F. McDonald.

I will also read the following telegram from the secretary of the Bisbee Rifle Club, which, I think, ought to be read in this connection:

BISBEE, ARIZ., April 11.

Hon. HENRY ASHURST,  
Washington, D. C.:

This club was organized under act of Congress governing rifle clubs and we have strictly complied with all regulations. This order, now being held up, is for both new and old members, and if unable to secure further arms and ammunition will have to close range and discontinue rifle practice. Other clubs are having requisitions honored, and any discrimination against our 475 members will have effect in November upon voters of this district in both State and National elections. Officials of club not interested in any movement to secure arms for home protection, our prime interest being in the furthering of rifle practice. Ascertain just what club may expect on further requisitions and write how and by whom this order was originally held.

V. W. MARSHALL.

It is very unfortunate that the secretary of the club should have seen fit to state in his dispatch that any member of the club would allow his vote to be influenced by the fact as to whether or not these rifles were secured. The members of the club would not allow the issuance to them or the nonissuance to them of a rifle to influence their votes. They are men of too high a class for that kind of conduct.

Mr. POMERENE. Mr. President—

Mr. ASHURST. I will yield in a moment, if the Senator please.

Mr. WORKS. Mr. President, I have the floor, but I am not willing to yield for general discussion.

Mr. ASHURST. I decline to yield to anybody. I want to finish. The Senator from California has yielded to me.

Mr. WORKS. I yielded to the Senator for three or four minutes. I am not objecting to the Senator concluding, but I see other Senators on their feet, indicating that a discussion is imminent. I want to avoid that.

Mr. ASHURST. I will finish in half a dozen sentences. Like a certain class of people in this country, I admire short sentences. [Laughter.]

I wish to make it clear here and now that these gentlemen wish these rifles simply, solely, and only for the purpose of rifle practice.

Mr. SMITH of Georgia. Mr. President, I only wanted to ask the Senator from Arizona one little, short question, which was this—

The VICE PRESIDENT. The Senator from California [Mr. WORKS] has the floor, and the Chair understands he declines to yield further.

Mr. SMITH of Georgia. If the Senator from California will allow me, I merely desire to ask the Senator from Arizona whether he thought the citizens of Arizona, if they had the guns and knew how to shoot, would not stand up as well as the citizens of any of the other States?

Mr. ASHURST. Mr. President, in the first place I want to make it clear to the Senate, if the Senator from California will pardon me for a moment—

Mr. WORKS. Oh, yes.

Mr. ASHURST. I want to repeat, because I want to make it clear, that these citizens are not arming themselves to invade Mexico, as the Secretary of War thinks they might do. The law permits them to organize rifle clubs for practice purposes, and that is the sole and only purpose for which they wish to organize themselves.

Mr. POMERENE. Will the Senator from Arizona yield to me merely for a question?

Mr. ASHURST. The Senator from California has the floor.

Mr. POMERENE. I desire to ask a question of the Senator from Arizona, if I may.

Mr. WORKS. If it is confined to a mere question, Mr. President, I shall yield for that purpose.

Mr. POMERENE. I understood the Senator from Arizona to say that he talked with the Secretary of War this morning.

Mr. ASHURST. I talked with the Secretary of War last Saturday. I said that I telephoned to the department this morning. I am not going to say to whom I telephoned; but I said I telephoned—and the reporters' notes will bear me out that the statement I made was that I telephoned to the department. I call upon Senators to remember that I did not say that I telephoned to the Secretary of War.

Mr. POMERENE. I understood the Senator to say that he had talked with the Secretary of War this morning. I evidently misunderstood him.

Mr. ASHURST. I said I telephoned to the department.

Mr. POMERENE. I knew the Secretary of War was not in the city to-day.

Mr. SMITH of Arizona. Mr. President, I can not refrain this morning from expressing my protest against the action as set

forth in a letter to me signed William Crozier, Brigadier General, Chief of Ordnance, United States Army, in which he says, in regard to rifle clubs on the coast:

The Secretary of War has concluded that it would be unwise to place arms in the hands of citizens near the border who are not subject to strict military discipline, and that, in order to prevent some unfortunate incident which might precipitate trouble, which we all wish to avoid, it would be more prudent to suspend action for a time under the law which permits the sale or issue of rifles to clubs. It is for this reason that the request of the Bisbee club has not been complied with.

Mr. President, I resent the imputation that there is any lawlessness among the citizens along the border between old Mexico and the State of Arizona, or that they can not be trusted with arms, as other citizens are. I speak only as to territory concerning which I have knowledge; but I imagine that my statement will apply equally to every other point on the border. There is a legally organized rifle club at Bisbee, Ariz. The citizens forming this club need arms and have a right to them as much as any like club in the country. No longer than yesterday a citizen of Nogales was here asking protection for that town, and as an evidence of the need of it pointed to the fact of a large number of Mexican soldiers were mobilized on the Mexican side; yet the Secretary of War refuses to furnish arms to a rifle club composed of the very best citizens of the State of Arizona, who at an instant should be in a position to protect themselves against invasion if it should come. All we have asked is to be treated as the people of New York, Missouri, the Carolinas, and Massachusetts, and all other States not on the Mexican border are treated. However patriotic others may be and however law-abiding the citizens of other States, I deny that they have any advantage in either particular over the people of the Western States, who are not afraid, but who want—and that is all they want—to be protected or to be allowed to protect themselves. Yet we find that we are singled out as the only people that can not have arms for defense and can not be allowed to indulge in the splendid practice of learning to defend themselves by familiarity with the use of arms.

I indulge the hope that the Secretary of War will reconsider his decision—ill advised as I am sure it is—and relieve the people of Arizona and all that brave citizenship along the international border of the undeserved and unjust suspicion—if not actual aspersion—cast on them by the letter an extract from which I have just read to the Senate. There is no reason to discriminate against the only people within our borders who live within the zone of any possible danger by reason of a groundless fear that they may break the Nation's peace. I feel assured that the rifle club at Bisbee will at an early day be treated with the same courtesy—and, I may add, decency—accorded to similar clubs in every other part of our common country.

I thank the Senator from California for his courtesy.

#### REPORT OF INDUSTRIAL RELATIONS COMMISSION.

Mr. POINDEXTER. Mr. President—

The VICE PRESIDENT. The Senator from Washington.

Mr. POINDEXTER. I ask unanimous consent for the present consideration of Calendar No. 134, being the resolution to print as a document the report of the Industrial Relations Commission.

Mr. SMOOT. Mr. President, I wish to say to the Senator that that matter will lead to some discussion—not on my part, because I am in favor of it—but there are a number of Senators who have said that they desired to speak upon it whenever it came up, and they asked me not to allow it to come up in their absence. I think the Senate ought to know that if it is to be discussed, it will take some time to do it.

The VICE PRESIDENT. That does not seem to come within the fair purview of morning business, and the Chair now declares the morning business closed and recognizes the Senator from California.

Mr. POINDEXTER. Of course, Mr. President, in view of the fact that the Senator from California desires to address the Senate, I will not insist on this matter if there is going to be any debate upon it; but I will make the remark that I think if the Senate by unanimous consent desires to take up a matter, it can do so.

The VICE PRESIDENT. The Chair understood that there would be discussion about it.

#### NATIONAL DEFENSE.

Mr. WORKS. Mr. President, up to this time I have taken but little part in this debate. But while others have been talking I have been doing a good deal of thinking. The course the debate has taken, the arraying of one self-seeking interest against another, the mere mention of politics in connection with the consideration of a question of such grave import, the injection into the controversy of outside opposing interests have excited in me,

as I think it should in the mind of every patriotic American citizen, a mingled feeling of resentment and apprehension.

Mr. President, I love my country. I believe in its free institutions. I proclaim it to be the greatest and most beneficent government the ingenuity and patriotism of man has yet devised. It is a government that should command the respect not only of its own citizens, but of the peoples of all nations. It should be the pleasure, as well as the patriotic duty, of those who share in its protection and its benefits to protect and uphold it against its enemies within and without—from the dangers and encroachments of greed and avarice and self-seeking in all its forms within, as well as foreign aggression or invasion from without.

A few days ago, in an address to the Senate on preparedness for peace, I had occasion to say:

The dangers that threaten us are within, and not without.

I want now to reiterate and to emphasize what I then said and to point out some of the dangers that are confronting the country and threatening the perpetuity of its institutions. As I shall attempt to show, these dangers have been disclosed in great part by the debate on this bill. To me the greatest virtues of our Government, as manifested in the Declaration of Independence and the Constitution, are popular self-government, the preservation in the States of sovereign power over matters of local concern, and the establishment of independent departments of the Government, free from domination or dictation by any other department. The wisdom of our forefathers gave us, as parts of the Government, the executive, the legislative, and the judicial departments and made them independent of each other. They made the National Government one of enumerated and limited powers, leaving the powers not enumerated to the States. So jealous were the southern people of the rights of the States that they were willing to go to war to preserve them to an extent denied to them by the States of the North. And yet, sir, the tendency of legislation to-day is to surrender and barter away what were once regarded as the most sacred rights of the States and centralize all power in the Federal Government. And, strange as it may seem, the southern Members of the Congress of the United States are taking the lead and forcing through this kind of legislation so destructive of the sovereignty of their States and extending and enlarging by law and by construction the powers and influence of the departments and of the bureaus and commissions of the Federal Government.

And, sir, the saddest and most dangerous feature of this abandonment of State sovereignty and local self-government is that, in the main, it is done for purely commercial reasons. The States of this Union are selling their sovereignty for money appropriations for internal improvements and material benefits. So-called pork-barrel legislation is degrading our citizenship and destroying the freedom and independence of the States. The temptations that lead lawmakers to surrender the rights of the States are many and persuasive. Their course in making the surrender of these sovereign rights is generally approved by their unthinking constituents because it means prosperity to their States and money in their pockets. They want better roads, the improvement of their waterways, the establishment of vocational schools, better preservation of health, advancement of agricultural interests, conservation of natural resources, the manufacture of nitrogen at Government expense, and a hundred other things, most of which should be provided for them by their States and at their own expense. But they are more than willing to surrender their right to deal with these questions, falling clearly within the sovereign powers of the States, and to shift their duty and their responsibility to the National Government if only it will bear the burden of their cost. In defense of this unfortunate and unpatriotic course the claim is made that the Government is rich and powerful, and can do these things; and if it does not they will not be done at all, because the States are financially unable to do them. But, Mr. President, to me this seems the most dangerous feature of the whole matter. It is an abject surrender of the sovereign duties of the States because they are not able to perform them. It is an admission that our form of government is a failure, and means the downfall of the States as separate and independent parts of the Federal Government.

As a natural and inevitable result we are fast becoming a centralized and paternal Government. The States, instead of maintaining their independent sovereignties, are becoming—yes, they have to an alarming extent already become—the dependent wards of the Federal Government.

Not only this, which would seem to be bad enough, but this course has made us a bureaucratic Government. We have bureaus and commissions and divisions innumerable, costing the Government millions of dollars a year in doing the things that should be done by the States. The departments of government have by this means become great and powerful machines that dictate and control legislation.

The Congress of the United States has ceased in great measure to be an independent department of the Government. Hardly a bill is passed or even considered by a committee of either House of Congress until it is referred to and passed upon by one of the departments. And if reported against by the department it is generally looked upon as killed. This is not all, Mr. President. It has become a common thing for bills to be formulated by a department head, approved by the President and presented to Congress, not as a bill originated by either House of Congress, or a Member of it, but as an "administration measure." Thus does the executive branch of the Government inject its power and influence into the law-making branch, which should be wholly free and independent within its own jurisdiction and the performance of its functions. Even this is not all. The Executive head of the Government not only has formulated bills for passage, and let it be known that they are administration bills and must be passed, but he assumes to and does prepare and enforce a legislative program for Congress and dictates what bills shall be considered first and in preference to others and when, and after the passage of what bills Congress shall be permitted to adjourn. I have been told, and I have no doubt it is true, that Members of Congress, members of this body, go to the President to be told how they shall conduct the business of Congress and what bills shall be preferred over others. There is still more to come. It is an alarming fact, and one which is well known to everybody who keeps account of what is going on here, that Members of Congress accept the dictation of the President and do what he asks as a duty higher than their obligation to follow their own conscientious convictions. Mr. President, if half of the things I have mentioned be true, what can we expect for the future of our country?

The division of power between the several departments of the Government was intended to protect the people from the liberty-destroying effects of one-man power. The granting of separate sovereignty to the States was for the protection of their independence. The effort of the Executive branch of the Government to extend his power over the legislative branch is plain usurpation and a violation of the very spirit of the Constitution. Not only so, it is the unwarranted assumption of power that if persisted in will lead to despotism and finally result in a dictatorship. What I am saying is not directed at any one personality. This tendency to usurp power not belonging to it by the executive departments has been in evidence for some years past. But, as was inevitable, it has increased and become more arrogant and offensive to our institutions and form of government year by year. And unless Congress asserts and maintains its independence, it will continue to grow worse until the Congress will cease to have any independency. Such a result is a long step toward the destruction of free government.

Mr. President, one of the melancholy features of the situation is that the people generally do not understand or appreciate the dangers that confront them. They look upon the office of Chief Magistrate as the seat of all power and all departments as subservient to his will. The people of this country should be awakened to the danger of such sentiments. They are subversive of the principles upon which our Government is founded, and if this awakening comes it must be brought about by the assertion by Congress of its rights as an independent branch of the Government. If Congress bows submissively to the will power and dictation of the President within the sphere of its power and jurisdiction, it will deserve the contempt of all good citizens.

I can not take time now to enumerate the many acts and tendencies that are threatening the perpetuity of the free institutions of this Republic. Many of them are as plain as the light of day and are known to all observing men. But there is one that stands out fully revealed as the worst and most dangerous of them all. It is self-seeking partisan politics. Its dominating and sinister influences are found everywhere. I have been amazed to find, as a result of my service in this body, how extensive, far-reaching, and powerful its influence is. Even in the consideration of the bill now before the Senate, involving the future peace and safety of the country, the apprehension of outside political influences is felt and expressed on the floor of the Senate and the influence of outside selfish interests, as unpatriotic as they are offensive, have been used in support of and in opposition to certain provisions in the bill beyond any doubt. We breathe the polluted atmosphere of self-seeking influences at every turn in the performance of our duties as representatives of the people.

Partisan politics is ruthless in its demands and invades the most sacred precincts of the National Government. It is seeking place and pelf and power wherever and whenever it can find entrance. Just now it is attempting to invade the Supreme Court of the United States. It is presenting to a member of

that body the greatest temptation that could be offered to an American citizen—to surrender his place on the bench and become a candidate for a political office. This attempt to bring the highest judicial tribunal of the country, or any member of it, into politics should be resented not only by the member to whom the tempting offer is made but by the whole country. To my mind it is of the gravest importance that that great tribunal should be separated absolutely and forever from politics, candidacy for office, or any interest in elections beyond that of the disinterested and patriotic private citizen. If any member of the Supreme Court is tempted by an offer of a nomination as a candidate for the Presidency of the United States and refuses the offer because he is a justice of the Supreme Court and for that reason can not conscientiously accept a nomination to a political office or engage in politics, he will have rendered his country a great and lasting service. If he does that one act of unselfish patriotism and devotion to the best interests of his country, that has so signally honored him, it will keep his memory green in the minds of his countrymen long after the politicians who thus tempted him are forgotten. The use of his name as a candidate is an offense to him and to the country.

Whether Justice Hughes is going to allow his name to be used as a candidate in a political convention is a matter of profound interest and grave importance to the American people. Whether one man or another shall be nominated by that convention for the office of President of the United States is of but little importance compared with the question whether a member of the Supreme Court can be used to advance the interests or secure the success of any political party. I commend to the Senate and the country the wise and patriotic sentiments expressed in the following editorial of the Providence Journal:

Which path shall Justice Hughes choose? Shall he yield to the demand of the moment or be true to the larger demand? Shall he plunge into the maelstrom of politics again or once and for all buttress the tradition of isolation and sanctity with which the Supreme Court of the United States is raised above its coordinate branches of the Government?

There can be no possible doubt that Mr. Hughes has it in his power to perform a greater public service by remaining where he is than he could possibly perform by heeding the call to party leadership. It is a service that would become historic; that would strengthen every wholesome principle on which our democracy rests. It would do more by one stroke of the pen to preserve our best traditions of free government and human liberties than Mr. Hughes could hope to do in four years or eight years by conscientious endeavor in the White House.

That he himself is inclined to this view is altogether probable. We can easily believe that his feeling from the first has been that in the next few years of critical problems in the United States there will be work arduous and engrossing enough on the bench of our highest court for the most willing and intelligent patriot.

In a spirit of entire friendship for Mr. Hughes, and in accordance with what we are convinced is his own honest judgment and desire, we would urge him to a frank and unequivocal renunciation of the call of politics in these unique circumstances. The country needs him where he is, not for his talents alone, great as they are, but for the example he would set for all time of our supreme Federal judiciary wholly beyond the ambitions of the political forum and the real or fancied requirements of the hour.

Mr. President, let me advert briefly to another of the conditions that is threatening the future peace and well-being of the country far beyond any danger of war. It is the division of capital and labor into hostile classes, and the tendency to divide the people of this country into classes of rich and poor, with all that it implies. Theoretically, and as a matter of law, all men are equal in this Republic. This doctrine of equality and like opportunities for all without regard to race, color, or station in life, is woven into the very fabric of our free institutions and is one of its greatest elements of strength. It is no crime in this country to be either rich or poor. It should be no mark of distinction to be rich, or a badge of inferiority or subserviency to be poor. So long as any American citizen keeps himself within the bounds of honesty, integrity, and fair dealing he can not be criticized for becoming rich beyond his fellows or even for amassing inordinate wealth that he does not need and can not use for his own good. On the other hand, the man who endeavors and fails is entitled to as much respect and consideration as the man who succeeds. The man who succeeds and amasses wealth has the greater responsibility. He becomes the trustee of his wealth for the common good. There is no reason why there should be hatred or envy or controversy between employer and employee, rich and poor, or the successful and unsuccessful.

And, sir, it is not because some are rich and others poor that discontent and controversies arise among men. It is because public sentiment divides men into classes, not because some are better than others as men and citizens, but because some are rich and some poor and one is considered, respected, and deferred to and the other looked down upon and his rights as a man and a citizen disregarded. As a necessary consequence, this has led to intolerance, arrogance, and oppression on the one side and unwilling and sullen submission and subservience on the other, which has led to hatred, discontent, and controversy, sometimes



even to violent destruction of property and the shedding of blood. It has brought about powerful organizations for the protection of one class against another. These organizations on both sides have attempted to accomplish their ends by force and oppression, and not by reason, justice, and peaceful means.

Mr. President, the harmonizing and bringing into friendly relation of these conflicting elements in the social and business affairs of this country is, I am firmly convinced, one of the greatest problems this Republic is called upon to solve, and solve righteously and justly, in order to live. It is a danger more imminent and more threatening, more inimical by far to our form of government and its continued existence, than foreign enemies.

Now, Mr. President, I might point to other sinister forces and influences that are in greater or lesser degree inimical to our institutions, but it is unnecessary. I have tried to point out what seems to me to be the worst and most dangerous of them.

Mr. President, let me now comment briefly and more directly on the pending bill. The distinguished Senator from Oregon, chairman of the Committee on Military Affairs, has said with the emphasis of sincerity that we should speak frankly in dealing with this important question, and he is right. No man in this body stands higher in the estimation of his colleagues on this floor than the Senator from Oregon. He has imposed upon him a most unpleasant task in his courageous efforts to uphold and sustain the bill reported by his committee. The bill is itself a sham and a delusion. In saying this I am not intending to criticize or reflect upon the chairman or any member of the committee. I know, and no one doubts the fact, that they have done the best they could under the most trying circumstances. The people in large numbers have been clamoring for preparedness for national defense. Defense against what? Defense against an invasion of our country by the forces of some foreign nation, of course. This has been understood by everybody from the beginning. There has not been, and will not be, any need of preparation for defense by military force against anything else. Does this bill prepare us for national defense in this sense? No one that I have yet heard pretends that it does. Of course it does not. In addressing the Senate a few days ago the Senator from Oregon expatiated at length and with great eloquence upon the dangers that were confronting us of war with one or more of the belligerents or some other nation.

When he had done I asked him if he thought the force provided by this bill would furnish a military force adequate to meet the dangers that he had been talking about, and he answered emphatically, "No, I do not. The bill is a compromise." A compromise, Mr. President! A compromise of what? Are we proposing to compromise with the peace and safety of the country in the face of the dangers that the Senator has so eloquently depicted as an excuse for passing any bill at all increasing our military strength? That is just what we are proposing to do. No Senator here believes that the force provided for by this bill will prepare us for defense against any of the nations that some people think might engage us in war. We are adding millions of dollars to the burdens of the people without providing what some of them are demanding, the means of national defense. I say again the bill is a sham and a delusion.

If this bill should pass and the force it provides for be raised what kind of defense would it provide for my own State or the Pacific coast? The portion that upon an equal division of the forces on the basis of area or population would be allotted to California would not furnish soldiers enough to defend one medium-sized city in the State. There are enough seasoned Japanese veterans in the State to kidnap and carry them off if we should have trouble with that country of which I have no more fear than I have of war with Germany or Great Britain or any other country.

Then we are not dealing fairly with the people of this country who must bear the heavy and practically useless burden of maintaining this increased military force. They think we are really preparing for national defense; we know we are not.

Why, Mr. President, preparation for national defense would call for an army of 2,000,000 instead of 200,000 men. But such an army is not provided for because the people of this country, even those of them who have been wildly demanding preparedness for national defense, would not submit to any such burden and face the danger of militarism that such an army implies. For myself I am not willing to join in this pretense of preparedness for national defense.

Mr. President, before I conclude I want to say a word about what I consider an unwarranted attempt to deprive the States of control over the State militia, now commonly called the National Guard. As I have said, one of the objects of the framers of the Constitution was to preserve and protect the independence and the sovereignty of the States in their proper spheres and limit the sovereignty of the Federal Government to national and

interstate affairs. The provision of the Constitution relating to the militia, so often quoted in this debate, furnishes clear and convincing evidence of this intention. It provides that the militia shall be officered and trained by the States, which gives the States power and control over them.

Congress is given the power to "provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions."

For all other purposes the militia is a State organization under State control and may be used by the States for the protection of their own independence and the enforcement of their laws. The attempt in this bill to take over the militia to the National Government is only another effort to deprive the States of their sovereignty and powers and transfer them to the Federal Government that I have already commented upon. It is a part of the centralizing process to which I have referred. In their efforts to become a part of the Federal forces the National Guard are disloyal to their States, to whom their allegiance is due until called out by the Government in the cases specified in the Constitution.

To thus alienate the National Guard from their States is to serve their selfish ambitions and to take over to the Federal Government the military force intended by the framers of the Constitution as primarily for the protection of the States and the enforcement of their laws. And for their services to the Government the compensation to be paid by the Government is fixed by the Constitution. Congress must "provide for organizing, arming, and disciplining the militia and for governing such part of them as may be employed in the service of the United States." The only interest the Federal Government has in the militia, miscalled the National Guard, is to see that when the emergency arises that warrants their call to the aid of the National Government they shall be armed and disciplined in such way as Congress may provide. There can be no escape from the fact that the militia is a State organization intended primarily and at all times for the protection of the States and the enforcement of their laws. And it follows necessarily that any attempt, such, for example, as we find in this bill, to make them a part of the Federal forces is a plain violation of the Constitution and a serious infringement on the rights of the States.

Mr. President, I am opposed to this bill as a whole, because I do not believe preparedness for national defense against a foreign foe is necessary, and, if it were, this bill does not begin to provide for any such defense; and for the further reason that no such increase as the bill provides for is necessary for the protection of the country and the enforcement of its laws in time of peace. I believe the regiments we have should be filled to their full complement and kept so, and that they should be adequately equipped, officered, and the men better paid and more humanely and liberally treated. I am not willing to go further than this at the present time. To go further and place upon our people the enormous burden of maintaining this unnecessary and inadequate military force is unjustifiable and unwise.

Mr. SMOOT. I move that the Senate proceed to the consideration of unobjected bills on the calendar under Rule VIII.

Mr. REED. Mr. President, I hope we can give the time between now and the time fixed for voting on the military bill to that bill. There are a great number of amendments.

Mr. SMOOT. I will say to the Senator that all I desire is to consider the bills on the calendar until 2 o'clock. The military bill will come up automatically at 2, and I thought between this time and 2 we could get rid of a great many bills upon the calendar to which there is no objection.

Mr. REED. Could not the Senator let that go until after the unanimous-consent agreement expires? I will then be very glad, so far as I am concerned—I only speak for myself—to cooperate with the Senator's desire and to take half a day, if necessary, to go through the bills on the calendar. I think they ought to be disposed of; but this military bill is here; we have fixed a time to vote upon it, and there are a great number of important amendments, some of which some of us are anxious to discuss. I wish the Senator would concede that, though, of course—

Mr. SMOOT. I would not interfere with the consideration and the passage of the military bill in any way; I recognize that it is of great importance; but I do not believe that if we give 40 or 50 minutes now to the calendar it would make very much difference to the bill, and it would get a lot of bills off the calendar to which there is no objection. I hope the Senator from Missouri will agree to that course.

Mr. REED. We are to vote on Friday.

Mr. SMOOT. No; not until Tuesday.

Mr. REED. But on Friday the 10-minute rule applies.

Mr. SMOOT. Not until Tuesday. The time was extended, I will say to the Senator.

The VICE PRESIDENT. The 10-minute rule begins on Friday at meridian.

Mr. SMOOT. Yes; the 10-minute rule begins then. I did not understand the Senator.

The VICE PRESIDENT. Under the unanimous-consent agreement the Senate is to vote upon the bill at 4 o'clock on Tuesday.

Mr. REED. That leaves only two afternoons practically for general discussion. There are many amendments that I know are pending; there are, I should say, 30 or 40 amendments here, and some of them are very important. I have said all I care to submit.

Mr. THOMAS. Mr. President—

Mr. SMOOT. I yield to the Senator from Colorado.

Mr. THOMAS. Mr. President, I was very much impressed with the remarks of the Senator from California [Mr. WORKS] just delivered, and particularly so with that portion of his address regarding the association of the name of one of our most distinguished members of the Supreme Bench with a Presidential nomination. I think, Mr. President, every comment of the Senator on that subject is unanswerable. And the lesson he would teach is one that should apply not only to the national but to the State courts.

I was reminded of the importance and the need of this, and by the Senator's discussion, that in one of the States of the Union, whose constitution declares that no occupant of the bench shall, during his term of office, be a candidate for any other than a judicial office, two members of its supreme bench, both of whom have sworn to support their constitution, one a Democrat and the other a Republican, are to-day active candidates for the nomination by their respective parties to a seat in this body.

The situation there presented is not an encouraging one, and when we reflect that the same court has exclusive jurisdiction of all political controversies. Hence the other candidates of the two parties for this position are incapacitated for even contesting the question whether that constitutional inhibition disqualifies these gentlemen from aspiring to the Senate while they occupy seats upon the supreme bench. They constitute two-thirds of the court, and are certainly disqualified by the most obvious principles from passing formal judgment upon themselves.

That spectacle, so unfortunate and so humiliating, and at the same time so illustrative of the extent to which the ambition, honorable ambition, if you please, of members of the bench will carry them if the rule for which the Senator contends is disregarded, that I could not avoid the temptation of calling attention to it at this opportune time.

Mr. SMOOT. Mr. President, at the request of the Senator from Oregon [Mr. CHAMBERLAIN], who has the military bill in charge, and at the solicitation of the Senator from Missouri [Mr. REED], I shall withdraw my motion to proceed to the consideration of the calendar under Rule VIII.

The VICE PRESIDENT. The calendar under Rule VIII is in order.

Mr. CHAMBERLAIN. I request that the unfinished business be laid before the Senate.

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

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12766) to increase the efficiency of the Military Establishment of the United States.

Mr. BRANDEGEE. Mr. President, yesterday the Chair laid before the Senate a communication from the Secretary of War, transmitting there opinions of the Judge Advocate General of the Army bearing upon various legal questions involved in measures pending before the two branches of Congress for the reorganization of the Army. At that time I asked that the communication be printed in the Record when the Army reorganization bill was again taken up for consideration. The Senate so ordered. Pursuant to that order, I ask that the communication be printed in the Record at this point.

The VICE PRESIDENT. Without objection, it is so ordered. The matter referred to is as follows:

WAR DEPARTMENT,  
Washington, April 10, 1916.

SIR: I have the honor to transmit herewith, in response to the resolution of the Senate of March 30 (calendar day April 7), 1916, three opinions of the Judge Advocate General of the Army. These opinions bear upon various phases of the legal knowledge involved in measures pending before the two branches of Congress for the reorganization of the Army:

1. Is a general opinion on the question of the constitutionality of certain proposals for the federalized militia, since somewhat modified by amendment in the House in which that bill originated.

2. An opinion bearing on the constitutionality of a provision for drafting members of the State militia into the National Army applicable to the draft provision added by amendment to the bill originating in the House and on the legality of a dual enlistment.

3. An opinion on the provisions of the pending militia pay bill respecting the exercise of the power to exempt from militia service

and upon the question of the legality of the dual enlistment therein proposed.

It is understood that in transmitting these opinions they are sent strictly in response to the resolution of the Senate, and that, since I have not had the time adequately to examine the grounds upon which these opinions are expressed, they are the opinions of the Judge Advocate General and not otherwise of the department.

Respectfully submitted,

NEWTON D. BAKER,  
Secretary of War.

The PRESIDENT OF THE SENATE.  
(Inclosures.)

MEMORANDUM TO ACCOMPANY NO. 1.

Numbers indicate sections of the bill as introduced in the Senate. Numbers in parenthesis indicate sections of the bill as reported to the Senate.

No. 1.

WAR DEPARTMENT,  
OFFICE OF THE JUDGE ADVOCATE GENERAL,  
Washington, March 9, 1916.

From: The Judge Advocate General.

To: The Secretary of War.

Subject: S. 4840, "A bill for making further and more effectual provision for the national defense, and for other purposes."

1. Instructions issued under date of March 6 with reference to S. 4840, "A bill for making further and more effectual provision for the national defense, and for other purposes," require me to submit not later than 9 a. m. March 11 (a) a statement as to the effect of the bill upon the Judge Advocate General's Department and (b) a statement as to the legal aspects of the bill. This paper is designed to be responsive to requirement (b), the statement responsive to requirement (a) having been submitted in another paper.

2. For the purpose of discussion the 123 (120, H. R. 12766, Cal. 285) sections of the bill may conveniently be grouped in four subdivisions, viz:

(a) Those which relate mainly to the Regular Army, including the Regular Army Reserve and the Officers' Reserve Corps, sections 1 to 43 (1 to 41) and section 118 (115).

(b) Those which relate mainly to the reserve officers' training corps, sections 44 to 57 (42 to 55).

(c) One which relates to Volunteer forces, section 58 (56).

(d) Those which relate mainly to the militia, sections 59 to 117 (57 to 114) and 119 to 123 (116 to 120).

I have already submitted in the form of detached memoranda, such observations and comments as I have to make respecting subdivisions (a) and (b). There remains to be discussed subdivision (c), volunteer forces, and subdivision (d), the militia, and these will be taken up and discussed in the order indicated.

(c) VOLUNTEER FORCES.

3. The subject of volunteer forces is dealt with in but a single section of the pending bill, reading as follows:

"Sec. 58 (56). The President is hereby authorized, at any time, to organize, maintain, and train, under the provisions of sections 3 to 12, both inclusive, of an act entitled 'An act to provide for raising the volunteer forces of the United States in time of actual or threatened war,' approved April 25, 1914, volunteer forces not exceeding an average of 600 officers and enlisted men for each congressional district. The term of enlistment, which shall in no event be greater than that of the Regular Army, the period of service with the colors and with the reserve, and the period of training shall be as the President may prescribe, those passing to the reserve to have the status and obligations prescribed for reserves of the Regular Army. Officers and enlisted men of the volunteer forces raised under the provisions of this section shall be entitled to the pay and allowances of officers and enlisted men of corresponding grades in the Regular Army during periods of training only.

"Temporary appointments and promotions of officers of the Regular Army arising from the operation of this section may be terminated at the discretion of the President.

"Officers of the Regular Army who receive commissions in the volunteer army herein authorized shall in time of peace receive the pay and allowances of their respective grades in the Regular Army, and no more."

The purpose here is to utilize the machinery of existing law for the raising of a citizen army for training. The existing law is the recently enacted volunteer act, approved April 25, 1914 (38 Stat., 347), a law prepared by the General Staff, approved by the War Department, and enacted by Congress in substantially the form in which submitted by the General Staff. By its express provisions it is operative "only during the existence of war, or while war is imminent, and only after Congress shall have authorized the President to raise such a force" (sec. 2). Proposed section 58 (56) adopts 10 of the sections of this law and makes them operative in time of peace for its purposes.

4. I have given careful consideration to these 10 adopted sections, as modified by proposed section 58 (56), and am of the opinion that they supply, in necessary detail, all the statutory direction which the department needs in raising and maintaining a volunteer army for training. Section 3 authorizes the embodiment of the National Guard with this force for adequate annual periods of training, and by virtue of muster in and muster out of the service of the United States, which will initiate and terminate the period of training, all constitutional questions respecting such a use of the militia are avoided, and the interruption of the State relations of the National Guard so embodied is reduced to a minimum. From a legal point of view these 10 sections appear to be well adapted to the purpose of proposed section 58 (56), save in the minor regards next to be noted.

5. Proposed section 58 (56) gives to the reserves of the citizen army for training raised under its provisions the status and obligations of reserves of the Regular Army. This provision is a proper one as the law relating to Regular Army reserves now stands, but as proposed to be adopted in sections 33 and 34 of the bill here under review, I doubt if we should completely assimilate the citizen army reserve to the Regular Army reserve. While it is important that they should have the same status and obligations in respect of mobilizing for training and for actual or imminent war, I doubt if it will be the final judgment of the War Department that they should have the pay status in time of peace which sections 33 and 34 give to the Regular Army reserve. When this question has received the attention of the General Staff and of the War Department and a decision reached, the language of section 58 (56) should be modified to express the departmental view.

The average strength of 600 per congressional district should, of course, be exclusive of National Guard organizations mustered only for periods of training.

6. It is, of course, not desirable that the forces raised under the authority of section 58 (56) should be available to the President for all purposes. A simple provision should be inserted to the effect that, except for periods of training as thereafter provided for, the forces raised under the authority of this section shall not be called out for service except when authorized by Congress in the emergency of actual or imminent war. It is likewise desirable, I think, to vest in the President quite an extensive authority in the appointment of officers of such provisional forces as are here under consideration, and a provision to that effect should be inserted. Amended in these regards, reserving the amendments respecting the status and obligations of reserves, it would be necessary to insert after the word "exceeding," in the seventh line of the section, the words "exclusive of National Guard organizations mustered into the service of the United States for training under the provisions of this section," and to add the following paragraph:

"The President alone is authorized to appoint all officers of volunteer forces raised under the provisions of this section below the grade of brigadier general. Except for periods of training, said volunteer forces shall not be called out for service except when authorized by Congress in the emergency of actual or imminent war."

(D) THE ORGANIZED MILITIA.

7. The proposed militia legislation, particularly when viewed in the light of recent discussion of the problem of national defense, is understood as intended, first, to increase the existing participation of the Federal Government in the control and direction of the training of the militia with a view to rendering it more efficient as a possible arm of national defense; and, second, to assure to the Federal Government on demand the military service, unhampered by constitutional restrictions affecting the militia, of all individuals who shall become beneficiaries under the legislation.

(1) CONTROL OF TRAINING BY PURCHASE.

8. One group of provisions may be described as designed to secure to the United States control over the training of the Organized Militia by making compliance with Federal training statutes and regulations a condition precedent to the participation of the militia in Federal appropriations, examples of which are found in section 96 (93), providing for pay for camp and maneuver training service, and sections 111 and 112 (108, 109), providing for pay for home-station training service. These provisions may be dismissed with the remark that they do not serve to raise any question fundamentally different from those raised in provisions similar in nature, though, perhaps, different in degree, under the militia act of 1903 (Dick bill) and subsequent amendments thereto. I am of the opinion, however, that the general effect of the provisions here considered is not to vest in the Federal authorities a legal jurisdiction capable of being made effective by such authorities by means of legal measures, coercive in nature, but only to afford opportunity for voluntary compliance with Federal regulations designed to make training service more effective; and that essentially this compliance is not constrained in anywise and may cease at any moment, generally without penalty other than the interruption of the right to receive Federal compensation for training service.

(2) COMMAND.

9. Another group of provisions, designed to federalize the Organized Militia through the exercise of command, raises a new question, which must be examined with special reference to the constitutional distribution of powers over the militia. Of this group only the most representative will be discussed, section 66 (64), which reads as follows:

"For the purpose of maintaining appropriate organization and to assist in instruction and training, the President may assign the National Guard of the several States and Territories and the District of Columbia to divisions, brigades, and other tactical units, and may detail officers of appropriate grade either from the National Guard or the Regular Army to command such units: *Provided*, That where complete units are organized within a State, Territory, or the District of Columbia the commanding officers thereof shall not be displaced."

Has the Congress the power, under the Constitution, to establish command relations under which the President (a) may place officers of the Regular Army in command over any part of the militia not in the service of the United States, or (b) may place officers of militia in command over any part of the militia of another State also not in the service of the United States?

10. The assignment of an officer to command an organization involves an exercise of command over both the officer and the organization. The section here under consideration is manifestly intended to be operative when the militia is not in the service of the United States for the purpose of executing the laws of the Union, suppressing insurrections, or repelling invasions (clause 15, sec. 8, Art. I, Constitution of the United States), and those purposes are the only ones for which the militia may be called into the service of the United States. Section 2 of Article II of the Federal Constitution provides that "the President shall be the Commander in Chief \* \* \* of the militia of the several States, when called into the actual service of the United States." There is no other constitutional grant of power to the President to command the militia. It follows that the President may not, either by himself or through others under his authority as Commander in Chief of the Army, exercise command over any part of the militia not called into the service of the United States for one of the three constitutional purposes above mentioned. It would seem clear, therefore, that the President, under the Constitution, may not be authorized to assume such command over a militia organization not in the service of the United States as would necessarily be involved in assigning to the command thereof either an officer of the Regular Army or an officer of the National Guard; and further, that the President may not be authorized to assume such command over an individual officer of the National Guard as would be involved in assigning the latter to duty in command of a National Guard organization, neither being in the service of the United States. This leads me to the conclusion that both branches of the question stated above must be answered in the negative and to express the opinion that section 66 (64), supra, is not in harmony with the Federal Constitution.

(3) COURTS-MARTIAL.

11. In another group of provisions designed to federalize the militia, the solution of the problem is sought to be promoted by establishing a system of courts-martial and by providing a military criminal code. Those provisions are found in sections 104 to 110 (101 to 107). Section 104 (101) establishes for the militia not in the service of the United States a system of courts-martial, general, special, and summary, the composition and jurisdiction of which, except in the matter of

punishments, is to be the same as those of courts-martial provided for by the laws and regulations governing the Army. Sections 105 (102), 106 (103), 107 (104), and 108 (105) specify the authority or authorities by which each of the various courts may be appointed, and prescribe the limits of the punishing powers of such courts. Section 109 (106), provides that no sentence of dismissal or dishonorable discharge, except when in the service of the United States, shall be executed until approved by the governor of the State or Territory or the commanding general of the militia of the District of Columbia. Section 110 (107) deals with the powers of courts-martial in the matter of warrants, subpoenas, etc., and with the manner and means of executing sentences. The consideration of this group of sections raises a constitutional question which may be stated as follows: Has the Congress power, under the Constitution, to provide for the militia not called into the service of the United States in the constitutional sense not only a system of courts-martial but a military criminal code defining offenses and prescribing punishments and the manner of executing the latter?

12. While the language employed in this group of sections is such as to raise doubts in respect of certain details of some importance, the intent is clearly to create military courts, general, special, and summary, with jurisdiction to try officers and enlisted men of the National Guard for offenses defined, denounced, and made punishable by the Articles of War for the government of the Armies of the United States, whether such offenses be committed at encampments, maneuvers, or elsewhere, including the home stations of National Guard organizations, or while on duty under State authority in aid of the civil power of the State; in other words, to create a military judicial system with jurisdiction to try officers and enlisted men of the National Guard for offenses committed when such officers and enlisted men are not in the service of the United States in any constitutional sense.

13. If the enactment of those sections is to be regarded as warranted by the Constitution, it would seem to be necessary to justify the enactment as an exercise of the power to provide for organizing and disciplining the militia, for, under the terms of the Constitution, the power of the Congress to provide for governing the militia may be exercised only in respect of such part of the militia as may be employed in the service of the United States. (Cl. 16, sec. 8, Art. I, Constitution United States.)

14. To organize is to determine what elements shall compose an organic whole and to arrange and dispose of them as constituent parts of the same. Authority "to provide for organizing" the militia implies authority to prescribe the arrangement of the personnel comprising the militia into units and grades standing in the relation of coordination or subordination in respect of each other, to the end that each unit and grade may have a definite systemic relation to others. Such is the ordinary signification of the phrase and such has been the practical construction placed upon it by the Congress in the enactment of militia legislation under the Constitution. To discipline, in the broadest sense of the term, is to educate; to develop by instruction and exercise, to train, to accustom to regular and systematic action, to bring under control so as to act systematically, to train to act together under orders, to teach subordination, to form habits of obedience; or, more narrowly, to improve by corrective and penal methods, to chastise, to inflict penalties. In which of these two senses is the constitutional phrase "to provide \* \* \* for disciplining the militia" to be construed? The immediate context suggests an answer to the query, for the clause conferring upon the Congress authority "to provide for \* \* \* disciplining the militia" also confers upon the Congress the authority to provide "for governing such part of them as may be employed in the service of the United States," while expressly "reserving to the States, respectively, \* \* \* the authority of training the militia according to the discipline prescribed by Congress."

Seeking the meaning of the words "disciplining" and "discipline" from the associated word "training" and the contrasted word "governing," it is clear that the former have reference to a system of prescribed rules, in accordance with which the military exercises, instruction, and organizational activities, which constitute the training, are to be conducted; but this training is under the authority of the States. Discipline, therefore, as employed in the constitutional clause under consideration, is the basic rule upon which the training proceeds, but not the training itself. The training and the power of conducting, accomplishing, and enforcing it are expressly left to the authority of the States consonantly with the general power of governing the militia, of which, indeed, that authority is but a necessary part. This construction squares with the practice for more than a century under the Constitution. To govern is to exercise a directing or restraining power over, to control or guide, to rule or regulate by right of authority, to control and restrain the actions of men. In the Constitution the term "governing" is evidently not employed as equivalent either to "organizing" or "disciplining," but as having reference to a separate and distinct power to be exercised by the Federal Government only in respect of such parts of the militia as may be employed in the service of the United States. Furthermore, the Constitution, after conferring upon the Congress power to "raise and support armies," conferred also the power "to make rules for the government and regulation of the land \* \* \* forces"; and it is under the latter clause that the Congress has from time to time enacted Articles of War and other laws specifically providing for the institution of courts-martial (1 Winthrop's Military Law and Precedents, 52) for the purpose of exercising the restraining and punitive powers which, in the final analysis, are the means of governing the Army.

15. The foregoing considerations lead to the conclusion that the power to establish a system of courts-martial and prescribe a military criminal code for the militia is not to be deduced from the authority to provide for organizing and disciplining the militia but must be deduced from the power to provide for governing the militia. Inasmuch as the latter power is conferred upon the Congress only in respect of such part of the militia as may be employed in the service of the United States, it may not constitutionally be exercised in respect of the militia under any other conditions. If the view here expressed is sound, as I think it is, the constitutional question last stated must be answered in the negative, and for want of constitutional support the enactment of sections 104 (101) to 110 (107) of the bill in reference would be without mandatory legal effect.

(4) AVAILABILITY FOR FEDERAL MILITARY PURPOSES (DUAL ENLISTMENT).

16. Thus far the discussion has been confined to the more important of those provisions of the bill designed to increase Federal control over the Organized Militia when not in the service of the United States. We now come to the consideration of certain provisions that may be regarded as designed to extend the availability of the National Guard for Federal military purposes.

Section 73 (71) prescribes that in addition to including "an obligation to bear true faith and allegiance to the United States and support

the Constitution thereof and obey the orders of the President of the United States and the officers appointed over them," the contract of enlistment in the National Guard shall contain the following agreement:

"In the event that the President of the United States shall order the National Guard into active service because of actual or threatened war within three years from the date of my enlistment I agree to serve as a member of the National Guard in the service of the United States, within or without the continental limits of the United States, for the period of three years from the date of said order or until discharged by order of the President of the United States."

Section 75 (73) provides in substance that no person shall continue in office or enter upon the duties of an office in the National Guard until he shall have "taken the prescribed oath, which shall contain the same agreement as to service prescribed for enlisted men."

Section 115 (112) provides that—  
"When Congress shall have authorized the use of the armed land forces of the United States requiring the use of troops in excess of those of the Regular Army, the officers and enlisted men of the National Guard, who have signed an enlistment or agreement to render military service to the United States and have received and accepted compensation for training for such service under the provisions of this act, and who have passed the required physical examination at the time of their enlistment, may be ordered into the service of the United States by the President to serve for a period of three years within or without the continental limits of the United States, unless sooner discharged by the President. Officers and enlisted men in the service of the United States under the terms of this section shall have the same pay and allowances as officers and enlisted men of the Regular Army."

Here arises the question: If these sections be enacted, is their enactment properly to be regarded (a) as an exercise of the constitutional power to raise and support armies, or (b) as an exercise of the constitutional power to provide for calling forth the militia? If the proposed legislation is legally sufficient to create or to authorize the creation of the status of Federal soldiers, the individuals concerned may become available for all Federal military purposes; but if the legislation is not legally sufficient to create or to authorize the creation of such status, then the individuals concerned will remain militiamen, available to the Federal Government only when called forth to execute the laws of the Union, suppress insurrection, or repel invasion, and for those purposes only.

17. It seems clear that there is no intention to make Federal soldiers out of the individual beneficiaries under the act at the moment they become such beneficiaries. In effect, sections 73 (71) and 75 (73) provide that the prospective recipient of pecuniary benefits under the proposed act shall, in present, agree to render military service to the Federal Government in future. Furthermore, it seems clear that a man can not voluntarily agree now to render voluntary service in the future so as to preclude him from refusing to render that service when it shall become due. On general legal principles and upon authority the prescribed agreement can ripen into the Federal military status only by some act of the promisor done with the purpose of consummating the status and sufficient for the purpose (Tyler v. Pomeroy, 8 Allen (Mass.), 481, 485, 503, 504, 505), unless the Congress shall prescribe that the happening of some event or contingency, although unrelated to the promisor or some action taken by a designated Government official, shall serve to accomplish, irrespective of the will of the individual, the consummation of the Federal military relation. In this view the agreement has little or no value as a step toward creating the status of Federal soldier solely at the will of the Federal Government, except that if section 115 (112) may properly be viewed as draft legislation, the individuals who have entered into the agreement and have accepted the resultant pecuniary benefits may be regarded as a specially designated class upon which the draft shall first operate.

18. The power of Congress to raise armies is plenary. That this power may be exercised by forced draft was determined during the Civil War; and I think that it may be asserted, both upon principle and upon authority, that in the exercise of this power Congress may compel all of the militia, whether organized or not, into the Army of the United States. Would the proposed measure, if enacted, represent an exercise of this power? In this connection it is to be borne in mind that an act to compel the citizen into the military service of the United States can operate only in derogation of his usual constitutional rights, and therefore that the language of such an act, to be sufficient to achieve its purpose, should be clear and unquestionable.

19. Section 115 (112) provides in substance that when Congress shall have authorized the use of land forces of the United States in excess of those comprising the Regular Army, the officers and enlisted men of the National Guard, the beneficiaries of the legislation, "may be ordered into the service of the United States by the President to serve for a period of three years within or without the continental limits of the United States."

The section contains no language suggesting that a change of character and status from militiaman to Federal soldier is in contemplation, except as it may be inferred from the clause, "to serve" \* \* \* within or without the continental limits of the United States."

However, this suggestion is neither convincing nor forceful when the fact is taken into consideration that substantially the same language is employed in section 4 of the act of January 21, 1903, as amended by the act of May 27, 1908 (35 Stat., 400), legislation which in terms authorized the calling forth of the militia only for one or the other of the three purposes specifically mentioned in that connection in the Constitution. Another suggestion, rather persuasive, upon which it would be possible to base an argument that the militiamen ordered into the service of the United States pursuant to the authority conferred by section 115 (112) are to be regarded as Federal soldiers is to be found in section 78 (76), which reads as follows:

"All vacancies which exist or occur in the grade of second lieutenant of any portion of the National Guard in the active service of the United States shall be filled by the President, by and with the advice and consent of the Senate, from the enlisted men of the National Guard of the State, Territory, or District in which the vacancy occurs. All other appointments and promotions shall, under like circumstances, be made by the President, by and with the advice and consent of the Senate."

This section assumes to vest in the President, by and with the advice and consent of the Senate, the power to fill all vacancies in commissioned grades in "any portion of the National Guard in the active service of the United States," a power that may be exercised by the President only in respect of the Army, as distinguished from the militia in the service of the United States. But putting upon the proposed legislation the most favorable construction from a Federal point of view and accepting, for the purpose of further discussion, the view that it does contemplate the formation of a branch of the Army of the United States

from the militia personnel ordered into the Federal service under section 115 (112), there still remains the question: Is the language of the bill legally sufficient to authorize the President to compel the militia beneficiaries to serve therein—i. e., as members of the Army of the United States?

20. The authority to make the necessary order is coupled with a reference to the prior agreement to serve the United States. In terms there is no provision for compelling a compliance with the order, except so far as the power to exercise such compulsion may be inferred from the use of the term "ordered" and from the provision appearing in section 103 (100) that:

"The militia when called into the service of the United States shall, from the time they are required by the terms of the call to respond thereto, be subject to the laws and regulations governing the Regular Army."

The language employed in this latter section, "called into the service of the United States," when considered in connection with similar language employed in the Constitution and also in prior legislation authorizing Federal use of the militia as such, points quite strongly to the conclusion that the section is to be construed only as having reference to the militia when called into the Federal service as militia. This would remit us, then, to section 115 (112) in the search for authority to enforce the transfer from a militia status to the status of Federal soldier. That section, viewed as authority to create an additional branch of the Army, is open to two constructions. Under the first the section would do no more than to confer upon the President authority to embody in the Army officers and enlisted men of the militia if they consent, or at least do not object, to the transfer; and under the second the section would authorize the President to draft or compel the militiaman into the Army. However, the application of accepted rules of statutory construction would seem clearly to lead to the adoption of the construction first indicated and to the rejection of the second. Therefore, whatever may have been the intention of the framers of the bill, I can not avoid the conclusion that the language employed is not sufficiently clear and positive to abridge the usual civil rights of citizens, and, in the absence of a voluntary response to the order, subject them to Federal military control, even though they may have signed the agreement provided for in sections 73 (71) and 75 (73); or, in other words, that the project, if enacted, would not amount to a draft act.

#### RIGHT TO CALL THE MILITIA INTO THE SERVICE OF THE UNITED STATES FOR TRAINING.

21. Although in the bill under consideration it is not expressed in terms, various provisions serve to give the impression that reliance is placed upon the theory that, under the Constitution, the Congress may provide for calling the militia into the service of the United States solely for the purpose of training. This would appear to justify a brief reference to the military bill (H. R. 12766) now pending in the House of Representatives. Generally speaking, the provisions above reviewed are parallel in the House bill, but in the latter they are associated with a specific provision, which reads as follows:

"Sec. 54 (53). \* \* \* The President may call into the service of the United States the National Guard or any part thereof to participate in encampments, maneuvers, or other exercises, including outdoor target practice and field or coast-defense instruction, for at least 15 days each year. \* \* \* And he shall have power to call said National Guard or any part thereof into the service of the United States in connection with units of the Regular Army for the purposes aforesaid."

Here in plain terms is a provision calling the militia into the service of the United States solely for the purpose of training. As I view it, this provision is in direct conflict with clause 15, section 8, Article I of the Constitution, which confers upon the Congress the power "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions."

This enumeration of the purpose for which Congress is empowered to call the militia into the service of the United States would be meaningless if its power extended to calling them forth for other purposes. I am unable to construe this constitutional provision in any other way than as limiting to the three purposes specified the power of Congress to authorize the calling forth of the militia. Such was the view of the Attorney General, who, in an opinion rendered to the Secretary of War on February 17, 1912, held as follows:

"It is certain that it is only upon one or more of these three occasions—when it is necessary to suppress insurrections, repel invasions, or to execute the laws of the United States—that even Congress can call this militia into the service of the United States or authorize it to be done." (29 Op. Atty. Gen., 323-324.)

Such also was the view taken by the House Committee on Militia in 1840, when it had before it a bill proposed by the then Secretary of War (Poinsett), substantially identical with the foregoing provision of the House bill. Secretary of War Poinsett was informed by the House committee, in substance, that the power of Congress did not extend to calling the militia into the service of the United States for such purpose, and upon further consideration he acceded in this view. And such, too, appears to have been the view of William Henry Harrison, who, on February 28, 1817, proposed a constitutional amendment in the form annexed to this statement for the purpose of conferring upon the Congress the very power which this legislation assumes to exist. Further reinforcing this view is the consideration that if the Congress may provide for calling the militia into the service of the United States for a period of 15 days each year of an enlistment therein for the purpose of training, a purpose not enumerated in the Constitution, it may also provide for calling the militia into such service for 365 days of each year of an enlistment, and for other purposes not constitutionally enumerated, and as this would result in placing the militia continuously under the command of the Federal Executive the substantial distinction between the militia and the Army would cease to exist.

#### SUMMARY.

22. Summarizing the powers over the militia sought to be exercised, either in express terms or by what appears to be necessary implication, in the pending legislation, they include:

(a) The power to provide for calling the militia into the service of the United States for the purpose of training—in conflict, as I view it, with clause 15, section 8, Article I, of the Constitution.

(b) The power to command the militia when not called into the service of the United States for a constitutionally enumerated purpose—in conflict, as I view it, with clause 16, section 8, Article I, and clause 1, section 2, Article II, of the Constitution.

(c) The power to establish courts-martial for the trial of officers and soldiers of the National Guard when not in the service of the

United States—in conflict, as I view it, with clause 16, section 8, Article I, of the Constitution.

23. I have already pointed out that sections 73 (71) and 75 (73) are ineffective to create the status of Federal soldiers in present, and the ineffectiveness of section 115 (112) as a draft to compel military service.

#### CONCLUSION.

24. For reasons hereinbefore outlined, I am led to the conclusion that so much of the bill here under consideration as relates to the militia would not serve in any large measure to accomplish the purpose of the bill, to make further and more effectual provision for the national defense: First, because certain material provisions contemplate no more than a Federal jurisdiction, if such it may properly be termed, based upon a consent that may be withdrawn at any time, generally, without penalty other than the interruption of the right to receive pecuniary benefits; second, because constitutional limitations upon the power of Congress to provide for calling the militia into the service of the United States and upon the power of Congress to legislate in respect of the militia not in the service of the United States would, in my opinion, render void certain basic portions of the proposed legislation and thus emasculate the same; and, third, because the provisions which contemplate the use of the organized militiaman for Federal military purposes would not, if enacted, represent such an unequivocal exercise of the undoubted right of the Congress to provide for drafting or compelling the manhood of the country into the Federal military service as to justify reliance upon them.

E. H. CROWDER,  
Judge Advocate General.

AMENDMENT PROPOSED BY MR. W. H. HARRISON (AFTERWARDS PRESIDENT OF THE UNITED STATES) IN THE HOUSE OF REPRESENTATIVES, FEBRUARY 28, 1817, TO THE CONSTITUTION OF THE UNITED STATES.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of both Houses concurring therein), That the following amendment to the Constitution of the United States be proposed to the legislatures of the several States, which, when ratified by the legislatures of three-fourths of said States, shall be valid, to all intents and purposes, as a part of the said Constitution:

Congress shall, concurrently with the States, have power to provide for training the militia according to the discipline prescribed for that purpose, and whilst engaged in that service they shall be subject to the rules and regulations prescribed for the government of the militia, when in the military service of the United States, and also to provide for teaching in the primary schools and other seminaries of learning in the several States the system of discipline prescribed for the militia.

DISCUSSION OF THE MILITIA PAY BILL (H. R. 8141, 62D CONG., 1ST SESS.).

MEMORANDUM FOR THE SECRETARY OF WAR.

FEBRUARY —, 1913.

Subject: The militia-pay bill (H. R. 8141, 62d Cong., 1st sess.).

This study of the above bill has been undertaken in response to a desire expressed by the Secretary of War for a discussion of the constitutional features of the proposed measure.

On February 17, 1912, the Attorney General, responding to a question submitted to him by the Secretary of War, gave it as his opinion that the Constitution affords no warrant for the use of the militia by the General Government, except to suppress insurrections, repel invasions, or to execute the laws of the Union, and forbids such use for any other purpose. Notwithstanding the fact that the militia is a considerable body of land forces well equipped and to an effective degree trained and prepared for war, the General Government is denied the general power to use them as such in those exigencies jeopardizing the very life of the Nation. During such emergencies the military strength of the Nation would be vastly increased if the militia organizations could pass without break from the service of the several States to the service of the United States and be made available as Federal soldiers and organizations for general military purposes. The bill under discussion was designed to accomplish such transfer. Its whole purpose is to render the individual militiaman and his organization available for general military use in time of war or when war is imminent, or in other grave emergency, unrestricted by those limitations placed in the constitutional grant upon the Federal use of the Organized Militia; that is, it is the purpose of the bill to render the militiaman and his organization as available for general military use as is the Army of the United States.

This general purpose and the particular method of achieving it are clearly indicated and expressed in the following sections. Section 4 provides, among other things:

"That no money appropriated under the provisions of this act shall be paid to any person \* \* \* who has not voluntarily, in addition to his oath as a member of the Organized Militia, also agreed to render military service to the United States, as hereinafter provided."

Section 5 provides:

"That the President, with the consent of Congress, in time of war or when war is imminent, or in other grave emergency requiring the use of troops in excess of the Regular Army beyond the limits of the United States, may by order transfer to the Army of the United States any portion of the Organized Militia receiving, or entitled to receive, the benefits of this act, to serve therein for the remainder of their respective terms of enlistment or commission, unless sooner released by the President. \* \* \*

And the same section continues:

"\* \* \* and any Organized Militia so transferred shall, from the date specified in the order of such transfer, become for the time being a part of the Army of the United States, and subject to the same laws in so far as the same may be applicable to them during their service under such transfer."

Said section further provides that any Organized Militia so transferred "shall be available for any duty for which the Regular Army or Volunteer Army may be employed."

The bill also carries with it the following penalty clause:

"Provided, That any member of the Organized Militia who, having agreed to render military service to the United States under the provisions of this act, refuses or neglects to present himself for service when so transferred shall be subject to the trial therefor by a duly

constituted court-martial, under such regulations as the President may prescribe."

And when, in the discretion of the President, the necessity for their further use no longer exists, this section provides:

"\* \* \* He shall release said organizations and the members thereof from liability to render further service under said order of transfer, and said organizations and the members thereof, when so released, shall cease to be a part of the Army of the United States."

Section 6 of said bill also provides, in part:

"That whenever organizations \* \* \* are transferred to the Army of the United States under the provisions of this act, those organizations only must be \* \* \* transferred to such Army which have already received compensation under the provisions of this act, and, in addition thereto, such other organizations as have become entitled to receive compensation hereunder between the time of the last semi-annual disbursements and the time when such transfer is made."

It is, then, the purpose of the bill to make a member of the Organized Militia, falling under and complying with its terms, a Federal soldier.

Congress can provide for a Federal soldiery only under its constitutional grant to "raise" armies, and it is self-evident that any army raised by Congress must consist of one or both of two classes only—those who volunteer under the law and those who are compelled by the law to enter the military service. Therefore the individual, whether a member of the Organized Militia or simply a citizen capable of bearing arms, becomes a Federal soldier by one or the other of these methods. Now, while the bill as drawn requires that no money appropriated thereunder shall be paid to any person who has not voluntarily, in addition to his oath as a member of the Organized Militia, also agreed to render military service to the United States when transferred by order of the President to the Army of the United States, nevertheless it is the evident purpose of the bill not to rely solely upon the virtue and binding force of such an agreement, the legal sufficiency of which will be hereafter noticed, but rather upon the positive power to be conferred by Congress upon the President to transfer, compulsorily if need be, the organizations and their members to the Army of the United States. Passing for the present, then, all question of the sufficiency of the language of the bill to empower the President to that end, the fundamental question which should be given first consideration is—

#### I.

IS IT COMPETENT FOR CONGRESS TO PROVIDE BY LAW FOR DRAFTING THE ORGANIZATIONS OF THE ORGANIZED MILITIA INTO THE ARMY OF THE UNITED STATES?

The power of Congress to raise armies is plenary and exclusive (Tardie's Case, 13 Wall., 397; Jacobson v. Massachusetts, 197 U. S., 11; and the cases hereinafter cited and discussed). That the power may be exercised by forced draft has not since the Civil War been open to question, for it was so determined in cases arising under the Federal and Confederate conscript laws of that period. The draft acts of the Federal Government were tested in the courts and sustained in the following leading cases: McCall's Case (5 Phila., 268 (1863)); Kneidler v. Lane (45 Pa. St., 238 (1863)).

The constitutionality of the conscript acts of the Confederate Government was much more vigorously contested, and was, without exception, sustained with corresponding firmness by the courts of last resort of all the States of that Government before which the question came, in opinions justly celebrated for having set at rest this constitutional question. The following well-considered opinions upon the various conscript acts of the Confederate States Government—whose constitution as regards this power was the same as ours—leave nothing to be questioned:

Ex parte Coupland, 26 Texas Reports, 388; ex parte Tate, 39 Alabama Reports, 254; Fitzgerald v. Harris, 33 (Supplement) Georgia, 54; Jones v. Warren, 34 Georgia, 28; Jeffers v. Fair, 33 Georgia, 347; Burroughs v. Peyton, 16 Grattan (Virginia), 470.

The cases just cited sustain the following propositions:

(a) If there were no express grant "to raise and support armies," the right of the General Government could be sustained as a power inherent in national sovereignty.

(b) The power to "raise and support armies" is an express constitutional grant to the General Government; and there is no limitation as to the mode or manner of exercising it, by any other express provision, or by any necessary implication.

(c) The conscript laws do not violate any of the abstract or guaranteed rights of the citizen, nor assume over him any control not delegated by the Constitution.

(d) The grant of the power to make war and to raise armies carries with it by necessary implication, unless expressly withheld, the right to demand compulsory military service from the citizens; this express power, together with the implied power, is vested in the Congress of the National Government.

(e) The power to call out the militia, itself a compulsory service, does not limit the power to raise and support armies; nor is the right to raise and support armies to be taken in subordination to the power conferred over the militia.

(f) The General Government is not dependent upon the will either of the citizens or of the State, to carry into effect the power to raise and support armies.

Congress, then, has a general and plenary power to raise armies by draft or compulsion; and, at the outset, it will be informing to examine into the question whether a member of the Organized Militia is subject to the power of Congress in this regard like any other citizen, irrespective of his militia status. Legislative and judicial precedents show conclusively that his status in the militia affords him no constitutional exemption. Drafts of State troops were resorted to during the Revolutionary War (2 Jour. Cong., 458-459; 3 idem, 83), and the act of June 30, 1834, refers to "drafted militia" as in the service against Indians on our frontier. But the first instance in our history in which the Army of the United States has been recruited by conscription is that contained in provisions of the act of March 3, 1863 (12 Stat. 731), which was necessitated by the fact that owing to defects in the operation of the existing militia systems of the United States, the calling forth of the militia under the Constitution and the act of July 17, 1862, had proved quite inadequate to the emergencies of the period. The conscript act of 1863, supra, proved to be an effective measure, rendering liable to draft all able-bodied citizens of the United States and all aliens who had declared their intention to become citizens, between 21 and 45 years of age; but while the act provided for the acceptance of substitutes and for pecuniary commutation in lieu of service, it is a remarkable fact that the governors of the several States were the only officers of the State governments ex-

cepted from the provisions of the act and rendered exempt from liability to the Federal draft.

The present militia law defines the militia to consist of every able-bodied citizen of the several States, Territories, and the District of Columbia, and every male of foreign birth who has declared his intention to become a citizen, who is more than 18 and less than 45 years of age; it divides the militia into two classes—the Organized Militia, consisting of the regularly enlisted, organized, and uniformed active militia of the several States, etc., participating in the annual appropriations made by Congress, and the reserve militia, consisting of the remainder. The "militia" in the general and constitutional sense consists of the entire arms-bearing population of the several States, and it may be presumed that Congress in the present militia law has placed its own definition upon what is meant by the arms-bearing population in defining the militia of the several States. The only source from which armies may be raised is the arms-bearing population of the United States; the only source from which the militia may be organized is the arms-bearing population of the several States. These sources are one and the same. The unlimited power to carry on war and to raise armies is granted to the United States and denied generally to the States; as a common-sense proposition it can not be supposed that the enrollment and enlistment of a citizen in the Organized Militia of a State takes him, in and of itself, out of that source from which United States Armies must be raised. Though an Organized Militiaman of the State, he still remains a citizen of the United States and subject as such to the supreme power of the General Government to draft him in its armies. Such a proposition accords with the well-established theories that in the exercise of the war power the Union operates upon the individual citizen directly and not upon the States, nor upon the individual through the medium of the States; and that it is the effect of the Constitution to render the Federal Government supreme in all that pertains to war; it also accords with the theory that the power, exercised by the States under the confederation, of drafting their militia in response to a requisition made upon them by Congress for regular soldiers, was conferred by them on the General Government. So, too, the conscript acts of the Confederate States Government, and the draft act of the United States during the Civil War, evidently proceeded upon the proposition that enrollment in the militia or enlistment therein could not operate to place the citizen beyond the reach of the Federal power, as these acts made no exemption of enrolled and organized militia. And to the same effect are the judicial decisions.

None of the cases cited and quoted, supra, holding that Congress has the power to resort to draft, has excluded from the application of that power any of the Organized Militia; all of them, on the other hand, have affirmed the contrary view, in a general way, by the use of broad and emphatic language to that effect; while some of them, especially those decided by the courts of the Confederate States, where the point was specifically raised, have pointedly declared that the Organized Militia, as individuals, are subject to the compulsory power of Congress to raise armies. For instance in *Ex parte Tate*, supra, the Supreme Court of Alabama said:

"Until he (the citizen) ceases to be a citizen, with the rights and duties which pertain to a citizen, he can not exonerate himself or be excluded by the legislative power from the obligations which inherently attach to that relation. Protection is his right and allegiance his duty so long as he remains a citizen; and the highest duty of allegiance is to respond to the call of his country for soldiers when her liberty, including his own, is threatened and her existence endangered by an invading enemy."

In *Fitzgerald v. Harris*, supra, the Supreme Court of Georgia, after holding that Congress could not grant irrevocable exemption from draft, used the following significant language:

"Even in war, when it becomes necessary to send into the field a larger proportion of the population, it is greatly desirable that another portion be left at home. There are always men who can be more useful at home than others and more useful there than in the field. As, in the raising of armies, the course has not been to take the whole population, or even the whole of a class (where resort is had to classification), in the exercise of sound discretion exemptions may be granted as incidental to the general power, but they must be revocable at the will of Congress.

"No man or set of men can be placed without the pale of legislative control in this matter for a single day."

In *Burroughs v. Peyton*, supra, the Court of Appeals of Virginia said:

"It is true that the Constitution does recognize the militia and provides for using it, as well as the Regular Army, in the military service of the country. Well-regulated militia has (as it is stated in one of the amendments) always been regarded as necessary to the security of a free State. It was therefore proper that provision should be made in the Constitution for its organization, and for that authority to be exercised over it by the State government and Congress respectively. It was not probable that, in the exercise of the power to raise armies, Congress would, under ordinary circumstances, materially diminish the number of the militia. But it can not be true that, with a view to preserving the militia entire, it was intended to deny to Congress the right to take individuals belonging to it into the Regular Army. This construction would prevent Congress from obtaining from its ranks not only conscripts but volunteers also; but as the militia embraces the whole arms-bearing population, it would render it necessary that the Army should contain nothing but foreigners enlisted for the purpose and having no interest in common with the people of the country, nor can we imagine that such was the intention of the framers of the Constitution.

"The true interpretation of the Constitution with reference to this matter would seem to be that the power to use the whole military force of the country was conferred upon Congress, and it was left to their discretion to fix, as the varying interests of the country may require, the relative proportion of Regular troops and militia to be employed in the service. If it should appear at any time to be appropriate to increase the Army, it might be done by taking men from the militia, either as Volunteers or as conscripts, the action in either case being upon the individual citizen and not upon the militia as an organized body. As it is impossible to foresee how large an army the exigencies of the country might demand, the number of militiamen to be thus transferred to its ranks was wisely left to the discretion of Congress."

It will be noted that the court in this case expressed the view that the action of the General Government was upon the individual and not upon the militia as an organized body, which in a general sense is true; but later on in this discussion it will be shown that the court explained and modified its language to such an extent that this opinion may in fairness be quoted as authority for the proposition that the Government may also take the militia as organized bodies.

In *Ex parte Coupland*, supra, the Supreme Court of Texas, in answering the argument that the Organized Militia was not subject to draft into the Armies of the General Government, but could only be called forth as militia, as provided by the Constitution, said:

"The fallacy of the position seems to be manifest from the qualifications which they are forced to give it. For, as we have shown, the citizen has no right to exercise volition with regard to preference of military duty so as to impair or qualify the power of Congress to raise armies; and if the qualifications exist by reason of the rights of the State over the arms-bearing citizens as to militia, and to appoint their officers when in the service of the Confederate States, these rights can not be affected by the voluntary action of the citizen. Nor can the difficulty be gotten over by saying that it is further to be assumed that the State must be presumed to have consented to his voluntary enlistment, for it is as impotent as the citizen to destroy in this manner a constitutional right conferred upon Congress or thus to confer one not otherwise given. \* \* \* The individual is equally an arms-bearing citizen whether he goes into the service voluntarily or otherwise. For surely the doctrine is not to be advanced that individuals, companies, or regiments of the 'well-regulated,' arms-bearing citizens 'necessary to the security of a free State,' which has been organized, armed, and disciplined as provided for by Congress, and for whom a call is made by the Confederate States in pursuance of the Constitution, cease to be integral parts of the arms-bearing citizens of the State because they preferred to volunteer their services directly to the Confederate Government and it is willing to accept them. It is said, however, that \* \* \* the control of the State over its militia may be entirely destroyed, but would not the result be the same if an equal number of its militia were to volunteer into the service of the Confederate States? The truth of the matter is that when the citizen goes into the army raised by Congress, either voluntarily or in obedience to law requiring him to do so, he does this as a citizen and not as a militiaman. Congress has not the right to raise armies in either way beyond the necessities of the Government for carrying into effect its granted power, but in either case the citizen when placed in its service is temporarily withdrawn from the control of the State as a militiaman, and for the time being the right of the State—or, more properly speaking, the right of the State government over him—must yield to the more pressing and important demand for his services by the Federal Government to enable it to discharge the duties for which it has been authorized to raise and support armies."

It can not but be admitted that the reserve militiaman is subject to draft. If the Organized Militiaman is not it will aid to clarify the situation by asking why not, and seeking the possible objections to such a measure. If there be any constitutional objections they must be based upon only two possible grounds, namely, that such a measure would violate his constitutional rights as a citizen, or, would operate in derogation of the reserved rights of the State. The constitutional rights of the Organized Militiaman as a citizen are those of a citizen and of the reserve militiaman, nothing more or less, which statements is a sufficient dismissal of that ground. As to derogation of the reserve rights of the State, sufficient has already been said, it seems to me, to show that the State acquires only a subordinate power over him—as a matter of law, no power at all as against the supreme right and power of the United States.

Now, if it be conceded—and enough, I think, has already been shown or will be shown to cause the concession—that the individual militiaman may be compelled into the Army of the United States, then, as a general proposition, an aggregation of individuals in an organization may likewise be compelled, so far as the rights of the State are affected. If all the members of any organization, officers and men, may volunteer or be compelled to enter the Army of the United States as individuals, even to the last man, it is conceding to the State only a shadow of power to hold that she is entitled to the organization without the men composing it. Speaking practically, if indeed not legally, her rights are not adequately protected if she must yield the kernel though retaining the husk. The Constitution could hardly countenance such refinement, and the legislative and judicial precedents have not been derived from such close distinctions.

In any organization the composite parts are not independent but interdependent; they are not separate but bound together and regulated by established mutual relations. If the independent parts, as such, be taken with their interdependent relation, then are they taken as an organization. Those relations in military organization are marked by military hierarchy based on grades, with attendant rights and duties—officers, noncommissioned officers, and privates of various kinds and departments. The bill provides that the militia be taken as organizations—that is, with the relations and the grades to mark them. It is true that these military relations and officers, when once the organization becomes Federal, draw upon the United States and not the State as the source of authority. There may, indeed, be some question as to the sufficiency of the bill to reestablish or create anew these relations and offices as they must exist in the Army of the United States; but if the bill is defective in this regard it is because it does not go far enough in exercising the constitutional powers of the General Government. If the United States may draft an officer of the militia, not in his capacity as an officer of militia but as a citizen, without derogation from the right of the State, the latter may not complain if he be transferred, or drafted, to the Army of the United States with the corresponding office in that establishment. There is no question that the United States has the constitutional power to take the entire personnel of the Organized Militia as citizens and then establish among them the corresponding offices and relations previously existing in their organizations; and if the United States does so, or undertaking to do so, fails in its efforts because it does not exert the full power, that is a matter of Federal and not of State concern.

There is another consideration in point here: Under the Constitution Congress has the power "to provide for organizing, arming, and disciplining the militia," and even if this power is not exclusive, nevertheless, "when once Congress has carried its power into effect, its laws for the organization, arming, and disciplining of the militia are the supreme law of the land, and all interfering State regulations must necessarily be suspended in their operation." (*Houston v. Moore*, 5 Wheat, 51.)

Now, there is reserved to the States the right to appoint the officers of the militia, and at most the implied power to provide for the organization of the militia when the United States has not done so, or as regards matters not covered by Federal regulation, and no more. Not only may Congress determine who shall and who may not compose the militia; but, having done so, the State government has no legal authority to prescribe otherwise (14 Gray; — *Mass.*, 619). Congress may also determine what part of the militia shall be organized and may appor-

tion the officers and men; it may determine what military officers there may be, although having so determined it is the right of the State, expressly reserved, to appoint the officers. Organization rests within the exclusive power of Congress, if it chooses to exert the power, although the State has the reserve power to appoint the officer it may not create the office nor define its place in the military hierarchy nor its relation to the organization, if Congress should choose to legislate to that effect. Relations, then, over which Congress may exert at its pleasure such an exclusive control are not relations based on and flowing from rights reserved to the State and necessary, within the intentment of the Constitution, to a State's indestructible character. The history, legislatively speaking, of raising United States armies, shows conclusively that the organizations of enrolled militia can be disposed of by the States to the General Government without affecting the indestructibility of the States. During the Government under the confederation the States maintained an active militia, and frequently used it to supply the requisitions made on them for regular soldiers in the Continental Army. In *Burroughs v. Peyton*, supra, the court cites many instances where Virginia made up the deficiencies in her quota by requiring drafts from the militia by legislation, which provided that "each man so drafted shall be considered to all intents and purposes as a regular soldier and shall serve as such for three years, if the war should so long continue." This power to compel the militia of the State into the Continental Army would appear to be one of the very powers relinquished by the States and conferred upon the General Government, the exercise of which is not subject to "interruption from a State or State authorities."

The States themselves have recognized the advisability of parting with their militia organizations when a national crisis has demanded it; nor have they ever hesitated to do so on the ground of destroying thereby a necessary State instrumentality. In the Civil War the several States parted first with their active militia and militia organizations in raising their quotas for the Army of the United States, and the State organizations, with their members, became, when mustered into the service, United States Volunteers. The same thing prevailed in the South during that period; and in the War with Spain the Volunteer Army was raised in the same manner. This is logical. A military organization already exists; the Federal Government has hitherto received the organization, or so much of it as has measured up to the required standard, and the State has not hesitated to give it up. But this has been accomplished, the State consenting, through a transmutation uncertain and troublesome from State militia to United States Volunteers. I do not mean to say that Congress has ever provided for taking such organizations; I only mean to say in all those instances the States have, as a matter of fact, relinquished control over their militia by offering them at once to supply their quotas as United States Volunteers, and usually no other militia has been organized instead. This long-continued course of conduct is some evidence of the correctness of the legal proposition that such organizations are not those necessary instrumentalities of the State which are placed by necessary implication beyond the power of the General Government.

Congress may provide for organizing the militia of the several States. If it may not also provide for taking the individuals thereof and such organizations as may have been prescribed by Congress or by the States, Congress silent and consenting, this one effective means for the "formation, direction, and support of the national forces"—the language used by the great publicists of that day in declaring that all such means for the common defense were necessarily conferred upon the General Government—is denied it. The Constitution puts no such limitation on the General Government. Intrusted with the common defense, it is vested with all the powers requisite to the complete execution of the trust. Any means for the formation of the national forces which, in the discretion of Congress, are adapted to the need and tend directly to the execution of the constitutional powers are in themselves constitutional. This was the view of our fathers. This view has become the law of the land through the authoritative decisions of the Supreme Court of the United States, followed by the courts of all jurisdictions without question. The decisions are a unit to the effect that in order to carry into execution the powers granted by the Constitution Congress may employ those means, in its judgment, the most advantageous. Where such means are really calculated to effect the object intrusted to Congress, the courts can not inquire into the degree of their necessity. Such is the rule laid down by the great Chief Justice Marshall in the celebrated case of *McCullough v. Maryland* (4 Wheat., 413), and the power to raise armies is construed in the light of this rule as being unqualified. (See *Antrim's Case* (1863), 1 Fed. Cases, 1063, and cases cited on page 4, supra.)

In *Ex parte Coupland*, supra (1862), the Supreme Court of Texas, in sustaining the validity of the Confederate conscript law, had occasion to examine into the extent to which Congress might go in the exercise of its power to raise armies without derogation of the reserve rights of the State. Though this court, as well as those of the several Southern States whose decisions are hereinafter discussed, was construing a constitution which, in its provisions under consideration, was the same as ours, it must be remembered, in view of the political conditions then obtaining, that the courts of the Confederate States were committed to a view of constitutional interpretation which, in determining the relative powers of the General Government under the several States, gave to the latter a latitude not conceded to them under the Union. In the *Coupland* case the court, after deciding that the law was not an unconstitutional limitation upon the rights of the citizen, proceeded to discuss thoroughly its effect upon the political rights of the States, in the course of which it said (p. 397):

"It is said, however, that unless this qualification is placed upon the power of Congress to raise armies, the control of the State over its militia may be entirely destroyed. But would not the result be the same if an equal number of its militia were to volunteer into the service of the Confederate States? The truth of the matter is that when the citizen goes into the army raised by Congress, either voluntarily or in obedience to the law requiring him to do so, he does this as a citizen and not as a militiaman. \* \* \* In either case the citizen when placed in its service is temporarily withdrawn from the control of the State as a militiaman. For the time being the rights of the State, or, more properly speaking, the right of the State government over him, must yield to the more pressing and important demand for his services by the Confederate Government to enable it to discharge the duties for which it has been authorized to raise and support armies."

And further on the court said (p. 399):

"The origin of this grant of power to raise armies shows most conclusively that it was not intended to leave the Government dependent upon the will either of the citizen or of the State to carry it into effect. It is given in our constitution, as it was originally in the Constitution of the United States, and was placed in that for the purpose of correcting one of the leading defects in the Articles of Confederation, experi-

ence having proved it absolutely essential not only to the safety but to the very existence of the Confederacy."

Then, inquiring as to what disposition the sovereignty of the people had made of its right to military service from all citizens, between the two agencies by which they propose to administer their Government, the court said:

"We find that it has given to its Confederate agency, so to call it, the sole power to determine upon the question of peace and war, and that it has consequently made it the duty of their General Government to protect the State itself, and these local agents from the attacks of both domestic and foreign foes, and that it has clothed it with the power to do this by authorizing it to raise and support armies, and to provide by authorizing it to raise and support armies, and to provide and maintain a Navy, to the extent that, in its judgment, it should deem necessary. \* \* \* These agencies, though possessing distinct powers, have to look for their performance to the citizens, and, consequently, as in many other grants of power to them, their action is concurrent over the same subject matter, and at times may themselves present seemingly conflicting grants is plain. The limited and subordinate must yield to the general and superior. Consequently, such as usually pertain to or are indices of sovereign power, must control, and be regarded as superior to those of local and domestic character. Ordinarily there should be no appreciable conflict between these grants of power, as the number of citizens the Confederate Government would require for its armies would be so inconsiderable with reference to the bulk of militia left under control of the local government, as to be, for practical purposes, unimportant in the latter. But great emergencies like that which now exists will sometimes arise when the Confederate Government is forced to exercise the entire military power that has been granted to it; and there is consequently a call for the great bulk of the arms-bearing citizens into its armies, and a corresponding diminution of those under the immediate control of the State government under the laws governing the militia" (p. 403).

In *Burroughs v. Peyton*, supra, the Court of Appeals of Virginia (1864), likewise sustaining the validity of the conscript act, after holding in a learned opinion that the power of Congress to raise armies is limited only to the extent that it might not rightfully take away the officers (evidently referring to civil officers), so as to destroy the government of the State, and that though such a transcendent power was liable to abuse the protection against abuse in any manner is to be found in the responsibility of Congress to the people, then proceeded to say (p. 483):

"If it should appear at any time to be proper to increase the Army, it might be done by taking men from the militia, either as volunteers or as conscripts—the action in either case being upon the individual citizen and not upon the militia as an organized body. As it was impossible to foresee how large an Army the exigencies of the country might demand, the number of militiamen to be thus transferred to its ranks was necessarily left to the discretion of Congress."

This case throughout recognizes the unqualified power of Congress to raise armies and that the discretion of that body as to the choice of means in doing so is limited only by their political responsibility. The guarded language in the opinion with reference to action upon the militia as a body is not to be construed as denying the rights of Congress to take the Organized Militia as organizations, but rather that the right to do so to some extent does indeed exist in Congress, for the court proceeded at once to qualify its former expression thus (p. 483):

"It may be difficult to say to what extent Congress has the right in the exercise of its discretion to affect the militia as an organized body. \* \* \* It will be time enough when the case is brought before us, in which the organization of the militia is destroyed or impaired by Congress, to inquire what limits are fixed to their action in this respect."

The court's attention was not invited to, and since it was unnecessary to do so it did not discuss, the fact that the very organization of the militia itself is constitutionally within the control of Congress, if Congress sees fit to exercise its power.

In *Barber v. Irwin* (34 Ga., 37), another case in which the constitutionality of the Confederate conscript law was brought into question and again held valid, it was objected, among other things, that the unlimited power of Congress to place all citizens capable of bearing arms in the Army of the Confederate States is incompatible with State sovereignty and may be so exercised as to deprive them of their right to enforce their police power or to execute the mandates of their courts. To this argument the court replied that—

"Public exigencies, and especially military exigencies, require that the legislature be intrusted with ample powers. If the presumption that no power susceptible of abuse could have been intended to be given, is to govern in the construction of the Constitution, the palpable result is that our Government is too weak to accomplish the ends for which it was instituted. In the language of Gov. Troup, so understood, 'it is the weakest and most contemptible Government on earth; it is neither fit for war nor peace'" (p. 86).

The court said that it had been admitted in argument that in order to meet invasion Congress, by calling out the militia, had the power to place in actual military service all men capable of bearing arms, even to the last man, and, using this argument, the court reasoned as follows:

"Now, this done, what becomes of the sovereignty of the States, so jealously guarded in construing the other clause? Where would be their police force; where their sheriff's posse comitatus? Why is the presumption so vigorously wielded against one power allowed to slumber when the other is invoked?" (p. 87).

In *Jeffers v. Fair* (33 Ga., 348), it was argued that the proceeding by which the plaintiff in error was held in custody was of virtually calling forth the militia and violated the constitution in that it took from the State the right of appointing officers of the militia so called forth. The court replied that—

"This argument rests upon the fact that the men now being enrolled for service in the Army have been previously enrolled in the States as militiamen. The simple and obvious reply is that the status of the citizen is not merged in the militiaman; that the fact of enrollment with the militia does not exempt him from other duties and liabilities of citizenship" (p. 353).

In this case the further argument was advanced that the conscript law operated to interfere with the necessary instrumentalities of State government, and the question was asked of the court, if by any act of the Confederate Government such instrumentalities whilst in the exercise of their proper function, within any State, were forcibly withdrawn, would not that act violate the constitutional guaranty of a republican form of government? The court rather summarily dismissed the argument by concluding—

"That as to the use of means the power is unlimited, but clearly limited so as to exempt the civil officers of the several States" (p. 368).

Thus distinguishing between civil officers and officers of the militia.

It seems to me that in response to the above inquiry it might properly be said further that it is the duty of the General Government to guarantee to the States a republican form of government—that is, to protect it against itself—and the General Government may intervene for that purpose; in such a situation, so serious as to demand the execution of the guaranty upon the part of the Federal Government, it can hardly be conceived that the State government is putting its instrumentalities to a constitutional use. It would be inconsistent to contend that in such a situation the Federal Government has not the power to use the same instrumentalities for a constitutional purpose by placing them in the Army of the United States which is to restore republican functions.

In the exercise of the war power the General Government is supreme; this is true both as a practical proposition and a legal concept. Who, nowadays, thinks of a State repelling invasion and using all her men and means to do so, to the exclusion of the Federal Government? Who thinks of a State maintaining an army in time of war independently of the Army of the United States? The present improved condition of the militia is due to an increased interest on the part of the people; but that interest, even, has been inspired, not by a desire to render them more efficient as a State police force but by the appreciation of the necessity of a larger United States Army.

I think that, on the authorities and on general constitutional principles, it may be laid down as a general legal proposition that in the exercise of the power to raise armies the Federal Government is supreme and the State entirely subordinate; that there can be no conflict, for the State must yield; and, specifically, in the exercise of this power, that Congress may at its discretion, compel all the militia and militia organizations of the several States into the Army of the United States.

Assuming, then, that Congress has the power to compel the organizations and the members thereof, of the Organized Militia into the Armies of the United States, and further assuming, as I shall hereinafter endeavor to show, that the voluntary agreement provided for by section 4 of the bill does not of itself create immediately or in the future the status of Federal soldier nor add to the sufficiency of the language of the act as a draft, it is pertinent to ask:

### II.

IS THE LANGUAGE OF THE BILL LEGALLY SUFFICIENT TO AUTHORIZE THE PRESIDENT TO COMPEL THE MILITIA BENEFICIARIES TO SERVE IN THE ARMY OF THE UNITED STATES?

An act to compel a citizen into the military service can operate only in derogation of his usual constitutional rights, and, under the general rule, the language of such legislation, if sufficient to achieve its purpose, would have to be clear and unquestionable. Is the language of the bill of that character?

Section 5 of the bill, which section provides for the transfer, is, in relevant portion, as follows:

"That the President, with the consent of Congress, in time of war, when war is imminent, or in other grave emergency requiring the use of troops in excess of the Regular Army beyond the limits of the United States, may by order transfer to the Army of the United States any portion of the Organized Militia receiving or entitled to receive the benefits of this act, to serve therein for the balance of their respective terms of enlistment or commission, \* \* \* and any Organized Militia so transferred shall, from the date specified in the order of transfer, become for the time being a part of the Army of the United States and subject to the same laws, in so far as the same may be applicable to them during their service under such transfer, \* \* \* and shall be available for any duty for which the Regular or Volunteer Army may be employed."

And said section proceeds to penalize a neglect or refusal to obey the order of transfer in the following language:

"Provided, That any member of the Organized Militia who, having agreed to render military service to the United States under the provisions of this act, neglects or refuses to present himself for service when so transferred shall be subjected to trial therefor by a duly constituted court-martial, under such regulations as the President may prescribe."

So it is provided that the President may, by order, transfer the beneficiaries under the measure to the Army, to serve therein for the remainder of their terms; that any beneficiaries so transferred to the Army shall become a part of the Army and available for any duty as such "from the date specified in the order of transfer"; that they shall be subject to the same laws as are Federal soldiers "during their service under such transfer"; and there is further provided a trial by court-martial of any of these who neglects or refuses to "present himself for service when so transferred."

Now, unless the power is conferred by statute, the President can have no authority to transfer a militiaman to the Army of the United States, although he may enlist him therein on his voluntary application, or compel him to serve therein, if the legislation be sufficient to that end. In the absence of legislation to that effect the President can have no authority compulsory to transfer to, and embody in, the Army of the United States any militia organization. Can section 5 be construed as anything more than a grant of power to transfer to and embody in the Army organizations of the Organized Militia and individuals thereof, if such organizations and individuals consent, or do not object, to the transfer?

Whatever may have been the intention of the framers of the bill, I apprehend that the language is not sufficiently clear and positive to abridge usual civil rights and subject citizens to Federal military service by force. It seems to me that the mere order of transfer, even when coupled with the voluntary agreement, is not sufficient to put the militiaman in the Federal service. And I am fortified in this conclusion by the special provision subjecting to court-martial any who neglect or refuse to present themselves for service under the order of transfer. If the order of transfer itself, or notice thereof to the individual, were sufficient to convert the militiaman into a Federal soldier, there could be no necessity for this special jurisdiction, as Federal soldiers are generally subject to military law and jurisdiction, by reason of their status. But the bill here provides for trial by a peculiar kind of court-martial, which is not a court-martial under the Articles of War at all, but one specially provided, and the Articles of War, by the terms of the bill, are not applicable to the militiaman until he shall begin to serve. It may well be that if the provision for this special jurisdiction were omitted, there would be some tenable reasons for holding that the order of transfer is legally sufficient to place the militiaman in the service of the United States on the date fixed in said order; yet, as the language stands, speaking with reference to those provisions which strongly suggest that military jurisdiction does not attach by the order of transfer, it might, and probably would be, authoritatively held that the President will have exercised to the limit his power to compel entry into the Army when he shall have subjected

the offender to trial by court-martial and that neglect or refusal to obey an order of transfer subjects the delinquent to military trial, but that trial does not place him in the service, nor give the President the power to draft him therein.

The question of the sufficiency of the bill to authorize compulsory Federal military service has been discussed, and it is proper now to inquire what substantial legal function may be assigned to the agreement provided for in section 4 of the bill. The purpose of the bill must be to convert a militiaman into a Federal soldier, either by compulsion or voluntary agreement. It becomes necessary, then, to consider the question:

### III.

DOES THE AGREEMENT REQUIRED BY SECTION 4 CREATE THE STATUS OF FEDERAL SOLDIER EITHER—(A) PRESENTLY UPON ENTERING INTO IT OR (B) AT SOME FUTURE TIME?

The term "military status" has no magic in itself. I understand that it means a condition or fixed relation, usually founded on agreement, though not necessarily so, for the Government has an unquestionable right to the military service of all of its arms-bearing citizens without regard to their consent. The important and peculiar incidents of the status flow not from the terms and means whereby the status is created, but they result from the fact—a fundamental and jurisdictional fact—that the Government and its citizens assume to each other a new and important and substantially changed relation; the constitutional liberty of the citizens becomes greatly abridged and the authority and control of the Government greatly enlarged; these new and changed rights and relations are recognized and provided for by the Constitution itself. Under such a status many of the usual constitutional rights of the citizen, as such, no longer exist; the power of military command is established upon the one hand and the duty of obedience on the other. The Government acquires a jurisdiction to compel specific performance of personal service by the exercise, if need be, of physical force to coerce the citizen thus placed to the discharge of his military duty. Such are the usual incidents. My mind becomes confused and led away from first principles if it essays for the present discussion a conception of more than two conditions—an Army status and a non-Army status. Obligations are of various varieties; if the obligation does not create a military status, it has no place in this discussion, because no status short of that of Federal soldier can be useful in testing the efficacy of this bill. The bill provides, in effect, that the recipient of the pecuniary benefits under the proposed measure shall in present agree to render military service as a Federal soldier in futuro. It may be noted that no difficulty is encountered in locating the terminus ad quem, but that it is not so easy to determine from the language of the proposed measure the terminus a quo, when the soldier's status begins, his duties and obligations spring into being, the Government's military jurisdiction over him attaches, and he may be held to the specific performance of his service. The bill provides, in substance, that the Federal status of the officer or enlisted man of the Organized Militia become a part of the Army of the United States in accordance with the terms of its provisions ceases upon the expiration of the term of commission or enlistment, or upon the earlier release by the President, or upon the release by the President when necessity for their further use no longer exists; but no such definite point marks the beginning of the status.

A new status usually ensues as an immediate result of the change in legal relations, and the change in such relations is usually evidenced and made definite by a paper writing or ceremony. Such is the case in ordinary enlistments, articles of adoption, apprentice bonds, naturalization papers, and the ceremony of marriage. Present words of promise do not create a present status, and are not sufficient to create a future status unless following and consummated by some act of the promisor with that intention or perhaps unless made sufficient by law for that purpose. Such are the common-law rules governing contracts which change the status and their construction. Applying them to the language of the present bill, the conclusion follows that the agreement to render military service is not an agreement to render military service presently and immediately; it is not an agreement which, in and of itself, creates the status of Federal soldier, which is our only concern; and when compared to that standard it falls short of it and into the realms of ordinary agreement, where it must remain until consummated by some act of the promisor with the intention to consummate it or until made by law sufficient for that purpose.

And this conclusion is in evident agreement with the general purposes of the bill; it could not be intended to make Federal soldiers out of the militia beneficiaries under this bill at the moment they become beneficiaries, and thus retain in the body of citizenry a vast number of Federal soldiers, with all the difficult incidents attaching to that status, and in disregard of the established traditions of our people.

(B) DOES THE AGREEMENT PROVIDED FOR AND REQUIRED IN SECTION 4 CREATE THE STATUS OF FEDERAL SOLDIER AT SOME FUTURE TIME?

Here is a voluntary agreement for future service. It seems to me to be self-evident that a man can not voluntarily agree now to render voluntary service in the future so as to preclude him from refusing to render the service when it may become due. He may back out when the future time contemplated arrives and accept the legal consequences, but specific performance will not be one of these consequences, unless perhaps the law, in unquestionable terms, should make it so. Under the present state of the law, and as it would exist upon the passage and approval of this bill, a man may not agree now to waive his right to refuse future service, accepting the legal consequences of such refusal; nor may he now agree in advance to waive any of his constitutional and legal rights hereafter. Though the Government gives a consideration for the promise of waiver the situation is not changed, for no consideration is necessary to support a waiver, and the presence of a consideration will not render binding an advance agreement to be specifically enforced, so as to work a forfeiture of rights when the occasion is presented sometime in the future. Such a waiver or promise is something like a gift which can only be made to take effect in present (2 Blk. Com., 441), and the subject of the transaction must be something in esse at the time. To waive a right implies a present act. If I say to-day that I will waive my legal and constitutional rights next week, this can mean nothing more than that, when the time arrives, I will not insist on my rights. In *Home Insurance Co. v. Morse* (20 Wall., 445), a case, however, which presents no analogies to the present question except on general principle, the Supreme Court of the United States said:

"In these respects any citizen may, no doubt, waive the rights to which he may be entitled. He can not, however, bind himself in advance by any agreement which may be specifically enforced thus to forfeit his rights at all times and on all occasions whenever the case may be presented."



A case, however, which has always been regarded with the highest respect is that of *Tyler v. Pomeroy* (8 Allen, Mass., 481), which presents, in principle, the same or very nearly the same question as is presented here.

On the 29th of July, 1862, plaintiff, with others, signed a paper which was in the form commonly used in the Commonwealth as enlistment contracts, in terms as follows:

"We, the undersigned, by our signatures hereunto annexed, do severally agree to serve for a period of three years from the date of our being mustered into the United States service, unless sooner discharged, as volunteers from Massachusetts, in the force authorized by an act of Congress of the United States, approved the 22d day of July, A. D. 1861, entitled 'An act to authorize the employment of volunteers to aid in the enforcement of the laws and protecting public property.' In accordance with the provisions of said act, and other acts in addition thereto, and if ordered into camp our number is not filled to the maximum number of 101 on or before (a certain day) we severally agree to serve in such companies as the governor and commander in chief may designate."

The plaintiff, sometime after signing the enlistment paper, refused to go into camp upon the request of the chairman of the selectmen, and the selectmen thereupon gave directions for him to be taken to camp, and these directions were executed by one of the other two defendants—one of whom was a constable—who went to the plaintiff's house and arrested him and carried him to camp and delivered him, with the enlistment roll, to the camp commander, a commissioned officer of volunteers. The commanding officer ordered the plaintiff confined in the guard tent of the camp for several days, after which he was released, the regiment having received marching orders. Plaintiff brought his action for false arrest.

In an opinion in which he reviewed both the ancient and modern law of military status, Judge Gray (later United States Supreme Court Justice) said (p. 485):

"Was the plaintiff then, at the time of the acts he complains of, a soldier? The words 'enlist' and 'enlistment' in the law, as in common usage, may signify either the complete fact of entering into the military service or the first step taken by the recruit toward that end. If this ambiguity is not borne in mind, the consideration of this matter may degenerate into a dispute about words. The question before us is no ordinary one of the force, construction, or validity of a contract—whether the plaintiff has made an agreement and broken it and is liable in damages for the breach; but of a change of status—whether by signing a particular paper or by any other act the plaintiff has changed his condition, given up some of the rights of a private citizen, and become amenable to military discipline. It becomes necessary, therefore, to ascertain the boundary between the civil and military States, and to inquire what acts, by the principles of the common law or the American constitutions, or by express provision of statute, are required to change a citizen into a soldier."

After reviewing the development of the English law on the subject from the time of Edward I, and finding under that law that the agreement to render future service did not of itself create the military status, but subjected the violator of the agreement to indictment and prosecution, the learned judge continued (p. 500):

"Congress had authorized the enlistment of volunteers for no longer term than three years. (U. S. Stat., chap. 9.) The only act done by the plaintiff toward entering the service was to sign an agreement to serve for a period of three years from the date of being mustered into the service in accordance with the act just referred to. He never agreed to enter the service to become a soldier immediately. He never submitted himself to nor contracted any engagement with any military officer. He never received any money from any officer, military or civil, of the State or Nation, nor any rations, uniforms, arms, or equipments. He was never examined by a surgeon, nor took any oath, nor was mustered into the service. And he never actually served as a soldier."

"After the fullest consideration we are unanimous in the opinion that the plaintiff was not a soldier, nor subject to any military authority or discipline as such. The statutes and orders already cited seem to assume the mustering of a recruit into the service as the point at which the right to exercise military restraint over him is intended to begin. We are not, however, prepared to say that actual submission as a soldier to a commissioned officer would not be of itself sufficient. Still less would we be understood as intimating that a recruit of full age who had actually served or received money from the Government could be allowed to dispute the regularity or completeness of his enlistment; but we can have no doubt that the mere signing of a paper in the hands of a municipal officer, containing a promise to serve from a future day, to be fixed only by the performance of a distinct act, is not sufficient to change the state of a citizen into that of a soldier" (p. 501).

The distinguished judge further said that: "Soldiers must have received money and come under actual command of a leader to warrant their punishment as deserters under those (English) statutes. And Judge Jenkins says, 'It seems that these statutes are only a declaration of the common law.' Jenk. 271."

Turning again to the question before him, he continued (p. 503): "The fact that other recruits who signed the same enlistment paper as the plaintiff reported at the camp of rendezvous, and were received into the service of the United States had no tendency to prove that he was in that service before he had been reported or been received there."

"The acts and declarations of the plaintiff in the meetings held for the purpose of raising the quota of the town were offered to show that by signing the said roll he intended to place himself in the military service of the United States, and also in reduction of damages. But intention will not make a man a soldier unless accompanied or followed by the acts necessary to constitute a change of his state from civil to military. The question before us is not what he intended to do, but how much he actually had done, how far his intention had been carried out when the defendants assumed to exercise military authority over him. If he was not then a soldier, his previous expressions of an intention to become one, or even his supposition that he was, would not make him one."

He also said further on (p. 504): "Proof that an enlistment paper signed by the plaintiff was in the form commonly used in the Commonwealth could not aid defendants without showing that the plaintiff had done some further act to make him a soldier. Testimony as to the usual mode of enlisting volunteers or the actual holding in the service of persons enlisted on such papers, would have no bearing upon the question at what stage of the enlistment the right of forcible restraint begins, or by whom it may be exercised."

And the judge then concluded (p. 505):

"The plaintiff, not being a soldier, was at perfect liberty to decline to become one and guilty of no breach of military duty in so declining." This opinion has been quoted with approval of many Federal courts, including the Supreme Court. The gist of the decision is that an agreement to enlist is not an enlistment, either presently or at some future time, but that some act done by the promisor in furtherance of his agreement is necessary to make him a soldier. Under the present state of the law, and as it will be after the passage of the proposed measure (unless, indeed, the latter does prescribe a different rule), some act of the promisor contemporaneously with the creation of the status is necessary to create the status.

In the matter of voluntary enlistment, the Supreme Court held in *United States v. Grimley* (137 U. S., 147) that under the present law the taking of the oath was the pivotal and final act in the matter of making an enlistment.

Upon this same point and to the same effect much enlightenment, in my opinion, may be had from a consideration of the status of marriage. The military status and that of matrimony are analogous legal concepts. It is elementary that a mere promise of future marriage does not in itself create the matrimonial status, and a breach of the promise results in an ordinary action for damage. The status of matrimony may be made in only one of two ways—per verba de presenti, with or without consummation, and per verba de futuro, followed by the act of consummation. The latter is an executory agreement becoming perfect upon the performance of an act that consummates it; the former is a presently executed contract taking effect immediately.

The agreement then prescribed in section 4, on general legal principles and unless the proposed bill itself provides otherwise, can ripen into the military status only by some act of the promisor done with the purpose of consummating the status and sufficient for the purpose. It may be, however, that Congress can, if it chooses, arbitrarily prescribe that the happening of some event or contingency even unrelated to the promisor, or some action taken by a designated Government official, shall serve to accomplish by fiat or law an equivalent consummation. Congress has not yet done so, and whether it will have done so if it pass this bill will be examined a moment later.

Obviously, that point of time specified in the bill when the promisor might naturally be expected to perform and may perform that act, which, in connection with his former agreement, will, without further ado, consummate into the status of enlistment, is that point when he voluntarily presents himself and submits to Federal jurisdiction, either in compliance with his moral obligation or in terrorem to avoid the liability of court-martial.

It would seem, then, that when the transfer is ordered and the individual voluntarily presents and submits himself to military jurisdiction in either manner just mentioned, he becomes by that very act and at that very moment a soldier in the service of the United States. But if he neglects or refuses to present himself for military service and submit to military jurisdiction, he may, it is true, be court-martialed and punished, without becoming thereby a Federal soldier.

What substantial legal function can be assigned, then, to this agreement as a voluntary step toward making the militiamen a Federal soldier? I doubt that any such function can be assigned it. The agreement creates a future moral, but no future legal, obligation. It is nothing under the law as it now exists or will exist after the passage of this bill, but an ordinary contract for future personal service, and enforceable only as such. It has been suggested that the agreement constitutes a contract upon which, though it be for personal service, specific performance may be had; it is clear to me, however, that the suggestion results from a misapprehension of the meaning of specific performance as that term is used in connection with the military status. A soldier can be compelled to perform his duty because of the power of command held by the superior over the services of the soldier who is made to obey. And this power is now, and has been since feudal times, an incident of the military relation. Such power to command is not limited to the exercise of compulsion through the agency of the military judicial machinery, but includes in a proper case the application of physical force, coercion, and restraint. Service thus compelled is commanded under the power incident to the status and, of course, is not in a legal sense specific performance at all. If the right to specific performance is based on the agreement, and not on the status and the power to command flowing from the status, it may be had only through the operation of a decree in equity; such specific performance involves the judicial and not the executive function; the judicial decree from the very nature of the thing—even if Congress should ever undertake to confer the power of making such a decree on any court (and the legislative competency in that regard may well be doubted)—can never command service except by operating in personam—that is, the decree is effective in so far only as it may compel performance by the imprisonment of him who disobeys it. I presume that neither the legislative nor executive authority will ever desire in the matter of the military relation to resort to a court of equity to obtain a decree which of itself can bring no service; and it should be noted that the bill itself, through the convenient agent of a court-martial, does at least as much. The specific performance which the military relation demands and which may be compelled through physical force, if need be, by officers of the Army and the military machinery, and not that decreed by a court of equity.

Although the agreement has little or no assignable value as a step toward creating the status of Federal soldier, nevertheless if the bill be viewed as a draft act, the agreement, under that view, has, to my mind, considerable significance. It might then be held respecting it that those who have entered into it constitute the class designated by Congress as the class upon whom the draft should operate.

E. H. CROWDER,  
Judge Advocate General.

MEMORANDUM FOR THE ADJUTANT GENERAL.

WAR DEPARTMENT,  
OFFICE OF THE JUDGE ADVOCATE GENERAL,  
Washington, January 29, 1916.

Subject: Pending militia pay bill (S. 1158).

I was directed by your letter of January 12, 1916, to give my immediate, concentrated consideration to an inclosed copy of S. 1158 (64th Cong., 1st sess.), "A bill to increase the efficiency of the Organized Militia, and for other purposes," introduced by Senator CHAMBERLAIN on December 10, 1915, particularly with reference to so much thereof as concerns the interests intrusted to my charge, in order that my views thereon may be placed before the department. I have interpreted

this reference to call for remarks from this office upon the legal effect of the various provisions of the inclosed bill as well as upon defects and conflicts in its provisions, and have prepared my report in accordance with that interpretation.

(Paragraph 2 of the opinion gives a history of militia pay bills considered by the Congress or its committees; paragraph 3 relates to the revision by this office of a draft of militia pay bill proposed by the Division of Militia Affairs.)

4. The words "and all persons who are exempted by the laws of the respective States and Territories" have been incorporated in section 3. Substantially similar provisions are found in the act of May 8, 1792, and in its substitute, the act of January 21, 1903 (the Dick bill). It has been questioned whether this is a Federal function, i. e., whether the power to declare exemptions is included in the power to provide for organizing, arming, and disciplining the militia. There is respectable authority on both sides of this question and no authoritative decision to govern us. Assuming that it is a Federal power, it is still an affirmative and not an exclusive power, so that it is competent for Congress to leave a part of that power unexercised, and thus invite the concurrent jurisdiction of the State. Congress has always legislated upon the theory that it had the power to determine who should compose the militia and who should be exempt, but has never exercised the power so completely as to deprive the States of the power to grant exemption. I am inclined to think that this power should be exercised in that complete way that would exclude the exercise of the same power by the States. An alternative to the existing provision would be to proceed by way of specific enumeration to exempt all officers, executive, legislative, and judicial, of any State, Territory, or the District of Columbia necessary for the operation of State, county, and municipal governments.

NOTE.—This recommendation has been carried into effect in section 59 of the pending bill (Calendar No. 285, H. R. 12766).—E. H. C.

(Paragraphs 5, 6, and 7 of the opinion relate to reserve corps for the militia as proposed in said bill; paragraph 8 to use of officers of reserve corps; paragraph 9 to indoor target practice; paragraph 10 to details; paragraph 11 to the right to utilize retired officers upon militia duty; paragraph 12 relates to appropriations; paragraph 13 to target ranges, encampments, and manuevers; paragraph 14 to apportionment and expenditure of appropriations; paragraph 15 to disbursing officers; and paragraph 16 to the national militia board.)

#### FEDERAL STATUS IN PRESENT.

17. As was provided in the January, 1914, draft, section 37 of this bill provides:

"That no money appropriated under the provisions of this act shall be paid to any person who has not, in addition to his obligation as a member of the Organized Militia of a State, Territory, or the District of Columbia, voluntarily subscribed an agreement to serve the United States in the manner provided in this act and in connection with such agreement taken an oath as a commissioned officer or enlisted man in the Army of the United States: *Provided*, That the obligation to serve in the Army of the United States shall be effective from the date of the agreement and oath herein prescribed to create the status of officer and enlisted man in the Army of the United States; but officers and enlisted men subscribing such agreement and oath shall not, without the consent of Congress, be ordered into the active military service of the United States as a part of the Army thereof, nor shall they be entitled to the pay and emoluments of officers and enlisted men in the Army of the United States except as otherwise provided in this act."

NOTE.—See sections 71 and 73 of pending bill (Calendar No. 285, H. R. 12766).—E. H. C.

I think this section has been accepted with a reservation by all who have studied it. It undertakes to bestow office in the United States Army without any exercise of the constitutional appointing power. The objection to it is, I think, a vital one. Assuming that the section has been amended so as to obviate this defect and made effective to bestow office in the Army upon an officer of the National Guard, so that at the same time he would be invested with the two military offices—one State and the other National—we have this further situation to deal with: The constitutions of Florida, Kentucky, Louisiana, Mississippi, Missouri, Utah, Wisconsin, and Wyoming prohibit persons who hold or exercise offices of trust, honor, or profit under the Government of the United States from holding or exercising offices of trust, honor, or profit under the State.

NOTE.—See attached list of State constitutional provisions.—E. H. C. The provision is stated in varying forms in the constitutions of the States mentioned, but the substantial provision is as I have stated it. Office in the Organized Militia is clearly an office of trust and honor, and, when pay is attached, is one of profit. So, too, office in the Army of the United States, with which it is proposed to invest the officer of the Organized Militia, is likewise one of honor and trust. As I see the question, it would require amendments to the constitutions of the States named above in order that section 37, in so far as it deals with office, might have any execution in those States.

There is further question as to that provision of the section which undertakes to create dual military status for the enlisted men of the National Guard. The section assumes that a man may have two military allegiances to two commanders in chief, coexisting, but with the obligations of one deferred. I am not certain that these two relations can coexist.

All these objections are avoided in the form of bill now pending before the House Committee on Military Affairs. That bill relies solely upon the efficacy of a draft which reaches both officers and men of the Organized Militia as individuals. While the House committee draft contemplates a change of status for the Organized Militia from State troops to national troops, it deals with but one status at a time, and when the national status is assumed the State status is expressly canceled. Under the terms of the House bill the officer, having been drafted, is recommissioned by the President and is inducted into office, which he holds in the Federal service in the constitutional way.

I regard the question of what would be the ultimate construction of any law which would undertake to create dual military status to State and Nation as a matter of grave doubt, and therefore offer no substitute for section 37.

(Paragraph 18 of the opinion relates to period of service under draft.)

E. H. CROWDER,  
Judge Advocate General.

#### PROVISIONS OF STATE CONSTITUTIONS RESPECTING DUAL OFFICEHOLDING (STATE AND FEDERAL).

Section 15, article 16, constitution of Florida, provides:  
"No persons holding office or exercising the functions of any office under the Government of the United States shall hold any office of honor or profit under the government of this State."

Section 237, constitution of Kentucky, provides:  
"No person holding any office of trust or profit under the United States shall be eligible to hold or exercise any office of trust or profit under this constitution or the laws made in pursuance thereof."

Article 164, constitution of Louisiana, provides:  
"No person holding or exercising any office of trust or profit under the United States shall hold or exercise any office of trust or profit under the State."

Section 266, constitution of Mississippi, provides:  
"No person holding office under the Government of the United States shall hold or exercise in any way the rights and powers of any office of honor or profit under the laws or authority of this State."

Section 4, article 14, constitution of Missouri, provides:  
"No person holding any office of profit under the United States shall during the continuance of such office hold any office of profit under this State."

Section 23, article 7, constitution of Utah provides:  
"No person holding any office under the United States Government shall hold any office under the State government of Utah."

Section 3, article 13, constitution of Wisconsin, provides:  
"No person holding any office of profit or trust under the United States shall be eligible to any office of trust, profit, or honor under this State."

Section 19, article 6, constitution of Wyoming, provides:  
"No person holding or exercising any office or appointment of trust or profit under the United States shall at the same time hold or exercise any office in this State to which a salary, fees, or perquisites shall be attached."

Mr. REED. I move the following amendment to the bill—  
The VICE PRESIDENT. There is a pending amendment.  
Mr. SMITH of South Carolina. Is not the pending amendment the one offered by myself?

The VICE PRESIDENT. There is an amendment pending to that amendment. It will be stated.

The SECRETARY. The Senator from Georgia [Mr. HARDWICK] proposes to amend the amendment offered by the Senator from South Carolina by striking out, on page 2 of the printed amendment, line 17, the words "and useful in the manufacture of fertilizers."

Mr. OVERMAN. Mr. President, we ought to have a quorum present if that amendment is coming up for action. The Senator from Georgia I know wants to address the Senate upon his amendment to the amendment.

The VICE PRESIDENT. Is that an intimation of the absence of a quorum?

Mr. OVERMAN. It is a suggestion to that effect.

The VICE PRESIDENT. The Secretary will call the roll.

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

Asbust	Hollis	Newlands	Smith, Ariz.
Borah	Hughes	Norris	Smith, Ga.
Brandege	Husting	Oliver	Smith, Mich.
Bryan	Johnson, Me.	Overman	Smith, S. C.
Burleigh	Jones	Owen	Snoot
Chamberlain	Kenyon	Page	Sterling
Clapp	Kern	Phelan	Sutherland
Clark, Wyo.	La Follette	Pittman	Thomas
Colt	Lane	Polindexer	Thompson
Curtis	Lippitt	Pomerene	Tillman
Dillingham	Lodge	Ransdell	Underwood
Gallinger	McCumber	Reed	Wadsworth
Gore	Martin, Va.	Shafroth	Walsh
Gronna	Martine, N. J.	Sheppard	Warren
Harding	Myers	Sherman	Works
Hardwick	Nelson	Simmons	

Mr. KERN. I desire to announce the unavoidable absence of the senior Senator from Florida [Mr. FLETCHER], the junior Senator from Maryland [Mr. LEE], the senior Senator from West Virginia [Mr. CHILTON], and the junior Senator from Indiana [Mr. TAGGART], all of whom are paired. This announcement may stand for the day.

Mr. MYERS. The Senator from Mississippi [Mr. VARDAMAN] is necessarily detained from the Chamber by official business.

The VICE PRESIDENT. Sixty-three Senators have answered to the roll call. There is a quorum present. The pending amendment is the amendment offered by the Senator from Georgia [Mr. HARDWICK] to the amendment of the Senator from South Carolina [Mr. SMITH]. It will be again stated.

The SECRETARY. On line 17 of the printed amendment the Senator from Georgia proposes to strike out the words "and useful in the manufacture of fertilizers."

Mr. HARDWICK. Mr. President, I understand that the proposer of the amendment is willing to accept that suggestion; and, if so, there is no need of prolonging the discussion about it. Those words ought not to be in the amendment.

Mr. SMITH of South Carolina. Mr. President, I have no objection to the amendment of the Senator from Georgia [Mr. HARDWICK], because I think we can, with that amendment, pre-

serve the same purpose, and perhaps the provision will be in better language and in better form; but I want to state right here and now that I want it distinctly understood by the Senate that, along with the idea concerning which every one of us is fully agreed, it is absolutely essential for this country to provide itself with the chemicals the supply of which is sought to be anticipated in the amendment. They are absolutely essential, not alone for preparedness, but also for the continuance of the productiveness of our fields.

It is known to all of us that every great grain crop that is taken from the soil of America extracts just that much of the very chemicals provision for a supply of which is sought to be made by the amendment. Year by year our fields are being depleted; and this is an attempt right now, in the beginning of the process which has been developed for taking in unlimited quantities these ingredients from the air, to provide that the Government in supplying itself with the munitions of war, of which we stand so sadly in need, shall itself also make provision for the means of enriching our fields.

Mr. President, this is not a new subject. I want to take occasion in a moment or two to read a portion of an act passed in 1856 relative to an artificial fertilizer to be placed upon the fields of this country. From what I shall read it will become apparent that that was the object which the Government had in view in passing that act. Along about 1835 or 1840 it was discovered that on certain islands off the coast of South America there were certain deposits of guano, the application of which to the soil marvelously increased its yield. So wonderful was the effect upon the depleted soil of the Atlantic seaboard that Mr. Seward, of New York, at one time a Senator from that State and later Secretary of State under Mr. Lincoln, introduced and had passed a bill, section 2 of which I shall read. Before I read it, however, I want to call the attention of the Senate to the fact that the object was to furnish this country with an adequate supply of fertilizer. The United States exhausted every means in its power to reach the end, not only of providing us with an adequate supply but of controlling for the benefit of the agriculturists the price of the supply.

I understand that the act of 1856 to which I have referred was based upon the right of a Government to take possession of islands and lands not occupied by other Governments; but it sets forth clearly that the object in invoking that right on behalf of the United States was for the purpose of securing this fertilizer and controlling the price of it for the benefit of the agriculturists of this country.

There was something said here the other day about an attempt to control the price. I want to call the attention of the Senate to the parallel that exists between the purpose of the amendment which I have introduced and the act passed in 1856, which I am going to read. If the Government takes its own water power or uses steam power for the purpose of furnishing itself with the munitions of war, the surplus that it produces will be its own, produced by its own machinery, and this amendment attempts to have the Government dispose of that surplus for the very purpose for which the act of 1856 was passed. I read section 2 of the act of 1856:

SEC. 2. *And be it further enacted*, That the said discoverer or discoverers, or his or their assigns, being citizens of the United States, may be allowed, at the pleasure of Congress, the exclusive right of occupying said island, rocks, or keys for the purpose of obtaining said guano, and of selling and delivering the same to citizens of the United States for the purpose of being used therein, and may be allowed to charge and receive for every ton thereof delivered alongside a vessel, in proper tubs, within reach of ship's tackle, a sum not exceeding \$8 per ton for the best quality or \$4 per ton in its native place of deposit: *Provided, however*, That no guano shall be taken from said island, rock, or key except for the use of the citizens of the United States, or of persons resident therein, as aforesaid: *And provided also*, That said discoverer or discoverers, or his or their assigns, shall first enter into bonds, with such penalties or securities as may be required by the President, to deliver the said guano to citizens of the United States for the purpose of being used therein and to none others, and at the price aforesaid, and to provide all necessary facilities for that purpose within a time to be fixed in said bond; and any breach of the provisions thereof shall be taken and deemed a forfeiture of all rights accruing under and by virtue of this act.

In section 5 it is provided:

SEC. 5 *And be it further enacted*, That the President of the United States is hereby authorized, at his discretion, to employ the land and naval forces of the United States to protect the rights of the said discoverer or discoverers, or their assigns, as aforesaid.

Now, Mr. President, we are face to face with this issue. The necessity at the time of the passage of the act of 1856 for fertilizer for our soil has been increased in geometrical progression. It is true that the discovery of the vast phosphate beds in South Carolina, Tennessee, and Florida supplied a part of the necessity for soil enrichment; but we are to-day standing face to face with the problem of how we can support our population, which is rapidly increasing, while the fertility of our soil is decreasing.

The farmers have never come here and asked very much, and yet their contribution to the welfare of this country is the foundation upon which everything else is built. Scientists now declare that the process of extracting nitrogen from the air in unlimited quantities is a commercial success; and, in view of the fact that it is an essential ingredient for the enrichment of our soil, I think that Congress would be derelict in its duty unless some action were taken. I am not asking that the Government of the United States shall grant any special privilege, but I am asking that it shall develop, as far as may be, the opportunities of the farmers of this country, so that they may be put in the best possible position to feed and clothe the population of the United States.

Mr. HARDWICK. Mr. President—

The VICE PRESIDENT. Does the Senator from South Carolina yield to the Senator from Georgia?

Mr. SMITH of South Carolina. I yield to the Senator.

Mr. HARDWICK. Mr. President, I did not intend to discuss this matter at all until the Senator from South Carolina made some observations that make it necessary for me to do so. There is nothing like what the Senator suggests necessarily involved in this proposition at all, and if the Senator will not strip it of its socialistic features he will get it overwhelmingly beaten in the Senate.

Mr. SMITH of South Carolina. Mr. President, I am not concerned about whether the question may seem socialistic or whether it may seem populist. The main thing that I am concerned about is, how we can best provide for that great class of people who bear the burden of this Government.

Mr. HARDWICK. Mr. President—

Mr. SMITH of South Carolina. Now, Mr. President—

Mr. HARDWICK. Just a moment.

Mr. SMITH of South Carolina. Allow me—

Mr. HARDWICK. I have the floor, if the Senator will pardon me, and I want to make a short statement myself.

The VICE PRESIDENT. Senators must remember the rule.

Mr. SMITH of South Carolina. Mr. President, I was not aware that the Senator from Georgia had the floor when I took it.

Mr. HARDWICK. Oh, yes; I have the floor, I think.

The VICE PRESIDENT. The Senator from South Carolina had not concluded.

Mr. HARDWICK. I beg the Senator's pardon. I addressed the Chair, and was recognized, and I thought the Senator had concluded.

The VICE PRESIDENT. The Senator was recognized for the purpose of addressing an inquiry to the Senator from South Carolina.

Mr. SMITH of South Carolina. If the Senator wants to ask me a question, I will yield.

Mr. HARDWICK. No; I will take the floor in my own right when the Senator has concluded.

Mr. SMITH of South Carolina. Mr. President, I want to say to the Senator from Georgia that I readily acceded to his amendment, and do so yet, with the hope that the object that I have in view may be attained without, in letter at least, doing violence to the Constitution.

Mr. President, I want to ask the privilege to have printed in the RECORD a statement by Dr. Baekeland in reference to the production and use of this wonderful chemical.

The VICE PRESIDENT. In the absence of objection, permission to do so is granted.

The statement referred to is as follows:

#### INTERNATIONAL SCOPE OF CHEMICAL RESEARCH.

The development of some problems of industrial chemistry has enlisted the brilliant collaboration of men of so many different nationalities that the final success could not, with any measure of justice, be ascribed exclusively to one single race or nation; that is best illustrated by the invention of the different methods for the fixation of nitrogen from the air.

This extraordinary achievement, although scarcely a few years old, seems already an ordinary link in the chain of common, current events of our busy life; and yet, the facts connected with this recent conquest reveal a modern tale of great deeds of the race—an epos of applied science. Its story began the day when chemistry taught us how indispensable are the nitrogenous substances for the growth of all living beings.

#### DEFICIENCY OF NITROGEN FERTILIZERS IN AGRICULTURE.

Generally speaking, the most expensive foodstuffs are precisely those which contain most nitrogen, for the simple reason that there is, and always has been, at some time or another, a shortage of nitrogenous foods in the world. Agriculture furnishes us these proteid or nitrogen containing bodies, whether we eat them directly as vegetable products or indirectly as animals which have assimilated the proteids from plants. It so happens, however that by our ill-balanced methods of agriculture we take nitrogen from the soil much faster than it is supplied to the soil through natural agencies. We have tried to remedy this discrepancy by enriching the soil with manure or other fertilizers, but this has been found totally insufficient, especially with our methods of intensive culture—our fields want more nitrogen. So agriculture

has been looking anxiously around to find new sources of nitrogen fertilizer. For a short time, an excellent supply was found in the guano deposits of Peru; but this material was used up so eagerly that the supply lasted only a very few years. In the meantime the ammonium salts recovered from the by-products of the gas works have come into steady use as nitrogen fertilizer. But here again the supply is entirely insufficient, and during the later period our main reliance has been placed on the natural beds of sodium nitrate, which are found in the desert regions of Chile. This has been, of late, our principal source of nitrogen for agriculture, as well as for the many industries which require saltpeter or nitric acid.

#### CHILE SALTPETER AND ITS APPROACHING EXHAUSTION.

In 1898 Sir William Crookes, in his memorable presidential address before the British Association for the Advancement of Science, called our attention to the threatening fact that, at the increasing rate of consumption, the nitrate beds of Chile would be exhausted before the middle of this century. Here was a warning—an alarm call—raised to the human race by one of the deepest scientific thinkers of our generation. It meant no more nor less than that before long our race would be confronted with nitrogen starvation. In a given country, all other conditions being equal, the abundance or the lack of nitrogen available for nutrition is a paramount factor in the degree of general welfare or of physical decadence. The less nitrogen there is available as foodstuffs, the nearer the population is to starvation. The great famines in such nitrogen-deficient countries as India and China and Russia are sad examples of nitrogen starvation.

And yet nitrogen, as such, is so abundant in nature that it constitutes four-fifths of the air we breathe. Every square mile of our atmosphere contains nitrogen enough to satisfy our total present consumption for over half a century. However, this nitrogen is unavailable as long as we do not find means to make it enter into some suitable chemical combination. Moreover, nitrogen was generally considered inactive and inert, because it does not enter readily in chemical combination.

William Crookes's disquieting message of rapidly approaching nitrogen starvation did not cause much worry to politicians; they seldom look so far a head into the future. But to the men of science it rang like a reproach to the human race. Here, then, we were in possession of an inexhaustible store of nitrogen in the air, and yet, unless we found some practical means for tying some of it into a suitable chemical combination, we would soon be in a position similar to that of a shipwrecked sailor, drifting around on an immense ocean of brine, and yet slowly dying for lack of drinking water.

#### OXIDATION OF AIR NITROGEN.

The Priestley-Cavendish experiment: As a guiding beacon there was, however, that simple experiment, carried out in a little glass tube, as far back as 1785, by both Cavendish and Priestley, which showed that if electric sparks were passed through air the oxygen thereof was able to burn some of the nitrogen and to engender nitrous vapors.

Bradley and Lovejoy: This seemingly unimportant laboratory curiosity, so long dormant in the textbooks, was made a starting point by Charles S. Bradley and D. R. Lovejoy, in Niagara Falls, for creating the first industrial apparatus for converting the nitrogen of the air into nitric acid by means of the electric arc. As early as 1902 they published their results as well as the details of their apparatus. Although they operated only one full-sized unit, they demonstrated conclusively that nitric acid could thus be produced from the air in unlimited quantities. We shall examine later the reasons why this pioneer enterprise proved a commercial success; but to these two American inventors belongs, undoubtedly, the credit of having furnished the first answer to the distress call of Sir William Crookes.

Birkeland and Eyde: In the meantime, many other investigators were at work at the same problem, and soon from Norway's abundant waterfalls came the news that Birkeland and Eyde had solved successfully, and on a commercial scale, the same problem by a differently constructed apparatus.

Pauling and Schoenherr: The Germans, too, were working on the same subject, and we heard that Schoenherr, also Pauling, had evolved still other methods, all, however, based on the Cavendish-Priestley principle of oxidation in nitrogen. In Norway alone the artificial saltpeter factories use now, day and night, over 200,000 electrical horsepower, which will soon be doubled; while a further addition is contemplated which will bring the volume of electric current consumed to about 500,000 horsepower. The capital invested at present in these works amounts to \$27,000,000.

#### CYANAMIDE.

Frank and Caro, in Germany, succeeded in creating another profitable industrial process whereby nitrogen could be fixed by carbide of calcium, which converts it into calcium cyanamide, an excellent fertilizer by itself. By the action of steam on cyanamide, ammonia is produced, or it can be made the starting point of the manufacture of cyanides, so profusely used for the treatment of gold and silver ores.

Although the synthetic nitrates have found a field of their own, their utilization for fertilizers is smaller than that of the cyanamide; and the latter industry represents, to-day, an investment of about \$30,000,000, with three factories in Germany, two in Norway, two in Sweden, one in France, one in Switzerland, two in Italy, one in Austria, one in Japan, one in Canada, but not any in the United States. The total output of cyanamide is valued at \$15,000,000 yearly and employs 200,000 horsepower, and preparations are made at almost every existing plant for further extensions. An English company is contemplating the application of 1,000,000 horsepower to the production of cyanamide and its derivatives, 600,000 of which have been secured in Norway and 400,000 in Iceland.

#### NITRIDE PROCESSES.

But still other processes are being developed, based on the fact that certain metals or metalloids can absorb nitrogen, and can thus be converted into nitrides; the latter can either be used directly as fertilizers or they can be made to produce ammonia under suitable treatment.

Serpek process: The most important of these nitride processes seems to be that of Serpek, who in his experimental factory at Niedermoschweiler, succeeded in obtaining aluminum nitride in almost theoretical quantities, with the use of an amount of electrical energy eight times less than that needed for the Birkeland-Eyde process and one-half less than for the cyanamide process, the results being calculated for equal weights of "fixed" nitrogen. A French company has taken up the commercial application of this process which can furnish, besides ammonia, pure alumina for the manufacture of aluminum metal.

#### HABER'S PROCESS FOR AMMONIA.

An exceptionally ingenious process for the direct synthesis of ammonia, by the direct union of hydrogen with nitrogen, has been developed by Haber in conjunction with the chemists and engineers of the Badische Anilin & Soda Fabrik. The method has the advantage that it is not, like the other nitrogen-fixation processes, paramously dependent upon cheap power; for this reason, if for no other, it seems to be destined to a more ready application. The fact that the group of the three German chemical companies which control the process have sold out their former holdings in the Norwegian enterprises to a Norwegian-French group, and are now devoting their energies to a commercial installation of the Haber process, has quite some significance as to expectations for the future.

#### THE FUTURE OF NITROGEN-FIXATION PROCESSES.

The question naturally arises: Will there be an overproduction and will these different rival processes not kill each other in slaughtering prices beyond remunerative production? Nitrogen fertilizers are already used at the rate of about \$200,000,000 worth a year, and any decrease in price, and, more particularly, better education in farming, will probably lead to an enormously increased consumption. It is worth mentioning here that in 1825 the first shipment of Chile saltpeter which was sent to Europe could find no buyer, and was finally thrown into the sea as useless material. Then, again, processes for nitric acid and processes for ammonia, instead of interfering, are supplementary to each other, because the world needs ammonia and ammonium salts as well as nitric acid or nitrates. It should be pointed out also that, ultimately, the production of ammonium nitrate may prove the most desirable method to minimize freight, for this salt contains much more nitrogen to the ton than does the more bulky calcium salt in which form synthetic nitrates are now marketed.

#### WHY DID BRADLEY AND LOVEJOY NOT SUCCEED?

Before leaving this subject, let us examine why Bradley and Lovejoy's efforts came to a standstill where others succeeded.

First of all, the cost of power at Niagara Falls is three to five times higher than in Norway; and although at the time this was not strictly prohibitive for the manufacture of nitric acid, it was entirely beyond hope for the production of fertilizers. The relatively high cost of power in our country is the reason why the cyanamide enterprise had to locate on the Canadian side of Niagara Falls, and why, up till now, outside of an experimental plant in the South (a 4,000-horsepower installation in North Carolina, using the Pauling process), the whole United States has not a single synthetic nitrogen fertilizer works.

The yields of the Bradley-Lovejoy apparatus were rather good. They succeeded in converting as much as 2½ per cent of the air, which is somewhat better than their successors are able to accomplish. But their units—12 kilowatts—were very much smaller than the 1,000 to 3,000 kilowatts now used in Norway, and they were also more delicate, all of which made installation and operation considerably more expensive. However, this was the natural phase through which any pioneer industrial development has to go, and it is more than probable that in the natural order of events these imperfections would have been eliminated. But the killing stroke came when financial support was suddenly withdrawn.

Mr. SIMMONS. Mr. President, will the Senator from South Carolina yield to me?

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

Mr. SMITH of South Carolina. I yield for a question.

Mr. SIMMONS. I did not rise merely to ask a question, but I did wish to ask the Senator if he felt himself able to accept an amendment to his amendment which I gave notice a few days ago I would offer? I think, if the Senator finds himself able to accept this amendment, it might measurably remove the objection in the mind of the junior Senator from Georgia [Mr. HARDWICK]. If the Senator will permit me, I will read the amendment and ask if he can accept it?

Mr. SMITH of South Carolina. I will state to the Senator from North Carolina that the remarks I am making are for the purpose of submitting my views before the bill and amendments are acted upon. I wish to state that a few days ago the question arose here as to whether or not the processes for the production of nitrogen have been sufficiently developed to justify the Government in appropriating money for the purpose of its production by these processes. At that time I put into the Record certain facts, which it is not necessary for me to now repeat. The fact, however, remains that as to the two processes, namely, the arc process and the cyanamide process, all of the experts and scientists now consider them commercial facts. The war in Europe is testimony to their success. They have also stated that this ingredient, nitrogen, which is so essential in fertilizer, under these processes can be produced at one-half the cost of the Chile saltpeter at antebellum prices, not the prices now, for the prices now have been quadrupled, but that it could be furnished for agricultural purposes at one-half the former price. So that whatever amendments may be offered to the amendment, the one essential feature which I shall insist shall remain in the bill is that after the Government has supplied itself with munitions of war the farmers of this country may be the beneficiaries of the surplus. If it is in accordance with the wisdom of the Senate that this shall be done by virtue of the Government leasing its power or by the Government leasing its plants or selling its power and still conserving the object in view, an abundance of this all-important element for agricultural purposes, I shall be very glad to have it put in that shape; but I can not accept an amendment which, in its very nature, will preclude the pos-

sibility of the great agricultural interests of this country being denied the very thing which these processes produce and upon which they are dependent. I am not wedded to any particular means of doing it, so that it is done, and done for the benefit of the farmer.

Mr. SIMMONS. Mr. President, the amendment which I wish to propose to the amendment of the Senator from South Carolina will not, in my judgment, interfere in any way with the agriculturists of this country getting the benefit of the production of any plant that the Government may establish for the purpose of supplying itself with nitric acid. If the Senator will permit me, I should like to have the amendment read.

The PRESIDING OFFICER (Mr. ROBINSON in the chair). Does the Senator from South Carolina yield to the Senator from North Carolina?

Mr. SMITH of South Carolina. Mr. President, I think I have spoken in general terms on the bill; I think it has sufficiently been discussed for the amendment now to be offered in due order; but the first amendment is the amendment of the Senator from Georgia [Mr. HARDWICK], which I am perfectly willing to accept, in view of other amendments.

Mr. SIMMONS. I was under the impression that the Senator from South Carolina might be willing to accept the amendment which I propose, and, if the Senator from Georgia will permit me, I will now have it read.

Mr. HARDWICK. I yield to the Senator from North Carolina for that purpose, if I have the floor.

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from North Carolina for a question?

Mr. HARDWICK. I yield for any purpose.

Mr. SMITH of South Carolina. Let the Senator from North Carolina have his amendment read.

Mr. SIMMONS. Let the Secretary read the amendment; and I ask that the Secretary read the paragraph in which the amendment is offered, so as to show the connection.

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

The SECRETARY. Beginning on page 3, commencing with the paragraph on line 12, the amendment of Mr. SMITH of South Carolina reads as follows:

That the plant or plants provided for under this act shall be constructed and operated solely by the Government and not in conjunction with any other industry or enterprise carried on by private capital.

Following the words "private capital," it is proposed to insert a colon and the following proviso:

*Provided*, That in time of peace and when not needed for the manufacture of nitric acid for governmental purposes and uses, the said plant or plants may be leased under such rules and regulations and upon such terms and conditions as may be prescribed by the Secretary of War for their use and operation and for the termination of such lease or leases when such plant or plants are required for the manufacture of nitric acid for governmental purposes.

Mr. HARDWICK. I think the amendment suggested by the Senator from North Carolina will help us solve this question, but I think it ought to be offered as a substitute for that part of the amendment embraced in lines 3 to 7, on page 3.

Mr. SIMMONS. I have no objection to that.

Mr. HARDWICK. That would be the proper place to put the amendment.

Mr. SIMMONS. That would be just as satisfactory to me as to have it inserted at the point I suggested.

Mr. HARDWICK. I suggest that change, if it be satisfactory to the Senator from South Carolina.

Mr. SMITH of Georgia. Mr. President—

The PRESIDING OFFICER. Does the junior Senator from Georgia yield to the senior Senator from Georgia?

Mr. HARDWICK. I yield to my colleague.

Mr. SMITH of Georgia. I understand that a substitute has been prepared which will strike out the language which the Senator from North Carolina [Mr. SIMMONS] is seeking to amend.

Mr. HARDWICK. And also the language which I read.

Mr. SMITH of Georgia. It is proposed to amend, on page 3, by striking out all of the paragraphs between line 8 and line 15, both inclusive, and inserting in lieu thereof the following:

That for the construction of the necessary dam, locks, substructure, power house, hydroelectric equipment, and all other necessary buildings or works, and for all expenditures necessary to carry out the terms of this act in accordance with the plans, specifications, and contracts made and prepared under the direction of the Secretary of War, the sum of \$1,000,000 is hereby appropriated out of moneys in the Treasury not otherwise appropriated, to be immediately available: *Provided*, That a contract or contracts may be entered into by the Secretary of War for materials and work and for all other purposes necessary to carry out the terms of this act, to be paid for as appropriations may from time to time be made by law, not to exceed in the aggregate \$30,000,000, exclusive of the amount herein and heretofore appropriated.

I read that in the absence of the Senator from Alabama. I understood from the Senator from South Carolina that this

amendment had been prepared by the Senator from Alabama, and that he contemplated accepting it.

Mr. SMITH of South Carolina. Mr. President, I will state, in explanation of that, that as the question arose the other day as to the \$15,000,000 perhaps not being sufficient as a lump sum, it might be better to authorize the expenditure of a sufficient amount to provide ourselves adequately for times of war, which the experts say would necessitate \$30,000,000. For that reason I thought perhaps this amendment was better, and therefore I accepted it.

The PRESIDING OFFICER. The pending amendment is the amendment of the Senator from Georgia.

Mr. HARDWICK. Mr. President, I believe I have the floor. I only wanted to make a few observations on this proposition. I believe we can work this thing out—

Mr. KENYON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Iowa will state his inquiry.

Mr. KENYON. We could not hear the statement by the Chair of the pending amendment.

The PRESIDING OFFICER. The pending amendment is the amendment offered by the junior Senator from Georgia [Mr. HARDWICK].

Mr. GALLINGER. Let it be stated.

The PRESIDING OFFICER. The Secretary will state the amendment.

The SECRETARY. On page 2, line 17, it is proposed to strike out the words "and useful in the manufacture of fertilizers."

Mr. KENYON. Mr. President, I should like to make another parliamentary inquiry.

Mr. HARDWICK. I yield to the Senator. Is the Senator asking me a question?

The PRESIDING OFFICER. No; the Senator from Iowa is propounding a parliamentary inquiry to the Chair.

Mr. KENYON. I wish to propound a parliamentary inquiry which can be answered by the Senator from South Carolina.

Mr. HARDWICK. I do not see just how that can be done. However, I yield to the Senator.

The PRESIDING OFFICER. If the Senator from Iowa desires to make a parliamentary inquiry, he will address the Chair. The Senator will state his parliamentary inquiry.

Mr. KENYON. I was out of the Chamber, and I wanted to get the run of matters. I understood the Senator from Georgia to state that the Senator from South Carolina had accepted the amendment on page 3, proposed, I think, by the Senator from Alabama. I should like to inquire of the Senator from South Carolina if that is so. If so, I should like to inquire of the Chair if the Senator can accept an amendment of that kind?

The PRESIDING OFFICER. The Chair will state to the Senator from Iowa that the amendment to which he now refers has not been offered. The Chair, of course, has no knowledge of private agreements between Senators.

Mr. HARDWICK. Mr. President, just a word or two on the general question.

I believe this matter can be worked out into such shape that every Senator, no matter what his views are about Government ownership or Government participation in all sorts of private enterprises, can support it; but no Senator who has anything like my views on the question of Government participation in business can support it on any such theory or for any such reason as those suggested by the Senator from South Carolina. Nor do I think the case to which the Senator refers—that of the act of 1856, where the United States gave to the patentees or discoverers of certain guano islands certain rights, and put on them certain conditions in granting those rights as to how they should conduct their private business—has any relation, direct, remote, or otherwise, to the question as to whether the United States Government itself is going into the business of manufacturing fertilizer and selling it to the farmers of this country. That is the thing to which I am opposed.

It is not that I would not like to see the farmers benefited. I guess I am just as truly their friend, just as loyal to their interests, as my friend from South Carolina or any other Senator in this Chamber, although there are Senators in this Chamber who protest very much more on that subject than I do. But whether the proposition be to manufacture goods of the one kind or the other or to engage in the one sort of business or the other of a private character, it is utterly obnoxious to my own ideas of good government or sound policy. I believe that the one and only business in which the Government of the United States ought to engage is the governing business; and if it will attend to that job correctly it will have job enough at that, without going into all sorts of other enterprises.

Of course the language that I am moving to strike out, which I understand my friend from South Carolina is not particularly

opposing, is a proposition that the United States shall go into this improvement for the purpose of generating electrical or other power for the production of nitrates or other products needed for munitions of war and useful in the manufacture of fertilizers. I have moved to strike out the words "and useful in the manufacture of fertilizers," because I think the governmental activities ought to be confined solely to governmental purposes. While I am quite willing to concede that it is a legitimate governmental function to provide the gunpowder which is necessary for the use of our Army and Navy in time of war, just as we provided armor-plate factories for the ships of our Navy the other day—I am not worried about that—I do not think, however, it is a legitimate governmental function to engage in the manufacture of fertilizer and the sale of it to the farmers, no matter how much we love them and no matter how often we protest that we do.

Mr. LANE. Mr. President, I should like to ask the Senator a question.

Mr. HARDWICK. I yield to the Senator from Oregon.

Mr. LANE. Does not the Senator think it would be as useful to the Government to increase the food supply, in case of war, as it would the gunpowder supply?

Mr. HARDWICK. Possibly.

Mr. LANE. Is it not actually just as useful?

Mr. HARDWICK. The Senator does not embarrass me by that question. There are a great many things that we do in time of actual war along that line that we would not think of doing in times of peace. For instance, during the Civil War almost every Southern State by statute limited the amount of cotton that could be planted. Of course, I would doubt the constitutionality of those statutes in times of peace, and I do not think they were ever upheld even in war times by any courts of last resort; but if they had come before the courts of last resort of the Southern States during the war I have no doubt they might have been upheld on the ground of military necessity.

Mr. LANE. Mr. President, I will ask the Senator, in connection with what I said before—premissing the question with the statement that within the last 40 years the production of wheat in this country has gone down from an average of 30 bushels to an acre to 15, and we will say by way of comparison that in Germany it has increased from 15 to 40—whether it would not be just as wise and equally as much a governmental function to increase the food supply of the country as it would be to increase the gunpowder supply, and wherein lies the difference? Where does the Government's interest in its people stop? Does it exist only in time of war? Is it not its duty to prepare for war, and to feed its soldiers and to feed its population which is not at war, as much so as it would be to make nitric acid for explosives? And would it not be a better business for the Government to engage in, if you please?

Mr. HARDWICK. Answering the Senator's question, I want to say to him that it does not seem to me that there ought to be any division of sentiment or opinion on the question that the Government of the United States ought to do all that it properly and legitimately can to increase the yield of wheat in the United States under the circumstances as outlined. It ought to do all that the scientists and the experts in the Agricultural Department can find out and disseminate that knowledge among the people; but I do not think the Government ought to go into the business of farming in order to do it. That draws the line, I think.

Mr. LANE. I do not think it does quite draw the line.

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Oregon?

Mr. HARDWICK. Yes, sir.

The PRESIDING OFFICER. The Chair admonishes the Senator from Georgia that—

Mr. LANE. For a question, Mr. President; nothing else. Would it not be better for the people and for the Government if it had a well-fed and prosperous people than to go into war with a people who do not raise a sufficient supply of food to keep them in good trim in times of peace? Would not that be a far-sighted policy on the part of the Government, so as to have more able-bodied soldiers, with an interest in the Government, in return for the interest which the Government has taken in their affairs? Would they not more cheerfully go to war and help burn up this nitric acid which we must have from the air?

Mr. HARDWICK. Yes; I presume the people would in many cases be fatter and sleeker and more prosperous if the Government should feed them, but I do not want to embark in that undertaking just yet, as far as I am concerned.

Mr. LANE. I am not asking to have the Government feed them.

Mr. HARDWICK. It might be better for the Government to feed them out of the public crib, but I am not yet prepared to go that far. I think, Mr. President, as far as I am concerned, that the Government will have fully enough to do if it will just attend to the governing business and not go into the business of manufacturing and selling goods of various kinds. "The United States (Ltd.), manufacturer of and dealer in agricultural fertilizers, boots, shoes, and clothing," might sound well enough to some Senators, but it does not to me. That is just exactly my position about that matter.

I think the Senator from North Carolina has suggested an amendment that ought to go in the amendment in lieu of lines 3 to 7, inclusive, on page 3. In that way it will correlate with the amendment that is to be proposed, we are informed, by the junior Senator from Alabama [Mr. UNDERWOOD]. I think possibly with those changes we may be justified in supporting a proposition like this, because not even the strictest constructionist could very well object to the proposition that if the Government finds it necessary to develop water power in order to make a munition of war, and it finds it necessary to keep that water power where it can be used to a maximum capacity in the event hostilities were to break out, then while it is not being used for that purpose we might very well lease it out or dispose of that power in some other way. That would not offend against the very ideas and arguments I have suggested, because you just simply let private capital use it and employ it in any way they see fit, under lease from the Government or under sale from the Government with a right of recapture.

I think that is the substance of the idea embraced in the amendments proposed by the Senators from Alabama and North Carolina. If the amendment that I have suggested is to be agreed to—as I understand it is—and their amendments are to make modifications along the lines I have suggested, then I will have no objection to this proposition, and will be willing to support it under these conditions, which I have just outlined.

Mr. MARTINE of New Jersey. Mr. President, as I understand, the Senator's amendment is to strike out the words "and useful in the manufacture of fertilizers."

This may not sound quite as esthetic as some other language in the bill; but aside from that fault, I ask, what earthly harm can come from the use of those words in this bill? To my mind, it will be infinitely more to the benefit of mankind to grow wheat and food generally than to make gunpowder. I stand by that proposition broadly, but we need them both.

I am told by the Senator from Georgia that it is not a governmental function to make nitrates for fertilizer. Your Government, however, appropriates the people's money to stamp out the cotton-boll weevil in Georgia, and I have never heard a word of protest—

Mr. HARDWICK. Mr. President, if the Senator will pardon me just a moment, I suppose the Senator is directing his remarks to me.

Mr. MARTINE of New Jersey. Aye; the Senator is the man to whom I referred.

Mr. HARDWICK. Never have I asked for a cent for that purpose, and never has one cent been spent for that purpose in my State. There is no boll weevil in Georgia.

Mr. MARTINE of New Jersey. Well, whether it is or not, money has been voted for it.

Mr. HARDWICK. Not for Georgia.

Mr. MARTINE of New Jersey. Not necessarily for Georgia, but generally for the South, to stamp out the cotton-boll weevil that has afflicted the Senator and his constituency in common with the rest.

Mr. HARDWICK. No. Will the Senator yield?

Mr. MARTINE of New Jersey. Well, if it did not affect his constituency directly—

The PRESIDING OFFICER. Does the Senator from New Jersey yield to the Senator from Georgia for a question?

Mr. MARTINE of New Jersey. Certainly.

Mr. HARDWICK. The Senator, of course, does not want to misstate the facts.

Mr. MARTINE of New Jersey. I do not want to; but I say that if it has not affected the constituency of the Senator from Georgia directly, it has affected other sections of the South.

Mr. HARDWICK. The Senator is charging me with an inconsistency, and I do not propose to let it pass unnoticed. I have never done any such thing as he suggests.

Mr. MARTINE of New Jersey. Well—

Mr. HARDWICK. Wait a minute. I have never asked for such an appropriation, and, besides that, there has been no boll weevil in Georgia at all yet. The Senator ought to be sure of his facts before he makes suggestions of that kind.

Mr. MARTINE of New Jersey. I will accept the apology, as far as the Senator from Georgia is concerned.

Mr. HARDWICK. The apology?

Mr. MARTINE of New Jersey. But all the rest of the South that raises a sprig of cotton is daubed with this stick. You are all anxious to get public appropriations for stamping out the cotton-boll weevil. Now, I should like to be permitted to inquire whether the Senator voted against that measure?

Mr. HARDWICK. What measure?

Mr. MARTINE of New Jersey. The appropriation to stamp out the cotton-boll weevil in the South.

Mr. HARDWICK. I never heard of any issue being raised on it.

Mr. MARTINE of New Jersey. Then the Senator's ears have not been as acute as mine. I have heard it dingdonged in my ears from my fellow Senators over on this side of the Chamber very much.

Mr. HARDWICK. Not from the Senator from Georgia, however.

Mr. MARTINE of New Jersey. I am referring to the cotton interests of the South.

Mr. HARDWICK. Not from the Senator from Georgia, however, in spite of the Senator's intimations.

Mr. MARTINE of New Jersey. Well, I will except the Senator from Georgia. God knows he is a remarkable exception; but all the rest have been willing to take it. I want to say that Congress takes from the people's earnings, through a supposed legal process, their money to aid in the growing of sugar, putting on a tariff whereby the sugar interests may be subserved, and that seems to go without cavil or without the least of dissent. Now my distinguished friend the Senator from North Carolina comes along with an amendment, and the aim and purpose of his amendment is to take out the possible opportunity of the Government to engage in the business of manufacturing these nitrates for any purpose except for use in gunpowder. Whenever the Government shall not require the factory for the purpose of manufacturing nitrates for use in gunpowder, it may be leased to some other parties to proceed with the manufacture of fertilizers.

The one good provision in this whole amendment of the Senator from South Carolina to my mind is that it is the Government's right to manufacture in its own factory this necessary ingredient, nitrate. It is necessary in gunpowder and it is necessary in all fertilizers. That is the blessing of the Smith amendment to my mind over the proposition that was made by the Senator from Alabama. It is the fact that the Government is in this business, undisputed and alone, to manufacture this valuable ingredient for the purposes of the people, to manufacture it for use in gunpowder—and God knows I hope it will have occasion to manufacture but very little of it—and that the residue may go for the fertilization of the acres of our country.

This, to my mind, is the redeeming feature of the amendment. I can see no evil in the Government manufacturing a product that is vitally necessary to stimulate the growth of wheat, corn, and other foods. Certainly there can be no evil in that. The only objection is a sentimental objection upon the part of the Senator from Georgia, it seems to me.

I believe the adoption of the amendment proposed by the Senator from South Carolina will prove an infinite blessing to the country; and I shall vote against any proposition that would tend to limit or curtail the great results that must necessarily come, and the blessings that will follow, to the whole agricultural people of this country.

Mr. HUSTING. Mr. President, when this amendment was up the other day, I took occasion to say a few words in support of it upon the ground that it was to be a Government institution, not only for the manufacture of nitric acid for explosives but also for the manufacture of fertilizers to be used by the farmers. Now it is proposed to take out of this bill at least half of the purpose for which \$15,000,000 is to be appropriated, upon the plea that it is socialistic.

As I said the other day, I think the time has gone by when by merely calling something by a name that any gentleman chooses to call a certain act or a certain piece of legislation it becomes so. That is merely expressing an individual opinion. Where a man applies an epithet to another person or to another act it is merely expressing his own private or public opinion. That is neither here nor there, in my humble judgment. The question is whether the proposed legislation is something that is going to inure to the benefit of the people of the country.

It is said here that the manufacture of fertilizers is not a governmental function. It has been stated by the Senator from New Jersey [Mr. MARTINE] that money has been voted for the cotton-boll weevil. I believe there is a bill before the Senate now, introduced by the Senator from Florida [Mr. BRYAN], to

appropriate \$500,000 for the eradication of the citrus canker, along that same line. But, Mr. President, the United States has not waited until this late day to vote money for the promotion of agriculture. We have an Agricultural Department that I know is costing a good many hundred thousands of dollars a year. I believe every Senator and Representative is taking his quota of seed and sending them all over the United States to his constituents at an expense, I presume, to the Government of hundreds of thousands if not millions of dollars. Money is being voted at every session of Congress that is not out of harmony at all with this purpose. This has become a well-defined policy on the part of the United States. If anyone wants to take the trouble of running through the statutes of the United States, he will find that hundreds of thousands and millions of dollars are being appropriated every year that have not the beneficent purpose that this bill seeks to accomplish. In election times we find that every Senator and every man, in fact, running for office is a good friend of the farmer and the farming industry. Here is an opportunity where this feeling can have a practical application.

Not only that, but here is an opportunity to do something of substantial value for the people of the United States. If the farmers of our country can get a cheap fertilizer, with the cheap land that we have, what country of the world can compete with us in the raising and the sale of our farm products? Everyone knows that what this Government has a primary dependence upon is the agricultural welfare of the country, and anything which tends to make two blades of grass grow where one grew before, in my judgment, is the best kind of a policy to adopt. The best thing in the world we can do is to advance this great industry, not for the purpose of enriching the farmer but for the purpose of enriching the future of the United States.

There is another reason why I do not want to see this amendment adopted, and that is because I can not understand why we should vote \$15,000,000 to establish a plant that we are only going to use in time of war. When this matter first came up the Senator from Alabama [Mr. UNDERWOOD] expressed it as his idea that if this plant were built we would not use it all the time; that in times of peace the most natural thing in the world would be to lease it to somebody else for his use and only take it back in time of war to insure our supply of nitrates.

This country ought to adopt one plan or the other. It ought either to have a plant that is ready to any extent to manufacture what we need in time of war and use it for the purposes of the United States in the meantime or we ought to reserve the right to seize any water-power plant that we desire, and we can do it very easily by writing it into the permit, and use it in time of war.

But I can not understand why Senators want to vote \$15,000,000 to build somebody else's plant. I am against the United States appropriating \$15,000,000 to put somebody else in business and giving him the use of the plant so long as he wants to use it and only borrowing it of him when we must have it. That is the plain intent of this sort of an amendment.

It is proposed here that we should spend \$15,000,000 to put up a water-power plant, and then if we are going to have a war once in a quarter of a century, and I hope hereafter we will have one only once in half a century or once in a century or never, we, after building that plant, will take somebody and invest him with property for his own private use until such time as we may hereafter need it, if the occasion should ever come that we must need it. Now, what is the object of doing that? If we are going to use it only in time of war, what is the use of having \$15,000,000 invested in times of peace for somebody else to use?

It is to be done under the terms of the Shields bill, we will say. This is not a mere academic question as to what we may do in case we vote \$15,000,000 to build somebody a dam or a water power. I think we have a right to take into consideration the provisions of a bill which passed the Senate and is now before the House of Representatives as declaring at least the idea, the sympathies, and the purposes of the men who voted for that bill and who fathered and helped to pass the bill. I for one will take it, and I do take it, as a fair understanding of what we should do with Government-owned property.

Now, what do we find in the Shields bill? What is to be done with Government-owned dams? The Shields bill provides that Government-owned dams—that is, dams built with Government money—shall be leased to private individuals or private interests upon the same terms as a privately owned plant. Not only that, but the provisions are that we can not recapture or take back our own Government-owned plant except under the like conditions that we can take over a private plant. What does that mean? It means that under the Shields bill, which passed the Senate, all dams built with United States money heretofore and hereafter known as Government-owned dams shall be leased to private

individuals under the identical terms and conditions that are imposed upon owners of privately owned dams. What does that mean? It specifically provides that section 6 shall apply as far as the term may be applicable. It provides that—

Sec. 6. That at any time after the expiration of said 50 years the United States may terminate the rights hereunder granted upon the giving to the grantee, either before or after the lapse of the period of the permit, of two years' notice in writing of such termination, and upon the taking over by the United States of all the property of the grantee which constitutes part of the plant of the grantee and dependent in whole or in part upon it for its usefulness and acquired, necessary, appurtenant, valuable, or serviceable in the distribution of water, or in the generation, transmission, and distribution of power, and upon paying to the grantee the fair value of said property, together with the cost to the grantee of the lock or locks, or other aids to navigation—

And so forth. Everything used and useful must be taken over by the United States in order to recapture its own property and its own water power.

Now, not only that, but it may be leased to anybody for a private business. If the Shields bill were in operation to-day and the amendment of the Senator from South Carolina were in effect, what would be the result? As I understand it, and I do not think there is any dispute about it, it would mean that the United States would take this money and go and build a hydroelectric plant, and that then, under the terms of the Shields bill, upon the mere application to the Secretary of War, the plant would be turned over to any private corporation—I do not care where it is, whether in the South or the North or the East or the West—upon the payment of money. I should say that the only compensation the United States would get out of that would be the money which would be used in the upkeep of the dam.

Any company—the Du Pont Powder Co. or the Cyanamid Co.—could come in here and take hold of this plant and could connect up its other business with this plant, and it would pay us only enough money for the upkeep of the dam or to increase the flowage of water, and then in time of war we would have to go and take it over, with their own plant, and pay them just damages, fair compensation, which would include, of course, consequential damages for prospective profit, and everything else the court could put into the meaning of the words "of fair value."

Now, \$15,000,000 at 5 per cent amounts to something like \$750,000 a year. We have not had a war since 1898. We may not have another until 1998. We will have to pay the interest on that money—\$750,000 a year—with a chance of using it, with a chance of never using it, and at least with a chance of using it probably only 1 year in 25 or 30 years for the purpose of being able to take hold of that water power in case war should come.

I think if that is the object of the bill we had better let somebody else go into that business and manufacture nitrate and buy it and store it. Let them take their \$15,000,000 and build this plant, and do not let us allow them to make us put \$15,000,000 into their business, and then when we want to get it back have to buy them out.

I presume something would occur a good deal as did occur in the last war, when we had to go out and buy boats. I heard the Secretary of the Treasury speak at Madison about some of the figures then. We had no boats, and had to go out and buy them; and we bought them, I think, for \$100,000, and sold them for something like \$5,000 apiece, at least at about that ratio.

But here we would be in a position like that of building our boats and putting them in private hands, and running them, and then paying for their business when we wanted to borrow them. That is no business proposition. I am for one opposed to that bill and to this amendment. I say if we want to insure ourselves in the manufacture of nitrates for war purposes, that is all very well and good, let us manufacture them and store them at a place where they are safest, and then when we get through manufacturing nitrates instead of turning these plants over to private hands I say let them go on and manufacture something that will promote the welfare of this country.

I do not know why this idea of leasing these things comes up in all these discussions when the United States is attempting to do something for itself. The primary proposition, the primary idea, and primary object of this bill was to take care of the agricultural interests. The Agricultural Committee is certainly primarily concerned. I take it, in the promotion of agriculture. Why should they depart from the original idea, an agriculture idea, and in a preparedness bill the primary idea be abandoned and the secondary idea put into the bill, with an ultimate purpose it is evident, plainly stated here, that it is never to be used for agricultural purposes because perchance it might be considered socialistic by some one? In other words, the plain intent of the amendment of the Senator from Georgia

is to destroy this amendment as an agricultural idea. It is plainly for the purpose of building a dam at the cost of \$15,000,000 to be used only upon rare and very exceptional occasions, and, of course, in all the other years, in the other 99 per cent of the years, is going to put it in the hands of private interests under the terms of the Shields bill, if he would have his way, and if the other Senators who supported the Shields bill would have their way.

I say it is wrong, in my humble judgment, to go and invest money for the purpose of putting this investment into private hands. I would be glad to support most of this bill, if it carries out the object sought to be carried out in the start; but I for one absolutely refuse to support, and I shall vote against any bill which is going to invest the United States money for the interests of private individuals.

Mr. SHAFROTH. Mr. President, inasmuch as the Senator from Wisconsin [Mr. HUSTING] and I differ very materially as to the benefits of the Shields bill, it may seem somewhat strange that we should be in accord with relation to the amendment which is before the Senate—the amendment, I mean, of the Senator from South Carolina [Mr. SMITH]. The Senator from Wisconsin, I think, misconceives the Shields bill entirely. There is nothing in that bill which contemplates that the Federal Government shall undertake the construction of dams. It is purely at the expense of private individuals, and consequently whenever private individuals have built and invested their money—of course, if it is to be taken over by the Government it is right that they should be paid the amount which they have put in the same. Consequently, the allusion to the fact that certain things are similar in this case to the Shields bill is entirely, in my judgment, inappropriate, because they do not in any manner coincide.

I believe, Mr. President, that the bill as reported out of the Committee on Agriculture and Forestry is a good bill and should be passed. I recognize the fact the Senator from Georgia [Mr. HARDWICK] has so strongly emphasized, that the Federal Government has not under the Constitution the power to undertake a work purely for commercial purposes. But he can not deny, nor can anyone else deny, that if there is a governmental purpose to be served the Government has a right to undertake that thing which will produce the governmental purpose.

Under the amendment which is offered by the Senator from South Carolina we find that the purpose and the object as explained in the amendment itself is to erect a plant for a purely governmental purpose, namely, for the purpose of manufacturing nitric acid. Nitric acid, as everyone knows, is a most powerful explosive when it is mixed with certain other ingredients. It enters into the composition of a powder which is, perhaps, the most modern of all the violent explosives that are manufactured. That being the case, it is necessary, especially at a time when preparedness is supposed to be the order of the day, that we should fortify ourselves with something that will, in fact, make us prepared in the event that we have a war.

Mr. President, the importance of having a plant that can manufacture nitric acid, and will manufacture it both in times of peace and times of war, it seems to me, no one can deny. We are discharging our guns every day, even in times of peace. We are using powder; we are using explosives; we are experimenting and practicing with the guns of our Army and Navy. In my judgment the powder is something that should be manufactured by the Government, and I believe the Government should undertake the construction and operation of the plant itself. Improvements are always being made, new inventions are always being discovered. If the Government has a plant, its employees, while experimenting, will make important discoveries which the Government can keep secret and for its own use, and thereby have an advantage over an adversary in the event of war. For that reason I believe that munition factories ought to be run by the Government itself. Whatever inventions and whatever improvements in arms or in explosives are discovered by the employees belong to the Government. Our officers will utilize those inventions and will not give them to other nations, and by reason thereof we will have some advantage in case of conflict with another nation.

No one can deny that if the Government erects a plant for the purpose of manufacturing a product that is purely for a governmental purpose, and if by reason of the situation a surplus is manufactured or the plant is not needed all the time, the law authorizing the plant would be constitutional. It would be very foolish, indeed, for the Government not to utilize the plant, and utilize it for any purpose that could remunerate the Government in the way of getting a return for the investment which it has made.

There is no doubt but that in water-power plants themselves, the power generated is according to the flow in the stream,



The stream at one season of the year is only about one-fifth of the size of the stream in other portions of the year. Nay more, the capacity of the stream sometimes multiplies a hundredfold. Perhaps it may be that in three-fourths of the year the average of the stream is five times higher than it is at its lowest stage. Consequently, when you put up a plant it will not do to erect it with a capacity that will only utilize the water power for one-fourth of the time. It is economical to erect a plant with a reasonable regard to the flow of the water during three-fourths of the year. Especially is that true when nitric acid which is proposed to be manufactured is not a perishable product. It can be put up in carboys and kept for months and years. So the plant can run in the season when the water is high and thereby have the benefit of at least an average power.

Mr. HARDWICK. Mr. President—

Mr. SHAFROTH. I yield to the Senator from Georgia.

Mr. HARDWICK. If that be true, if nitrate can be conserved, why could we not just manufacture all of it for governmental purposes and store it up against future needs instead of disposing of the surplus product?

Mr. SHAFROTH. You can somewhat, but I suppose deterioration takes place to a certain extent. However, for the ordinary uses of the Government in the practices which they have on the battleships and also at the Army posts there would have to be a substantially increasing manufacture every year. It may be that it would be impracticable, and I expect it would be, to manufacture and keep in store nitric acid for long periods of time, but perhaps it might be done for a year or two.

Mr. President, in my judgment the plant which is erected should be sufficiently large to utilize more than the minimum quantity of water that could be used. We know that in time of peace the quantity of nitric acid that would be manufactured would be much less than in time of war. Of course, in time of war it would be multiplied a thousandfold, probably a millionfold, and you must have a plant that will to a reasonable extent be ready to supply the quantity of nitric acid that may be needed in time of war. If you do not do that, it is not a preparedness proposition at all. That being the case, it is necessary to have a plant much larger than that which would supply the needs of the Army and Navy in ordinary times and in peaceful times. For that reason a plant, by reason of legislation of this kind, must of necessity be much larger than that which is demanded in time of peace.

Now, what is to be done with the surplus? The plant is evidently to be erected under the authority of the Constitution of the United States. It may be a plant excessively large when contrasted with the demands for its products in peaceful times. It is erected under the Constitution and sanctioned by the law. Is it possible that when you do not need it you must shut it down and let it deteriorate in value? That can not be the object or the purpose of legislation of this kind. Inasmuch as it serves the purpose of preparedness and can be made to serve another purpose that is useful, and we have no other immediate use for it, the Government ought to utilize it to repay it for the investment which it has made.

Mr. SUTHERLAND. Mr. President—

The PRESIDING OFFICER. Does the Senator from Colorado yield?

Mr. SHAFROTH. I yield to the Senator from Utah.

Mr. SUTHERLAND. I wish to ask the Senator from Colorado a question. I think we have now a comparatively small amount of money invested in some small-arms manufacture, have we not?

Mr. SHAFROTH. I do not know what amount is invested.

Mr. SUTHERLAND. I think we have, but waiving that, in time of war we would need, or might need at any rate, a very large supply of small arms. Would the Senator from Colorado object to adding a provision to this bill appropriating \$15,000,000 for the erection of small-arms manufactories and carrying a proviso that when not needed for the manufacture of small arms these factories should be utilized for the purpose of manufacturing farm implements?

Mr. SHAFROTH. Oh, Mr. President, I do not think that is a fair analogy to the question which is before us now. The factories for arms contain entirely different machinery for the purpose of constructing firearms from those necessary for farm implements—so entirely different that you would have to make a new plant entirely.

Mr. SUTHERLAND. This war has demonstrated that these various factories may be very quickly transformed into manufactories of war munitions, and the converse of that is true.

Mr. SHAFROTH. The buildings could be used. I have no doubt that so far as the machinery that is used in the manufac-

ture of firearms is concerned, it would be largely of no use whatever in the construction of agricultural implements.

Mr. SUTHERLAND. The machinery undoubtedly could be turned to account in the manufacture of something for commercial purposes.

Mr. SHAFROTH. Some of it could be. Of course, a motor or something of that kind could be used. Inasmuch as holes are to be drilled, both in the construction of firearms and in the construction of agricultural implements, no doubt there is some analogy, but at the same time, it seems to me, that they are so far apart that there would be very little utility in providing for a thing of that kind.

I want to say, further, that a nitric-acid factory can not be changed to anything else; it is purely for the extraction of nitrogen from the air, and the machinery that would be used in such a factory could not be used in the manufacture of anything else.

Mr. SUTHERLAND. The Senator from Colorado, if I understand him, is in favor of these manufacturing plants, which are to be built for the purpose of making small arms, lying idle when they can not be utilized for that purpose?

Mr. SHAFROTH. No; not necessarily. I am not in favor of their lying idle all the time. Of course, I think that there is a growing demand, and that there will continue to be a growing demand, for the supply of arms. I believe their production is one of the things in which there should be preparedness, because we ought to have a large quantity of arms ready to be put into the hands of men who would enlist in time of war. The very fact that we have not any great number of such arms would show our unpreparedness in case there was a war.

But now, Mr. President, I want to go a little further with relation to this matter. It seems to me that as to the construction of the plant which is proposed to be authorized by the amendment offered by the Senator from South Carolina [Mr. SMITH] the plant ought to be large. If it is not to be large, it will not be a preparedness proposition at all. If it is only going to be large enough for the purpose of supplying nitrogen in times of peace for explosives that are made for target practice, for salutes which may be made, and things of that kind, of course it would not constitute any preparation at all. Consequently we have to construct such a plant with relation, at least to some extent, to a state of war which possibly may come. Inasmuch as such a plant has to be constructed with that end in view, for the purely governmental purpose of being prepared, there is a surplus both as to product and as to plant that ought to be utilized in some way; and, inasmuch as it can be utilized by the farmers, and the product can be sold by the Government for the purpose of obtaining a return to the Government and an interest of some kind upon its investment, it seems to me that it is but proper it should be operated with a view, first, of supplying the Nation with means of defense, and, second—which is a subordinate, but nevertheless important function—with a view of giving to those who need the product something which would be beneficial to them and at the same time remunerative to the Government.

Now, I want to say, in addition—

Mr. SUTHERLAND. Mr. President, before the Senator from Colorado passes from that point, I desire to ask him another question.

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

Mr. SHAFROTH. Yes, sir.

Mr. SUTHERLAND. How large an expenditure does the Senator from Colorado think would be necessary to provide plants large enough to manufacture all the nitrates which will be required by the farmers of the United States?

Mr. SHAFROTH. Well, I must say that it would take probably hundreds of millions of dollars to erect such plants.

Mr. SUTHERLAND. Yes.

Mr. SHAFROTH. And I am not in favor of that.

Mr. SUTHERLAND. I thought the Senator would not be in favor of that. Now, let me ask the Senator this question: Does the Senator from Colorado believe for one moment if we once embark upon this socialistic scheme of manufacturing nitrates for the farmers that the farmers of this country, who cast at least one-third of the votes that are polled at every election, will ever rest content until the Government of the United States is manufacturing nitrates for all of them at a cost of many hundreds of millions of dollars?

Mr. SHAFROTH. I do not think that any such condition will ever arise. I am not a believer in the doctrine that the Government should supplant private enterprise. I do not believe it is wise; I do not believe it is to the best interest of the people; but whenever, as a part of a governmental function,

the Government undertakes the manufacture of something and has a surplus, it seems to me absolutely preposterous that it should not utilize that surplus in a way that will be of some benefit to somebody else and at the same time afford a return of some kind for its own investment.

Mr. President, I am not one of those who think that the Government can manufacture more cheaply than can individuals; I do not believe it. I am satisfied that that condition will never arise when the Government can afford to sell what it manufactures at as low a price as can the individual; but I do say that whenever we have limited conditions and a limited number of enterprises and those limited enterprises can control the market by reason of which they can charge exorbitant prices, either by combinations or by gentlemen's agreements—in such a case the Government can manufacture for a cheaper price than the price which such enterprises, for their own selfish interests, will put upon their products. It is for that reason also that I believe the Government, when it has a clear governmental function to perform, and as a result of that function has a surplus, has a right to let the people know by its own sales to them how much the product is worth and how much it costs to manufacture it, so that the private companies, by reason of gentlemen's agreements or combinations, can not set a price that is absolutely exorbitant to the farmer as well as to other people.

Mr. President, it seems to me that that purpose alone would be a strong reason for the erection of this plant—not the primary purpose, for the primary purpose is the performance of a governmental function; but when it is demonstrated that this article can be manufactured at a cost which is much less than the price which private companies might fix, it seems to me that, to prevent a monopoly, it is not a bad proposition as a part of this governmental function that the Government should assume the power and the privilege of letting the people know by its own sales how cheaply this product can be manufactured. Legitimate capital need not fear governmental undertakings of this kind, for I do not believe the Government can manufacture as cheaply as they can; but the Government can manufacture a good deal more cheaply than the combination price which a few corporations might make with relation to a product of this kind.

Mr. President, it seems to me that the amendment which has been proposed by the Senator from South Carolina [Mr. SMITH] is a good amendment; that it is wise. It can not be attacked on the ground of unconstitutionality, unless it be said that it is a mere subterfuge and that the real purpose and object, and all of the object practically, is for the purpose of entering into private business. That, however, can not properly be said to be the case, for everyone here recognizes that we would have no opportunity of getting nitrates if we should have a war with any nation that has a considerable navy. The only supply of nitrates which now exists in the world is that on the plains of Chile. Should that supply be seized or should that product be cut off by reason of submarines or otherwise, we would practically be left unarmed and subject to attack by other nations. That being the case, it seems to me it is imperative that we should do just as England has done, just as Germany has done—utilize the power which we shall take from the air, of which nobody can deprive us, and which consists of four-fifths nitrogen and one-fifth oxygen, and utilize that by converting it to our use under processes which are now well established, thereby keeping within the borders of our own country the power to prepare for an emergency, which might possibly be brought about, though we all hope it may never arise.

Mr. KENYON. Mr. President, I wish to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. KENYON. The Committee on Military Affairs have reported a substitute for the House bill. The Senator from South Carolina [Mr. SMITH] proposes an amendment to that substitute. The Senator from Georgia [Mr. HARDWICK], as I understand, then proposes an amendment to the amendment to the substitute. I ask the Chair if the latter amendment is not out of order, as being an amendment in the third degree? I make the point of order that the amendment of the Senator from Georgia is not now in order.

The PRESIDING OFFICER. The Chair will read to the Senate a part of Rule XVIII, which provides:

But pending a motion to strike out and insert, the part to be stricken out and the part to be inserted shall each be regarded for the purpose of amendment as a question; and motions to amend the part to be stricken out shall have precedence.

The Chair therefore thinks that the amendment offered by the Senator from Georgia is in order, and is but an amendment in the second degree.

Mr. JONES. Mr. President, I want to suggest to the Senator from South Carolina that I believe he would make time in the consideration of his amendment if he would withdraw it and frame it along the lines that he expressed himself as willing to accept a short time ago. I understand that quite a number of Senators have amendments which they desire to propose, which are more or less acceptable to the Senator, and yet we do not know what they are.

Mr. SMITH of South Carolina. Mr. President—

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

Mr. JONES. Certainly.

Mr. SMITH of South Carolina. I rise to clarify the atmosphere, so far as the position of the author of this amendment is concerned, in order that we may have no misunderstanding.

Since this debate has developed I have been anxious to conserve two purposes: One was to furnish munitions of war, which we are all agreed are absolutely essential—and I need not enlarge on that as the helplessness of this Government in case of war has been so forcibly stated heretofore—and, secondly, as the Senator from Colorado [Mr. SHAFROTH] has so ably pointed out, that as a result of the manufacture by the Government, there will be a surplus of nitrogen. It therefore seemed perfectly reasonable that as that happened to be—

Mr. JONES. Of course, I merely yielded to the Senator for a question.

Mr. SMITH of South Carolina. I thought perhaps the Senator from Washington wanted me to state—

Mr. JONES. I understood the Senator from South Carolina to state what he has just stated awhile ago. That is the reason why I made my suggestion.

Mr. SMITH of South Carolina. Then I will wait until the Senator gets through and state exactly what I am willing to do and what I am not willing to do.

Mr. JONES. I thought the Senator had stated—at least, I thought I so understood him pretty clearly awhile ago—what he was willing to do. It was because of that suggestion and because I know that there were different Senators offering amendments, some of which have been suggested, one being by the Senator from North Carolina [Mr. SIMMONS], that it occurred to me that it would be better if the Senator from South Carolina would get together with those who are interested, and whose views he knows, and frame his amendment in such a way that it would present a concrete proposition here. With that end in view, I want to suggest one or two matters which have occurred to me with reference to the Senator's amendment.

I do not know as yet whether or not I shall vote for the amendment. I see many important things which ought to be done, or, at least, which I think ought to be done; and when I contemplate how slowly they come along I begin to think I should like to see the Government take hold of them; but when I see how the Government does or tries to do things—or, rather, how it fails to do things that it has undertaken—I am discouraged at the outlook of Government ownership or Government construction or Government operation of these great enterprises. So I do not know whether or not I shall vote for this proposition. It came here as a purely agricultural proposition in the first place. It was reported by the Committee on Agriculture as a separate measure, and was designed purely for the purpose of furnishing fertilizer to the agriculturists of the country. I want to see them get fertilizer; I am just as anxious, I think, about that as is the Senator from South Carolina. I do not think that anybody is more interested in promoting the welfare of the farmers than I am, so far as that goes, and I received a long letter this morning from the representatives of some organizations in the South, appealing to me as a Senator from the West who had assisted in having the Government enter into the field of irrigation, to support this proposition. I do not think that the two are on a parity—I do not think they are similar at all—but that would not make any difference to me if I thought it was possible to go into the undertaking.

As I have said, this matter came up here first as an agriculture proposition, and now, because we have a military bill under consideration, it is proposed to convert it into a preparedness measure and get it on to the bill on that plea.

Now, I want to suggest one or two matters that I hope the Senator will consider; at any rate, they might help me to come to a favorable conclusion with reference to the amendment. I think the Senator from Colorado [Mr. SHAFROTH] touched upon both of the propositions. One is that whenever development is undertaken at any site that may be selected there ought to be the highest possible development at that point. The amend-

ment, I think, does not provide for that, and I have presented an amendment to the amendment, and had it printed, to substitute for the words proposed to be stricken out by the Senator from Georgia [Mr. HARDWICK] the language that we placed in the Shields bill as it passed the Senate. After the provision concerning the development of power for the making of munitions of war, nitrates, and so forth, I propose to add the words "and best adapted to conserve and utilize the water resources of the region in the interest of navigation, the needs of the Government, and the public welfare."

That is very broad language, and I think it would cover the idea which the Senator from South Carolina has in mind; but something of that kind ought to be added to his amendment. If the Government acquires a site and puts in a dam which will develop power simply for the purpose of making munitions of war, and stops there, it stops all further development at such point. There may be many other lines of industry that would be promoted by a higher development, and they would not be promoted in any other way. So, it seems to me, that if the Government is going to put in a dam at any point, on any stream, in order to develop water power for any purpose whatever, it ought to put in such a dam as will develop water power for all possible purposes in the immediate locality tributary to such development. I take it that the Senator would probably have no objection to a proposition of that kind, because I know he wants the highest possible development that we can get.

Another point: The Senator from North Carolina [Mr. SIMMONS] had an amendment read, which I understood to relate to the use of the proposed plant and water power in time of peace and which contemplated that the plant might be leased to private parties. Mr. President, I doubt the advisability of the Government leasing any plant that it may have constructed for the purpose of manufacturing ammunition and munitions of war. There is a constant improvement in the manufacture of powder, or, rather, in the kind of powder being manufactured. New processes are being developed, and new machinery probably would be needed for these different processes. So, it seems to me, that it would be very unwise for the Government in time of peace to turn its plant over to private parties to be used possibly for some purposes entirely different from the manufacture of powder or munitions of war. The Government ought to keep its plant, at least its ordinary plant, in time of peace as well as in time of war, for the purpose of keeping on hand at all times a trained force and also for the purpose of experimenting, in the hope of developing more effective powder and more efficient scientists, mechanics, and experts in the manufacture of powder and munitions of war. If you turn the proposed plant over to private parties in time of peace, you will not get the benefit of anything of that sort.

One of the principal arguments with reference to having work continued to be done in our navy yards is that the Government may maintain an efficient organization and an efficient force. That is a very strong argument; in fact, it seems to me it is almost unanswerable. So, if the Government is going to have a plant for the purpose contemplated, the Government must maintain it in peace as well as in war. It will not be efficient in time of war unless it has been kept efficient in time of peace. So, it seems to me, that there is much danger in the proposition suggested by the Senator from North Carolina. I am rather inclined to think that whatever the Government may deem necessary in time of peace, the manufacture of ammunition and munitions ought to be kept always in control, and that the plants ought to be operated by the Government itself.

As the Senator from Colorado has said, there is bound to be a surplus if we have the highest development. Now, what should be done with that surplus power? Of course it should not be wasted. I doubt the advisability of the Government going into the manufacture of fertilizer, even with that surplus power, and entering upon the construction of plants for that purpose. I do not see any constitutional objection to it, however, in connection with the plant that it may see fit to install for the manufacture of nitrates for powder or munitions of war, and I have suggested an amendment which I think covers that situation. The amendment is on page 3 of the amendment of the Senator from South Carolina to strike out lines 3, 4, 5, 6, and 7 and insert something like this:

That the water power made available by such development and not needed for navigation and for the production of nitrates and other products needed for munitions of war shall be disposed of by the Secretary of War under such regulations as he may prescribe.

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

Mr. JONES. Certainly.

Mr. HARDWICK. If the Senator's amendment were adopted, it would rob the pending amendment of its most objectionable feature, would it not?

Mr. JONES. I think it would remove the objection which the Senator has in mind. I do not know that I would oppose a proposition that would permit the Secretary of War even to use the surplus power for the development of outside industry if it were found to be advisable to do so.

Mr. CLAPP. Mr. President, I should like to make a suggestion to the Senator along that line. I quite agree with him in reference to his argument of a moment ago, that the Government should utilize any such plant as it may have in order to train an efficient force rather than to lease it; but still there might be a case when it would be advisable to lease. So, in reference to the point the Senator has just made, I think we should provide that the plant may either be disposed of or used directly by the Government. I think both methods might be provided.

Mr. JONES. I rather think that that would be a good idea, because it will all rest with Congress, anyhow, as to what development can be carried on by the power of appropriating the money for it, and it might be found advisable even to use the surplus power by the Government itself, rather than to put it in the hands of somebody else or to lease it. Of course, I think that the Secretary of War, under the language which I have indicated, in disposing of the surplus power could do so by lease or by sale, with any condition that he saw fit to impose upon the purchaser or the lessee by means of which he could recapture this power if it were considered necessary for the benefit of the Government.

Mr. UNDERWOOD and Mr. CLAPP addressed the Chair.

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

Mr. JONES. I think the Senator from Alabama rose first, and I yield to him.

Mr. UNDERWOOD. Mr. President, I see no objection in the world to the amendment the Senator from Washington proposes. I think the Government ought to have the right to dispose of power when it does not need it; but I do not think the Senator's suggestion goes to the point of the amendment which I expect to offer.

Mr. JONES. I do not know, of course, what is contained in the Senator's proposed amendment.

Mr. UNDERWOOD. I desire to call the Senator's attention to that portion of the amendment which I have suggested, and which was read from the desk to be offered by me, covering the idea I have in mind. So far as disposing of the water power is concerned, I think the Senator's proposition is entirely acceptable, but there is another end to the proposition. There is no provision in this bill whatever—

Mr. JONES. Mr. President, I hope I am not losing the floor.

Mr. UNDERWOOD. I do not intend that what I shall say shall have that effect; but I wish to call the Senator's attention to this proposition.

Mr. JONES. So far as I am concerned, of course, I am glad to yield to the Senator.

Mr. UNDERWOOD. There is no provision in this amendment by which the Government can acquire any of the processes for making air nitrogen—they are all patented and owned by private parties—except possibly through the general power of condemnation. It could condemn for war purposes, but it could not condemn for war purposes and then use the processes for agricultural purposes, and the object of the amendment that I intend to offer is to give some power to the Government to make a contract with the owners of the patents, to purchase them or lease them or acquire them in some way, so that when the Government acquires them for war purposes, to make powder, when it was not necessary to use the plant for making powder, the processes could be used for making fertilizer. There is no provision at all in this amendment as it stands for that purpose. You build the plant and build up the industry, and when you do not need the plant for making powder for the Government or for anybody else it may be used to manufacture fertilizer. That is the real purpose of the amendment I intend to suggest.

Mr. HARDWICK. Mr. President, does the Senator think the Government has the power to manufacture fertilizer?

Mr. UNDERWOOD. If the Government goes into this proposition for a war purpose, when it is not using the plant for a war purpose I think it has the entire right to lease the plant or to use the plant to make nitrogen and sell the nitrogen for fertilizer to help the farmers of this country. It is within the power of the Government, just exactly as we do every day down on the streets, or at our Army posts, where you can find the Government selling its surplus stock of rifles or its surplus

stock of clothing, because they are worn out or they have become discredited and there is no longer any use for them. Now, we build this plant for a war purpose, but when it is not employed for that purpose, why should we not give this Government the power to either purchase or lease one of these processes, so that it can use it for peaceful purposes as well as for war purposes; and I do not think the Senator's amendment goes to that point.

Mr. JONES. Mr. President, that may be true. I am not controverting the power that the Senator has suggested is in the Government; in fact, I stated a moment ago that I did believe there was no constitutional objection to the Government using any surplus power that it might develop at any of these points for any purpose for which it deemed wise to use it.

Of course, my amendment is a suggestion, and is intended only as a suggestion, to the Senator from South Carolina, with reference to the disposal of the surplus power. I did not know what was contained in the amendment intended to be suggested by the Senator from Alabama. I think that simply illustrates the advantage of the suggestion which I made to the Senator from South Carolina that he withdraw his amendment, and after this discussion pointing out these different propositions, confer with some of those Senators who are interested and frame an amendment which can be presented to us in concrete form, so that we may know what we are really considering.

Mr. SUTHERLAND. Mr. President—

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

Mr. JONES. Yes.

Mr. SUTHERLAND. I understand the Senator from Washington sees no constitutional difficulty in the way of our disposing of any surplus stock that we may have on hand, such as obsolete rifles and things of that sort; neither do I—

Mr. JONES. I will say to the Senator that I did not have anything of that kind in my mind. What I had in mind was the surplus power developed at one of these dams.

Mr. SUTHERLAND. I agree with what the Senator from Alabama has said, and what the Senator from Washington has either said or acquiesced in, to that effect; but I ask the Senator from Washington this question:

Does the Senator think that the Government of the United States could appropriate money to build a factory for the purpose of manufacturing clothing for its Army, and then, upon occasions when the operation of the factory was not necessary to produce clothing for the Army, that it might go into the manufacture of other clothing, to be sold in the market in competition with the dry-goods merchants of the country?

Mr. JONES. I think the principle is exactly the same as in this other case. I can not see any difference.

Mr. SUTHERLAND. Mr. President, if the Senator will permit me, I think the two things are utterly different.

Mr. JONES. I can not see it that way. If the Government deems it advisable to put up a plant for the manufacturing of uniforms for its soldiers, I think it has a right to do it. As I understand, the Senator concedes that.

Mr. SUTHERLAND. Yes.

Mr. JONES. Now then, after it has the plant constructed and the power available and all the facilities necessary, and it has on hand all the clothing that it wants, I do not think it is required to keep that plant idle. I do not think it is required to close it up. I believe that until it is again needed to supply uniforms it can go on and use the power and facilities that it has there for any purpose for which they are suitable, provided, of course, Congress appropriates the money. I do not believe there is any difference in principle between that case and the other.

Mr. SUTHERLAND. Let me suggest—

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

Mr. JONES. Yes; I do.

Mr. SUTHERLAND. Let me ask the Senator this question as an illustration of the point I am trying to make. It is necessary, however, to make a statement as a foundation for my question.

I have not any doubt and the Senator has not any doubt that we can appropriate money to buy a piece of land on which to erect a public building, and that if it afterwards turns out that we do not need the land for that purpose we can sell the land; Congress can authorize the sale of the land. But does the Senator think that we could appropriate a sum of money to purchase land, and then, before it was spent, having ascertained that we did not need that land, that we could authorize some department of the Government to go into the real-estate business with the money?

Mr. JONES. Oh, I do not think that is a parallel case at all. Mr. SUTHERLAND. The difference between the Senator and myself is that I think it is a parallel case.

Mr. JONES. I do not think it is.

Mr. SUTHERLAND. I think we can sell anything that we have on hand and have no use for; but I think that is a very different thing from a case where we find ourselves unable to carry on the manufacturing enterprise that we are authorized to do, and divert it into carrying on an essentially private business in competition with our own citizens.

Mr. JONES. Oh, Mr. President, the first case which the Senator put did not contemplate going out of this business entirely. He suggested the proposition of a plant for the manufacture of uniforms, and so on. That is a continuous business. There may be interruptions in it from time to time. The mere fact that we have on hand all the uniforms that we want at one time does not prevent us from keeping the plant or holding it and maintaining it and using it, in view of the fact that at some time our supply of uniforms will be all gone, and we will have to use the plant for a new supply. In the meantime we can use the plant for any purpose for which it may be available.

I believe this, as suggested by the Senator from Minnesota [Mr. CLAPP]: We have to have flour for bread for our soldiers. We would have authority to appropriate money and use it in the construction of a flour mill for the purpose of supplying flour for our soldiers. I do not think the Senator would even question that. It might be very inadvisable to do it, but we would have the constitutional power to do it. When we get enough flour on hand to supply our soldiers for any particular time, we do not need to continue to operate our flour mill. We are not compelled to dispose of it, however, and I do not think we would be compelled to close it. I believe we could operate our flour mill during the time that we were not needing it to furnish flour for our soldiers, and dispose of the product in any way that we saw fit. Then, when our supply for our soldiers is exhausted, we can go back and use our plant for re-supplying ourselves; and that is a sort of continuous process.

If we were to appropriate this money for the construction of a flour mill for that purpose, but before we began to construct it we decided that we did not want the flour mill, then I do not think we could use the money in the raising of wheat; and that is an illustration which I think is more nearly parallel with the real estate proposition that the Senator suggested.

If it were to come to a matter of constitutional construction, I would much sooner take the judgment of the Senator than my own; but when we agree upon a fundamental proposition, I think I am pretty safe in following that to its ultimate conclusion.

There is another suggestion that I want to make to the Senator from South Carolina with reference to his amendment. It is a minor one. I have not any doubt but that that can be fixed up, too. I think there ought to be a more definite provision in here with reference to the restoration of any sites that may be temporarily withdrawn than that which is provided in this amendment.

Mr. SMITH of South Carolina. Mr. President, in answer to that I will state that it was at the suggestion of a member of the committee that we limited it to five power sites. I am perfectly willing to have a provision—

The VICE PRESIDENT. Is the Senator from Washington yielding for this purpose?

Mr. JONES. Yes.

Mr. SMITH of South Carolina. I am perfectly willing to have a provision that such lands as the Government may not need to utilize immediately upon the withdrawal shall revert under the original law.

Mr. JONES. Of course I do not believe that it is necessary, as far as that is concerned, to empower the President here to withdraw these sites. These sites are all withdrawn until somebody is given authority to construct a dam. Even if we pass the legislation that is now pending no one can get permission to construct a dam at any site in a navigable stream without first getting the permit of the Secretary of War; so that I really see no necessity for any provision of this kind. Possibly it does not do any harm to have it in; probably not.

Mr. President, I just want to make a suggestion with reference to this matter of yielding and this fear that we are going to lose the floor or talk more than twice upon a bill or an amendment in a day. I think the proceedings to-day have illustrated the importance of the practice we have been following in the Senate, especially upon occasions of this kind. A question comes up with reference to an amendment that a brief statement may throw much light upon and may facilitate the discussion and consideration of the measure. I believe we ought

not to be so very strict, especially in the consideration of amendments, with reference to these interruptions. I am merely suggesting that as my own view about it. I have seen many instances in connection with this and in connection with some other amendments during the last day or two where it seemed to me it was almost impossible to carry on really a profitable discussion without these interruptions—without not only interrogations, but brief statements.

Personally I hope the Chair will not insist too strongly upon the rule when the discussion is going on in this way unless somebody on the floor makes the point of order that such interruptions ought not to be permitted. I think it will help us in the consideration of these matters, in developing the facts, and in developing the reasons why this should be done or that should not be done.

Mr. HUSTING. Mr. President, I wish to reply to the Senator from Colorado [Mr. SHAFROTH] in regard to some of the provisions of the Shields bill, so called.

The Senator from Colorado, with whose conclusions I entirely agree, raised some question as to the statement I made with regard to the provisions of the Shields bill. I should like to read to the Senate the provisions of the Shields bill. In section 10 it provides that—

The Secretary of War may lease to any applicant having the capacity of grantee as herein defined, and having complied with the laws of the State in which a dam is constructed or to be constructed by the United States, the right to utilize the surplus water power over and above that required for navigation at any navigation dam—

Under the conditions there laid down.

I think the Senator from Colorado overlooked that provision, and I think he will agree with me that the statement I made with regard to the provisions of that bill was entirely accurate.

Mr. SHAFROTH. Mr. President—

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

Mr. HUSTING. Certainly.

Mr. SHAFROTH. I will state to the Senator that in the discussion of the Shields bill hardly any discussion, at least so far as I was concerned, was had on section 10, because the bill primarily contemplates the development of water power by private individuals. There is a clause there which says that the Government may lease, but knowing that it takes a separate act and a special appropriation to authorize the construction by the Government, I never laid much stress upon section 10.

Mr. HUSTING. I should like to ask the Senator whether he agrees with me now that there is such a clause?

Mr. SHAFROTH. Oh, yes; there is a clause of that kind, which does not become operative, however, without Congress making an appropriation.

Mr. HUSTING. Mr. President, it may be that the Senator from Colorado does not take much stock in section 10 of the Shields bill. I will say that I do not take much stock in it, either, and that is the reason why I have been criticizing it. It is true that there has not been very much discussion of section 10, although I devoted, I think, in my humble way, about 30 minutes to pointing out the danger of this particular section; and I thought the Senator from Colorado, who had devoted so much time to the bill, would certainly know all the provisions in the bill, and especially section 10, because that was one of the sections that was amended on the next to the last day when the bill was under discussion. That section was amended by inserting the following:

The provisions of sections 3, 4, 5, 6, 7, 8, 9, 11, 12, and 13 of this act shall, in so far as applicable in each case, apply to structures erected, maintained, or operated under and in pursuance of the provisions of this section.

In other words, all of the provisions of the bill proper apply to Government-owned water powers.

There has been some talk here about leasing surplus power. That is not the idea of the bill—leasing surplus hydroelectric power under the Shields bill. It is leasing all of the water power not needed for navigation. Now, what does that mean? What water is needed for navigation that is consumed by the operation of a water-power plant?

Why, the only water that is needed for navigation is the water that flows down the stream, and the water power merely diverts it through the water wheel and back into the stream, so that, in fact, the surplus water power not needed for navigation is practically all the water that runs down the stream. In fact, it means the entire water power. The only waste of water not needed in a water power on a navigable river is the amount of water which is needed to fill the locks. That goes neither through the wheel nor down over the dam, but the locks are filled when the boats come down; and if there is sufficient water to fill the locks and pass the boats down or up, as the case may be, that is all the water that the Government, under this clause,

would retain the right to have or to control. So that the primary object of the Shields bill is not to lease surplus hydroelectric power but it is to lease the water power not needed for navigation.

What does that mean? That means the dam itself; because if we are going to lease the water power, the lessee of that water power has to connect up his hydroelectric plant with the very dam itself, with the physical structure, and merge and combine his property with the property of the Government.

So, getting back to the primary idea that I tried to elucidate, it is that under the Shields bill the Government will lease its entire water power, will have to surrender the physical property itself, the dam, permit it to be combined with the property of the lessee, and can not get it back again unless it pays the same compensation that is required in the case of a privately owned hydroelectric power.

This specifically says that section 6 shall apply. Turning to section 6, it provides:

That at any time after the expiration of said 50 years—

And that applies to Government-owned dams—

the United States may terminate the rights hereunder granted upon the giving to the grantee, either before or after the lapse of the period of the permit, of two years' notice in writing of such termination, and upon the taking over by the United States of all the property of the grantee which constitutes part of the plant of the grantee and dependent in whole or in part upon it for its usefulness and acquired, necessary, appurtenant, valuable or serviceable in the distribution of water, or in the generation, transmission, and distribution of power, and upon paying to the grantee the fair value of said property, together with the cost to the grantee of the lock or locks, or other aids to navigation, and all other capital expenditures, required by the United States, and assuming all contracts—

And so forth.

The United States has reserved the power to terminate that permit; but if it does not terminate that permit, they retain the property and possession of the dam itself—the physical property—in perpetuity. So that when this water power once passes out of our hands we can not recapture it, under the terms of the Shields bill, except by taking over the property that is dependent upon or useful for the transmission of that power.

Under that bill, if any Government-owned dams have already been built—and we have been investing, as I have been told and understand, millions of dollars in some dams and water powers in the country—if we do that, we can not get it back. We part with possession of it in perpetuity unless we buy up all the property that comes within the designation of this clause. Now, if we put anybody in possession—private citizens or public-utility or private corporations—and they go into the business of selling power and transmitting power, and their lines ramify all over the United States, under my understanding of this section we would have to buy up the whole transmission system, lines and all, before we could get back our property. And what would we get in return for that? Nothing, except a sufficient amount of money to keep the dams in repair—our dams, the dams of the United States—and certain improvements of the stream, waterway improvements.

That is the idea of the Shields bill. I only injected this provision of that bill into this particular discussion for the reason that it is proposed to strike out of this amendment of the Senator from South Carolina something that will put this proposition squarely within the provisions of the Shields bill. When we do that we are simply investing \$15,000,000, or whatever it costs, in order to put it into the possession of somebody else to use it forever under these terms, unless we want to use it in times of war, and then we can only do it upon paying the price laid down in this bill.

I say that if we build a dam, and want to use that dam for something that is useful in promoting the interests of the United States, I believe in keeping control of that dam and keeping control of the power. If hydroelectric power is developed by the Government of the United States, I have not any objection to the sale of power at so much a kilowatt. What I am objecting to is, not that they shall sell surplus power but that they shall turn over the object itself that they put in their money for and put it into private hands under such terms and conditions that we can not get our own property back without paying exorbitant prices. In other words, we use public money for private enterprises.

As I said before, this is not an academic discussion. It has been frankly stated here upon the floor by a number of Senators that we will not use this power except in time of war, because we want a power big enough to manufacture, I think they said, 160,000 tons of nitrates a year for a couple of years; and then in time of peace they say it is socialistic for us to use it for the purposes for which it was intended under this amendment. So it clearly indicates that unless we have a war immediately, we will simply put our money into this proposition to turn it over

immediately into the hands of somebody to run his private business.

They may say that this concern will do thus or so; that they will make nitrates. Under the provisions of the Shields bill this dam, if it were constructed by the United States, could be turned over to a private individual for absolutely his private use, with no strings at all to it, without any provision that he would have to use it for a certain purpose, without any provision the we could buy nitrates of him for a certain price. We would simply be turning over to him not only the land on which to build the dam and the water to use for this purpose, but a monopoly of the air, and furnish the money besides. It may be said that such strange things would not be done; but I pointed out here a little while ago what was done in the case of an institution in our State, whereby the United States now pays for the upkeep of the dam and gives private individuals not only their power free but the right to deprive others of their power.

There have been some questions asked here about whether this purpose of manufacturing fertilizer comes properly within a governmental function. The Senator from Utah asked a number of questions in regard to whether a plant for the purpose of making uniforms for the United States Army could be turned into a clothing factory in time of peace. I think that is entirely a different question. We have not gone into the uniform business yet, but we have gone into the business of taking care of agriculture; and, in fact, we have gone into the business of taking care of agriculture in a way very similar to that which is proposed here now. In States where some of the Senators appear to think it is populistic to do this now, we have irrigation dams, one of which, I understand, has cost \$10,000,000 or \$15,000,000—the Roosevelt Dam—and the Shoshone Dam has been built, and I understand that down in Texas a dam is being built into which the United States is putting millions of dollars. Now, what are these dams for? We understand that the primary object, whether it is so stated in the act or not, was for purposes of irrigation. They are irrigation dams. Irrigation dams for what? Why, for the purpose of furnishing water to make the lands fertile, to make the lands productive, to make the lands valuable.

It may be said that this is done on lands owned by the United States or for the purpose of serving or fertilizing lands owned by the United States. But these lands have all come from the United States. All the grantees have received their lands from the United States, and we have the same right to fertilize lands of the United States whether they are in present possession or whether they are in past possession.

If the United States has a right to construct a \$15,000,000 dam for the purposes of irrigation to make lands productive, why have not we a right to build a dam and use the same water or lease the water held by the same dam further to fertilize and to make more productive the lands that the irrigation dam is going to serve? I can see no difference in principle or in the object the end sought. One does it by water and the other does it by air. One takes the water and runs it over the land and the other fixes the nitrogen from the atmosphere and applies it to the land—both by the same agency, both for the same governmental purpose, and that is to fertilize the land.

Not only that, but, as I said before, we have a Department of Agriculture that is engaged in business for this very purpose. Its existence is for this very purpose. Moneys are being appropriated, and we are appropriating money for other objects along the same line. There may be a little difference in practice, but at least they are the same in principle. Therefore there are abundant precedents not only to warrant but to justify the expenditure of money in this way.

Of course, as the Senator from Utah said, it might be rather alarming if the farmers got their nitrogen cheap, for, as he said, they constitute about one-third of our voters, and then there would be a clamor for the Government manufacture of all of the nitrogen or all of the fertilizer that they might need. Well, it would seem to me that while it is not necessary to pass upon what we ought to do in that instance, yet if the manufacture of fertilizers by the United States should become so popular after a trial in a small way like this and should prove so satisfactory that one-third of the industrial population of our country would clamor for it, I would consider that a vindication of the proposition, and I would think it would be worth very serious consideration as to whether or not under those circumstances the United States would be justified in providing one-third of our population with something that they can get better from the Government than they can get it from anybody else.

Not only that, but under the circumstances why should not the Government furnish it to them? Nobody else does it. As has been shown upon the floor, there is no other industry in the United States that is furnishing the people with these

nitrates now. There is not one institution in the United States, as I understand, that is engaged now in the manufacture of nitrates for the purpose of fertilization. Here we need fertilizers. The Senators who have talked upon this subject have shown what fertilization means to the agricultural interests of this country. So I ask, when a great agricultural country like this has not in operation any plant for the purpose of providing this important and indispensable element to the agricultural interests, what is more proper than for the Government of the United States to go into this business and give them something that they are clamoring for, and that they ought to have, and that they must have if we are going to compete with other countries in our agricultural products?

So, from any point of view, I can not understand why something that is so obviously calculated for the general welfare and the public safety should not be properly linked with this measure, and one important link be kept inseparable in time of war, to have in our possession and immediate control something to manufacture our explosives and in time of peace to use the same instruments almost in the same identical manner for the purpose of promoting the interests of the country during times of peace.

So it would seem to me that from any point of view this amendment ought to be retained in the bill and passed as it has been proposed.

Mr. SUTHERLAND. Mr. President, I wish to say a word about this amendment.

The remarkable thing about it is that it comes from the Agricultural Committee. It never has received a moment's consideration at the hands of the Military Committee, which is charged with the responsibility of framing a bill for the public defense. So far as I know, no member of the Military Committee has spoken a word in favor of this proposition. I do not know what the opinion of the chairman of the Military Committee may be about it. I would very much like to know whether or not he has given it consideration, whether he believes it necessary, whether the subject matter has been investigated in such a way that it has been determined by that committee that an emergency exists which calls for this extraordinary legislation. I am not asking him to answer now, but I hope he will answer before this debate concludes.

Mr. President, I am not going to discuss the constitutional phase of this bill, although I believe the constitutionality of it is, at least, open to very grave doubt. But I realize from past experience in this body that when Senators have made up their minds to pass a certain piece of legislation constitutional arguments fall upon deaf ears.

However, I do call attention to the fact that all of this talk about it being constitutional to dispose of a surplus of any commodity that has been acquired under a constitutional power is quite aside from the question. I have no doubt that when the Government of the United States, in the legitimate exercise of a constitutional power, has acquired a certain commodity and it is found afterwards that it or some portion of it is not needed, it may, of course, be disposed of. But that is not what is contemplated here.

This bill contemplates from the beginning, as its principal purpose, that the surplus shall exist. It is not expected, it is not suggested, that this surplus shall arise fortuitously hereafter—accidentally hereafter—but it is contemplated in the bill itself that the Government shall manufacture the surplus.

The bill contemplates that we shall proceed to manufacture nitrates for two distinct purposes—first, in order to furnish powder to be used by the Government of the United States, which of course is a legitimate and a constitutional power; and, in addition to that, that we shall from the very beginning undertake to manufacture nitrates to sell to the farmers of the country.

Mr. GALLINGER. And continue to do it.

Mr. SUTHERLAND. And continue to do it. Indeed, that is the primary and principal purpose of the bill, as the Senator from South Carolina [Mr. SMITH] very frankly conceded.

Now, that is all I care to say with reference to that matter, except to suggest that the argument to which we have just listened from the Senator from Wisconsin [Mr. HUSTING], if it means anything at all, means that we may engage in any business or the manufacture of anything which may be for the benefit of the farmers of the country or that we may think is for the benefit of the farmers of the country. If we can engage in the business of manufacturing fertilizers to sell to the farmers of the country, then upon exactly the same sort of reasoning we can engage in the business of manufacturing farm implements for the farmers of the country.

Mr. REED. Mr. President—

Mr. SUTHERLAND. I yield to the Senator for a question. I am not permitted to yield for anything else.

Mr. REED. I intend only to ask a question. I simply wanted to get the Senator's view. Does the Senator see any distinction between erecting a factory manufacturing a product for the benefit of agriculture and buying seeds and raising seeds and distributing those seeds for the benefit of agriculture?

Mr. SUTHERLAND. Not one bit.

Mr. KENYON. Mr. President—

Mr. SUTHERLAND. I will yield in just a moment. In doing that, Mr. President, I have always believed we were doing something that we have not any right to do, but it is something that has been acquiesced in. It never has been presented, and it can not in the nature of things be presented, in any justiciable form so that the courts can pass upon it. I yield to the Senator from Iowa.

Mr. KENYON. Does not the Senator believe that in fairness if we continue to send out these seeds we ought to send fertilizers with them? [Laughter.]

Mr. SUTHERLAND. Perhaps so. I am not defending the seed proposition. I repeat, I think we have not any business to do that, and I think we have not any business to do this. I want to see this Government operated as a government. I do not want to see it degenerate into a business concern. I do not think it was in the contemplation of the framers of it that it was to go into business either to monopolize it or in competition with its own citizens. It is utterly unfair to do it.

What is the situation of the citizen who is compelled to operate business in competition with the Government of the United States? The Government can conduct its business, and very likely will conduct it, at a loss, and that loss it can recoup by taxation. The citizen who competes with the Government has no such power to recoup his losses. When he loses in business he faces bankruptcy; and not only is he compelled to do that, but when the Government competes with him he is compelled, as one of the citizens of the United States, to contribute his part of the taxes toward his own undoing.

If we go into the business of manufacturing nitrates for fertilizers, it will of itself constitute a discouragement to private capital. It will have a tendency to if will not entirely succeed in keeping private capital out of the business.

Mr. President, this is attempted to be justified upon the ground that it is for the purpose of meeting some future emergency; that if war shall be made upon this country a condition may exist which will require the Government of the United States to instantly begin the manufacture of this article in order that it may defend itself.

Mr. President, that is exactly what has happened in Europe during the present war, but they met the emergency by building their manufacturing establishments and operating them by steam. That, in case the emergency should arise, we could do. We all hope it will not arise. The chances greatly preponderate that it will not arise; but if it does, we can meet the emergency precisely as those countries across the sea have met it, and, in my judgment, it is far better to do that than to embark upon a socialistic experiment of this sort.

Now, I predict one thing about this measure if it becomes a law. If it becomes a law this manufacturing establishment will probably be built in Alabama. I have not any objection to that, if Alabama is the proper place for it. I am not speaking of it for the purpose of making an objection, but it will probably be erected there. Now, mind you, the prime purpose of this legislation is to make fertilizer for the farmer. The farmer will believe that is a governmental function. The Senator from Colorado [Mr. SHAFROTH] conceded, when I asked him the question, that the investment of \$15,000,000 or double \$15,000,000 would not produce enough of that material to furnish fertilizers for all the farmers of the United States. It will furnish the material for only a small proportion of the farmers, perhaps only for the farmers of the South or in the immediate neighborhood of the locality of the establishment. Does anybody believe that the farmers in the Middle West, the farmers of the far West, or the farmers of New England will be content to have an enterprise of this kind running in the South, manufacturing cheap fertilizers for the South which they can not obtain without paying a substantial addition to the cost which is paid in the South? The cost of transporting articles of this kind to the far West would be considerable, and so at once the demand will go up that additional plants shall be established in various parts of the country. I have no doubt in my own mind, if we embark upon this experiment at all it will mean the expenditure before we get through with it, and that within a very few years, of hundreds of millions of dollars.

It seems to me that we ought not to embark in that kind of a proposition without at least giving it more consideration than

can be given to a thing of this kind upon the floor of the Senate. We do not know what is going to be the condition—

Mr. SHAFROTH. Mr. President—

Mr. SUTHERLAND. I will yield in just a moment. We do not know what is going to be the condition in the future with reference to this commodity. It may be that within two years, three years, or five years methods of production will have been developed and discovered by which this article can be manufactured at half the cost or one-tenth the present cost. We are only in the early stages of it. We have been manufacturing it, I understand, for only a very few years, yet in that time it has been greatly cheapened. Why not let private capital embark in this business? Why not leave the door open to private capital instead of closing it by this sort of legislation, and let the matter develop as other commercial and manufacturing matters develop? I yield to the Senator from Colorado.

Mr. SHAFROTH. Does not the Senator recognize, though, that if this plant is erected and furnishes all the nitric acid that is needed by the Government, and is of sufficient capacity to furnish it in case of war, then any other plant that might be attempted or bills introduced for the purpose might meet the objection he raises with force, because in that event it would not be a governmental function, but would simply be a commercial enterprise? But why does the Senator undertake to say that in this instance, where it is imperative, the Government should not have this means of defense? Why should he say the main object is the other instead of a governmental function?

Mr. SUTHERLAND. I say it because the Senator from South Carolina conceded it, and he is the author of the bill and chairman of the committee which reported the bill.

Mr. SHAFROTH. I will state to the Senator that I stated to the contrary, in my judgment, and I think I am entitled to my view just as well as the Senator from South Carolina is entitled to his view.

Mr. SUTHERLAND. I think the bill on the face of it shows that that is the principal object.

Mr. SMITH of South Carolina. Mr. President—

Mr. SUTHERLAND. I will yield in a moment. The fact that it was referred to the Agricultural Committee shows it. Does the Senator from Colorado think that if this was purely a military proposition it would have been referred to the Committee on Agriculture? You might as well refer a military question to the Committee on Fisheries.

Mr. SHAFROTH. Nevertheless, no matter to what committee it was referred, it recites in the body of the bill itself, as reported by the Agricultural Committee, that it is for the purpose of supplying this necessary ingredient in the manufacture of powder and explosives, which of itself is a matter of defense and preparedness against attack.

Mr. SUTHERLAND. The purpose of that is perfectly evident. It is a subterfuge. It is simply a pretext to attempt to tie it to some provision of the Constitution, when, as a matter of fact, the principal purpose of it is to put the Government into a business which it has not any right to engage in.

Mr. CHAMBERLAIN. Mr. President, I shall detain the Senate only a moment. The Senator from Utah [Mr. SUTHERLAND] desired to know the attitude of the chairman of the Military Affairs Committee with respect to this proposed amendment. I explained a few days ago that inasmuch as the bill which was originally introduced was referred to the Agricultural Committee and investigation was had by that committee covering the whole subject, the Military Affairs Committee did not consider it at all. The first suggestion that committee had of the pendency of any such legislation was the amendment offered by the Senator from Alabama [Mr. UNDERWOOD]. The investigation in the Agricultural Committee at that time had been about concluded, and therefore our committee did not feel that it would be justified in going into an investigation of a subject that had already occupied the attention of the Agricultural Committee for some days or possibly weeks.

Personally, Mr. President, I do not think that this measure ought to be attached to a bill which has for its purpose the reorganization of the Army. I concede the necessity for the manufacture of nitrates, for the fixation of atmospheric nitrogen for the manufacture of explosives, but the amendment proposes to appropriate a large sum of money that ought not to be saddled upon the Army proper. The matter was submitted to the committee and the committee did not see fit to act upon it. There was a division of sentiment with regard to the matter. It had not been investigated and the committee made no report upon either the Underwood amendment or the Smith bill.

So I think I am safe in speaking for the committee, although no action was had upon it, and speaking for the committee, I do not think the amendment ought to be attached to the pending measure.

Mr. SMITH of South Carolina. Mr. President, in reply to what the Senator from Utah [Mr. SUTHERLAND] said about this being a substitute, I introduced the bill because the Government had no provision for supplying itself, with an absolute necessity for munitions of war. Everything in our entire process for the defense of this country rests upon these ingredients, and I also saw that the very chemicals that were to be manufactured would be useful in agriculture. I have no apology to make, but I stand here to plead that wherever it can be done those upon whom the prosperity of this country rests shall be given the benefit of whatever we may legitimately do here.

I knew that in the manufacture of this process chemicals are used which are so costly in their nature that private individuals would have to combine their capital, and in the very nature of things it would become a monopoly, while the rank and file of the farmers can not combine, and yet we are all dependent upon them.

I thought if I could combine the two things, and there would be a benefit by enriching the soil upon which we are all dependent, it was a happy incident, and that every Senator on this floor ought to be happy to avail himself of the opportunity to help those who stand so much in need of it.

I do not think it is very becoming to us, under the obligation we are to this class of people, to quibble as to whether or not in the clear discharge of a governmental function in providing for the defense of the country there should be something which would help those who are supporting the life of the country.

It is for that reason that I introduced the bill and referred it to the Agricultural Committee. There is no man here who questions that we need a nitrate factory for the purposes of war. There is no one who questions the fact that we are standing here absolutely dependent upon Chile. No one questions the fact that we may be in war at any time. No one could predict the European war. For that reason we ought to agree, and I take it we are all agreed, that it is a reflection on the Government of the United States that we are dependent upon a strip of land on the coast of Chile for our supply of munitions of war when our own chemists come to us and tell us we have a process, which has passed the empirical or experimental stage, by which you can take the air and your wonderful water power and your chemical genius here and produce it as cheaply as or cheaper than in any other country.

In the process you necessarily will be manufacturing the very exact ingredient that the agriculturists of this country are so sorely in need of. I have no apologies to make for having carried to the committee that information, and I have no apologies to make for the bill as it now stands. If I am to be dubbed a Socialist or a Populist because I stand here and attempt to help the farmers of this country, I have no apology to make.

The Senator from Utah, I believe, from the position he has assumed in the Senate, would rather run a straight road down a constitutional question than to help the agriculturists of the country by some liberal interpretation of it which runs counter to his interpretation when we are dependent upon the depleted fields of the country.

I want to state another thing. When the hog cholera struck this country, being purely agricultural, and millions of hogs were being swept out, jeopardizing the food supply, a proposition was made here to appropriate money for the Government to manufacture hog-cholera serum in order to eradicate that disease. We have here right now a proposition for \$500,000 to eradicate the citrus-fruit disease. For what purpose? Because it is jeopardizing the supply of citrus fruits. We have here a proposition for the Government to go into a process which will result in a distribution among farmers chiefly to do what? To eradicate that fatal disease in the land, the depletion of nitrates. If we have the power to do one, we have the power to do the other. It is not a question with us here as to whether or not this is going to be a constitutional provision. It is settled that the Government has the power to enter into the manufacture of munitions of war and to sell the surplus that results; and if it is not enough power for that, it at least gives us power to know the cost of production and to defend the agricultural interests of this country from the extortion of private capital.

Mr. President, I have offered this amendment to the bill because I do believe, and I think every Senator here will agree, that you may have your Army, you may have your greatest improved guns, you may have them at the highest standard of efficiency, and without an adequate supply of the material that is used in modern warfare, known as nitric acid, your Army is useless.

So far as I am concerned, if the Senate sees fit to amend the amendment, it may do it; but the bill in its original form, in

my opinion, should be passed without amendment by this body.

Mr. SIMMONS. Mr. President, I do not rise for the purpose of discussing the bill but to address myself for a few minutes to the amendment which I gave notice I would offer to the amendment of the Senator from South Carolina. That amendment, I want it distinctly understood, was not drawn by me, nor is it proposed by me in any spirit of antagonism to the Senator from South Carolina. I think the Senator from South Carolina understands that I am in sympathy with the purposes of his amendment. I appreciate, as he does, the necessity of the Government providing some way to supply itself with nitric acid, and he recognizes, as I do, that the farmers are in a very embarrassing situation with reference to this necessary element in the fertilization of the soil. I did not prepare the amendment until I had conferred with the Senator from South Carolina, and I probably would not have introduced it if I had thought he was in any way antagonistic to it.

Mr. President, what I want is that the Government shall be independent as to this necessary ingredient, the manufacture of powder and explosives, and that the farmer shall not be wholly dependent for his supply of nitrogen on the Chilean nitrate mines.

Of course, I understand that a plant which would cost \$15,000,000 would not, even if devoted entirely to the manufacture of nitrogen for fertilizers, supply the demand of the American farmers, but the supply would afford some relief to the farmers, and I want them to have it.

I do not believe, Mr. President, under the provisions of this bill the Government would manufacture more of this commodity than is needed for supplying military and naval needs. There is nothing in the bill that provides that the Government shall manufacture it for any other purpose. The amendment simply provides that power shall be generated for the production of nitrates and other products needed for munitions of war and useful in the manufacture of fertilizers. When it comes to the question of the operation of the plant and the disposition of the product it simply provides that the product of such plant shall be used for military and naval purposes, and that any surplus not so required may be sold.

I apprehend, unless there is provision to the effect that when it is not necessary to operate the plant for supplying the naval and military requirements it shall be operated for manufacturing fertilizers, we will find the Government would simply use it for the making of powder and explosives when needed.

My amendment does not require, but simply authorizes, the Government to lease the plant when it is not needed for governmental purposes; not to lease it with a right on the part of the lessee to use the plant for any purpose he may see fit to use it, but to lease it only on such terms and conditions and for such uses as may be prescribed by the Secretary of War. It also provides that the lease shall contain a provision for its termination whenever the Government shall again need the plant for the purpose of making material out of which powder and other explosives are manufactured.

As I repeat, I would probably not have offered this amendment if I had not thought it was satisfactory to the Senator from South Carolina, and I offered it because, hoping to strengthen his amendment and to more certainly accomplish its purpose, I believe, as a matter of public policy, the Government should provide against dependence upon the foreign supply of nitric acid, but I believe it would be better for the Government, if it could make suitable arrangements, when not needed to make powder and explosives, to lease the plant, with the express condition and requirement that it should be operated solely and exclusively for the purpose of manufacturing nitric acid for private use. I am as heartily in favor, as is any Senator here, of helping the farmers to get this necessary element for the fertilization of their lands, and I want to see that thing happen which will most certainly give them some part of the needed supply, through the operation of the plant that it is proposed to authorize by the amendment of the Senator from South Carolina. I fear they will not get it under this bill, while I am certain they would get it if my amendment were adopted. My only purpose in offering the amendment is to meet the situation I have suggested.

I understand the Senator from Alabama [Mr. UNDERWOOD] has drafted an amendment, which incorporates the amendment which I have offered along with some other things that meet my approval; and if the Senator from Alabama offers that amendment I shall not offer my amendment.

Mr. REED. Mr. President, I rise to express the hope that the discussion upon this amendment may be brought to a speedy termination. We have entered into a unanimous-consent agreement by which general debate will be cut off at 12 o'clock noon



on the day after to-morrow. Therefore, there remains only a few hours for general debate. There are a number of important amendments that ought not to be crowded into the period of time which is covered by the 10-minute rule. This question has been very thoroughly discussed. There are some observations I myself should like to make on it, particularly in reply to the claim that the provision is unconstitutional. I do not agree with that doctrine; but I do not intend to take the time of the Senate, because I think we have discussed this matter until every Member of the Senate understands it. I therefore hope we can now get a vote on the amendment of the Senator from South Carolina.

Mr. ROBINSON. Mr. President, when the Senator from Missouri [Mr. REED] announces himself as ready to conclude debate—

Mr. REED. I did not mean to shut any other Senator out.

Mr. ROBINSON. It is time to vote. His suggestion is always very forceful with me, as it is no doubt with all other Senators here, and I accept it, with the modification that I may be permitted to consume just a few minutes, not in discussing this amendment in detail but in giving some of the reasons why I shall vote for it.

It has been demonstrated clearly during the discussion of this amendment that our supply of saltpeter comes almost exclusively from Chile. In case of an interruption in our commerce with that country, which would be certain to occur in the event of war between this Nation and a great military and naval power, our supply would be entirely discontinued. Whatever might be the size of our Army and our Navy, they would both be ineffective and unavailing without we could procure this necessary constituent of high explosives, which are indispensable to the active operations of both the Army and the Navy. To state the matter is to argue it. It seems absurd to greatly increase the Army or the Navy, either, and at the same time permit conditions to continue which make doubtful our ability to use them in the event this country should be attacked.

The amendment authorizes the selection and reservation of water-power sites or navigable streams and the condemnation of private property necessary in the construction and operation of Government plants necessary and convenient for the generation of electrical or other power for the production of nitrates or other products needed for the manufacture of munitions of war and useful in the manufacture of fertilizers.

The amendment further provides that the products of such plants shall be used by the Secretary of War and the Secretary of the Navy for military and naval purposes, and any surplus not so required is to be disposed of by the Secretary of Agriculture under such rules and regulations as he may prescribe.

If we now had a domestic source from which might be obtained necessary nitrates in the manufacture of munitions of war, the necessity for this legislation might not be urgent; but it is admitted that there are now practically no plants in the United States engaged in the production of this indispensable element. It would therefore seem rather more important as an emergency measure than increasing the size of our present military organizations, for the inability to make or obtain munitions of war discloses glaring inefficiency in our defense system.

It is regrettable that the Committee on Military Affairs has not considered and reported this provision; but the measure has been carefully worked out by a great committee of the Senate, which has procured a large amount of information during the course of its consideration of the subject.

It is not always possible or practicable here to consider legislation under ideal conditions, or even under satisfactory circumstances, and one is often compelled to accept measures embracing principles he approves, even though the circumstances under which the subject is presented and surrounding the discussion and consideration of it are not calculated to develop a perfect measure.

The incidental benefits to agriculture resulting from the production of fertilizer, as contemplated by this amendment, can not in my judgment form the basis of a valid objection to the legislation. It is not only imperative that this Government provide an abundant and unfailing source from which to acquire nitric acid in order that its existing military organization may be efficient, but it is also true that if, in the accomplishment of this primary purpose, we can also promote the fundamental industry of agriculture and increase the prosperity of the millions who thrive by it, we should for these reasons be spurred on to enact the legislation.

The suggestion has been made and amendments have been discussed, but have not yet been offered in the Senate, con-

templating the leasing to private individuals of the plant provided for in this amendment to be operated during periods of peace. In my judgment the Senator from Washington [Mr. JONES] suggested a very glaring vice in those amendments, and that is, restating his suggestion, that it is quite necessary that, if the Government is to have a plant capable of producing the elements which enter into the manufacture of munitions of war when we need them, we must, in advance of that time, organize a force which is capable of doing the work that will be required when the emergency arises. It would be futile, in my judgment, to expend millions of dollars for the construction of a plant, deliver it into the possession and control of individuals, and wait until the hour of peril arrives before taking control of it and beginning the operations which are necessary for the production of nitric acid; in other words, in order to make this a defense measure the Government must retain control of the plant and maintain an organization for its operation. It could not be an effective defense measure if the Government must wait until after war begins before it organizes the force to operate the plant.

For more than a half century this Government has recognized by legislation the necessity for obtaining and conserving the supplies of fertilizer. Unless this policy is vigorously pursued, the momentum which agriculture in the United States has acquired will be retarded, if not entirely stopped. In 1856 the Congress passed a law, as pointed out by the Senator from South Carolina this morning, authorizing citizens to occupy uninhabited islands rich in guano, and upon the condition that the citizens so occupying the islands should sell the fertilizer at not exceeding \$8 per ton, this Government guaranteed protection to such citizens in the enjoyment of their possession of such islands, even to the extent of using the Army and Navy of the United States. So this can not be said to be a new proposition. The primary idea of the act of 1856 is not different from that which enters into the amendment offered by the Senator from South Carolina, and, in my judgment, it is not inconsistent with, and it can in no sense be regarded as a violation of the fundamental principles of this Government, to authorize the Government itself, while engaged in the necessary act of providing itself with munitions of war, to also afford the people of the country who are engaged in agriculture the opportunity to acquire the surplus product in the form of the fertilizer necessary for enriching their soil.

This, Mr. President, is all that I care now to say concerning the subject.

Mr. WALSH. Mr. President, I may be able to quiet some apprehensions which have been expressed during the course of this debate and to dispel some illusions that are harbored by submitting some information concerning the power sites which will be available to the Government for utilization in case the amendment offered by the Senator from South Carolina shall receive the sanction of Congress.

It was stated before the Committee on Agriculture, when considering the bill introduced by the Senator from South Carolina, and it has been repeatedly stated upon the floor, that, inasmuch as at least 100,000 horsepower are necessary in order to conduct the business of the fixation of atmospheric nitrogen upon an economical basis, there are but two power sites available, namely, the Muscle Shoals site on the Tennessee River and the Priest Rapids site on the Columbia River. Then, it was added that the northwestern power sites are to be entirely ignored because the freight rates are so high as to forbid their utilization, and therefore the Senator from Iowa has said to the Senate that the bill offered by the Senator from South Carolina as an amendment to the pending measure might as well be declared to be a bill for the establishment of a Government plant at the Muscle Shoals site on the Tennessee River, and the Senator from Utah has just expressed himself as entertaining the same view.

I have before me, Mr. President, a letter sent me on day before yesterday by the Director of the Geological Survey which conveys the information that within the State for which I am permitted to speak upon the floor of the Senate there are at least three power sites capable of producing all the power that is requisite for the operation of a plant such as the amendment contemplates, and that in the neighboring State of Idaho is another site having all the capacity that is requisite.

Mr. President, at one place on the Pend d'Oreille or Flathead River, which empties the Flathead Lake in the State of Montana, that lake being the largest body of fresh water between the Mississippi River and the Pacific Ocean, energy can be developed to the amount of 150,000 horsepower; and I would not have you understand that that is the amount that can be de-

veloped during periods of high water only. With respect to that matter, I read from the letter of the director, as follows:

In response to your telephone request of April 7, 1916, for data regarding undeveloped water powers in Montana:

It is understood that you desire particularly a list of the larger and most feasible individual power sites and their capacities. The following brief list has been very hastily prepared, and is not as complete as could be desired. The figures of capacities are, in some cases, rather rough estimates. All figures are for the continuous horsepower possible, the actual water-wheel capacity which may reasonably be installed at the sites being from one and one-half to three times the figures given, depending on the load factor, amount of auxiliary power, and various other conditions.

I ask, Mr. President, that the entire letter be printed in the RECORD as part of my remarks.

The VICE PRESIDENT. In the absence of objection, permission is granted.

The letter referred to is as follows:

DEPARTMENT OF THE INTERIOR,  
UNITED STATES GEOLOGICAL SURVEY,  
Washington, April 8, 1916.

HON. THOMAS J. WALSH,  
United States Senate.

MY DEAR SENATOR WALSH: In response to your telephone request of April 7, 1916, for data regarding undeveloped water powers in Montana:

It is understood that you desire particularly a list of the larger and most feasible individual power sites and their capacities. The following brief list has been very hastily prepared and is not as complete as could be desired. The figures of capacities are in some cases rather rough estimates. All figures are for the continuous horsepower possible, the actual water-wheel capacity which may reasonably be installed at the sites being from one and one-half to three times the figures given, depending on the load factor, amount of auxiliary power, and various other conditions. The capacities of the sites on Flathead and Clark Fork Rivers are the capacities estimated with Flathead Lake fully utilized for storage purposes.

Undeveloped water-power sites in Montana.

Stream.	Locality.	Capacity in horsepower.
Madison River.....	T. 3 S., R. 1 E.....	12,000
Do.....	Ts. 3 and 4 S., R. 1 E.....	26,000
Do.....	.....	20,000
Do.....	.....	20,000
Do.....	.....	20,000
West Gallatin River <sup>1</sup> .....	.....	20,000
Do.....	.....	20,000
Missouri River.....	T. 14 N., R. 3 W. (Holter site).....	35,000
Do.....	T. 21 N., R. 5 E.....	20,000
Bighorn River.....	At mouth Bighorn Canyon.....	33,000
Do.....	Upper half of Bighorn Canyon.....	30,000
Kootenai River.....	Kootenai Falls.....	16,000
Clark Fork.....	Rock Island Rapids, T. 26 N., R. 32 W.....	90,000
Do.....	Cabinet Gorge (part in Idaho).....	90,000
Flathead River.....	T. 22 N., R. 21 W., sec. 12.....	150,000
Do.....	T. 22 N., R. 21 W., sec. 22.....	38,000
Do.....	T. 21 N., R. 22 W., sec. 1.....	19,000
Do.....	T. 19 N., R. 22 W., sec. 1.....	70,000
Do.....	T. 19 N., R. 21 W., sec. 31.....	15,000

<sup>1</sup> Assuming upper Madison River will be developed in 3 units.

<sup>2</sup> Assuming development in 2 units.

Yours, very truly,

PHILIP S. SMITH,  
Acting Director.

Mr. WALSH. In explanation of the letter I desire to add that on the Flathead River, within a distance of 7 miles of the place where energy can be developed to the extent of 150,000 horsepower, energy can be developed by successive dams aggregating 292,000 horsepower, and these can be easily connected by a transmission line; so that there is available there a site that will produce not only 100,000 horsepower necessary for the operation of a plant such as is contemplated, but will produce additional power to be disposed of for other purposes almost double that amount.

Mr. President, it is not necessary to have a single site capable of a development of a hundred thousand horsepower; you can develop a half dozen sites and connect them with a transmission line. That is a very simple problem for an engineer. In that way a half dozen sites upon the Gallatin and the Madison Rivers can be connected at which can be produced 118,000 horsepower. Another site in the State of Montana at one single place will develop 90,000 horsepower; and then across the line in the State of Idaho is another site on the same river which can be connected with a transmission line, not to exceed 10 miles in length, at which 90,000 more horsepower can be developed. So, there will be no difficulty encountered at all in finding available sites.

Mr. MARTINE of New Jersey. Mr. President, I want to ask whether the same difficulty to which reference has been made

as to transportation will not present itself in the case of the sites the Senator has suggested?

Mr. WALSH. I am glad the Senator has asked about that, because I was going to pass to that very point. It has been urged that these sites are so remote from the regions in which the nitric acid would have to be used, at least for agricultural purposes, that they would be unavailable on account of excessive freight rates. I was informed that there was nothing at all to that contention; but, in order that I might have the matter in some shape to submit to the Senate, I addressed a telegram to Mr. Earling, president of the Chicago, Milwaukee & St. Paul Railroad, asking what the fact about that matter is, and I have from him the following telegram:

[Telegram.]

CHICAGO, April 8.

HON. T. J. WALSH,  
United States Senate, Washington:

Your wire this date. I know of only one specific instance where it was proposed to develop hydroelectric power for the purpose of manufacturing nitric acid. That was in the far West, and the rates that were quoted to the promoters by this company were entirely satisfactory. Development of this project still under consideration, with favorable prospects.

So that the difficulty of freight rate seems to be entirely obviated; and I may say, in this connection, that I have personal information about negotiations which have been going on for the past two years looking to the establishment in that region of two plants for the fixation of atmospheric nitrogen.

Mr. SMITH of Georgia. Will the Senator allow me to interrupt him?

Mr. WALSH. I will yield in a moment. And to-day I learn of a third enterprise that is under consideration for the utilization of a great power site near the line between the States of Nevada and Arizona. I now yield to the Senator from Georgia.

Mr. SMITH of Georgia. I wish to ask the Senator if, under existing laws, it is practicable for companies desiring to develop such plants to obtain the necessary concessions for their development, or is additional legislation required?

Mr. WALSH. I am glad the Senator asks that question, and I am obliged to state to him that it is not practicable; that all of these sites are upon the public domain; and I seize this opportunity to say that the bill which would make available to the country these power sites for the development of power for the operation of plants for the fixation of atmospheric nitrogen and for other industrial purposes has had some consideration here in the Senate, but has unfortunately been, in a way, pigeonholed. I am exceedingly glad that the discussion of this bill has served to bring home to the minds of Senators the enormous importance of that measure and the necessity of speedy action with reference to it; that is to say, the necessity for doing something to make available these power sites, whether or not that something conforms with the ideas expressed in the bill referred to.

Mr. SMITH of Arizona. Mr. President, will the Senator permit an interruption?

Mr. WALSH. Yes.

Mr. SMITH of Arizona. Preliminary to the question which I wish to ask I will state that the difference between the Senator and a good many other Senators from the West is as to whether or not the Government should be given control of these power sites, many of us believing that it would be better in States where nonnavigable streams are found to permit the States to get the revenue instead of the Federal Government, and to permit the States to make the regulations. If that were permitted by the Government, if the States were permitted to use these sites and to retain some power over them, which it is proposed to lodge in the Federal Government by the bill to which the Senator has referred, would not the bill pass?

Mr. WALSH. The Senate understands that the Senator from Arizona and myself do not agree as to the principles that should control in that bill. All I ask about the matter is that the bill have the consideration of the Senate. Let the Senator from Arizona, if he does not agree with the principles on which the bill is based, propose his amendment, let him argue it to the Senate as powerfully as he can—and we know how effective he is in persuasive argument—let us submit the two ideas to the Senate for determination, and let it adopt that one which conforms to its judgment as to what is wise in the premises and pass the bill in some shape.

Now, Mr. President, I want to say another word in that connection. I have a communication here, a very interesting one, received this morning from a gentleman by the name of R. F. Bower, who, from the letterhead, appears to be special legislative agent of the Farmers' Educational and Cooperative Union of America. I am going to ask that that letter be printed in the

Record as a part of my remarks, because it contains some information which is exceedingly valuable in this connection, although many of the ideas in the letter do not meet my approval at all. I will refer to those immediately. I want to invite your attention to these facts recited in the letter. It says:

The fertilizer farmers in the United States in the year 1914 paid a bill for fertilizers of \$177,000,000. Of this amount, \$78,000,000 was paid for nitrogen, \$65,000,000 for phosphoric acid, and \$43,000,000 for potash. The farmers in the cotton-growing States of the South pay a bill annually of about \$100,000,000 for fertilizers.

Then the writer goes on to argue, Mr. President, that private capital will not engage in the business of establishing nitrate plants so that the farmer can be supplied with nitrogen for the production of fertilizer. With that statement, Mr. President, I do not at all agree; and I am unable to give any support whatever to those who argue the necessity of this legislation because private capital will not go into this industry. There need be no fear about that at all. Open the water-power sites and you will have plenty of capital immediately available for the development of factories of this character. I am, Mr. President, notwithstanding that, most earnestly in favor of the amendment proposed by the Senator from South Carolina.

The problem is a simple one of utilizing water power to take nitrogen from the air and holding it so that it shall be made available either for the manufacture or production of explosives or for fertilizing purposes. The air, as a matter of course, is entirely free, and the Government now owns the power and the power sites at which the essential element can be produced.

I submit, sirs, that it is a business proposition that could receive countenance nowhere, in any aggregation of business men, that when you have the very elements of the thing you should turn those elements over to some one else and allow him to utilize them and then buy the product from him. I do not think you can sustain the plan of turning over these great power sites, that are already owned by the Government, to private parties and allow them to develop nitric acid and then buy the nitric acid from them.

Furthermore, Mr. President, I am glad to vote for this amendment upon exactly the same principle as that upon which I voted for the erection of an armor-plate factory; and that is, sir, to take, so far as we reasonably can, the profit out of the business of war; as far as we can, to remove every temptation from anybody in this country to agitate for war, to argue in favor of great military and naval establishments, because there is a chance to make some money out of the proposition. I would have the Government go in and utilize these great power sites that it has available for the development of power necessary for the fixation of atmospheric nitrogen so that no one would be tempted to go into it in order to make money out of it.

Mr. President, I share none of the alarm that seems to trouble the Senator from Utah, for instance, that that means that private capital will not go into the business. Why, Mr. President, the Du Pont Powder Co. is here asking that the Government shall not go into this business but that we shall turn over to that company one of these great power sites in the West so that it may go into the business and utilize that power site in the production of nitric acid and in the manufacture of ammunition which it expects to sell to the Government. Why, Mr. President, we are in the business of manufacturing ammunition now. Has the Government factory driven the private maker of ammunition, of explosives used in war, out of business? Not at all.

Mr. SAULSBURY. Mr. President, will the Senator permit me to correct a statement that I think he made inadvertently?

Mr. WALSH. I shall be glad to have the Senator do so.

Mr. SAULSBURY. I noticed that in a letter which the Du Pont Powder Co., or the president of it, wrote to the Senator from Alabama [Mr. UNDERWOOD], they stated their position to be that they were not asking any exclusive privilege; and the bill which I introduced at their request certainly does not attempt to exclude the Government from the manufacture. It simply asks to use the power which may be necessary for it to do it, and, while not providing that the Government shall be compelled to take their product, stipulates that they shall agree to furnish to the Government, at a price fixed by the Secretary of War, whatever they make.

Mr. WALSH. That is exactly the point I wanted to impress upon the Senate in this connection. The Du Pont Powder Co. ask that they may have the privilege of developing these powers for the purpose of producing at them nitric acid; but they say that if the Government does establish a plant they want to have an opportunity also to establish a plant. In other words, they are quite willing to go into the business even though the Govern-

ment does establish a plant; and why should not they be, Mr. President? There are abundant uses for nitric acid in addition to meeting the wants of the Government. Explosives of all kinds now depend upon this necessary element. It is used in mining, it is used in railroad building, it is used in a thousand ways. Then, as a matter of course, in the course of time the demand for fertilizer purposes will be great. It is not contemplated that any plant that the Government can build, or any number of plants that it can build, at an expense of \$15,000,000, will meet the demand of the Government as well as supply the entire commercial demand. There will be a large field there for the operations of private capital, even though this policy is entered upon.

I think, therefore, we may safely adopt this amendment without in any way whatever imperiling the prospect of the development of many of these power sites by private capital and the fixation of atmospheric nitrogen in commercial quantities by them.

I now ask that the letter of Mr. Bower to which I have referred may be published entire in the RECORD.

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

The letter referred to is as follows:

THE FARMERS' EDUCATIONAL AND  
COOPERATIVE UNION OF AMERICA,  
NATIONAL UNION,  
Washington, D. C., April 11, 1916.

Hon. THOMAS J. WALSH,  
United States Senate, Washington, D. C.

SENATOR: I write you as a Senator from the arid or irrigation States of the West.

Speaking for the farmers in the fertilizer-using States, we can not keep from hoping you will sympathize with us in respect to our present almost pitiable needs in regard to fertilizers, and we feel that you will sympathize with us, because you so well understand what water means to the arid lands in your State and what a contribution the irrigation projects of the West, carried forward at a cost to the Government of more than \$116,000,000, have been to agriculture, and how fully justified the expenditure on the part of the Government in its reclamation policy in the arid States of the West has been.

The fertilizer farmers in the United States in the year 1914 paid a bill for fertilizers of \$177,000,000. Of this amount \$78,000,000 was paid for nitrogen, \$65,000,000 for phosphoric acid, and \$43,000,000 for potash. The farmers in the cotton-growing States of the South pay a bill annually of about \$100,000,000 for fertilizers.

At the present time we can get neither potash from Germany nor nitrates from Chile, and we are paying for phosphoric acid about twice the price paid before the European war began. Ocean freight rates on Chilean nitrates have increased since 1914 from \$3.75 and \$5 to \$13.75 and \$20 a ton. German farmers have the advantage of having a supply of potash at home, and now Germany is producing within her own borders 600,000 tons of air nitrogen annually, whereas as before the European war she produced less than 60,000 tons, and now German authorities boast that Germany is independent of the Chilean nitrate monopoly, both for military and agricultural purposes, whereas the farmers of the United States are still dependent upon Germany for potash and still dependent upon Chile for nitrates.

We are told by some that we should depend upon private enterprise and capital for our nitrate developments, but we press upon you as strongly as possible the fact that the farmers in the fertilizer-using States can no more rely upon private capital to develop the necessary water power to provide our needed nitrogen fertilizers than the farmers in the arid States of the West could have relied upon private capital and enterprise to have developed the great irrigation projects of the arid West. Fertilizers are just as great a necessity for increased crop production on the farms in New England, the Middle States, and especially the South, as water is a necessity for crop production and fertility upon the lands in the arid States of the West.

The Roosevelt Irrigation Dam in Arizona, costing nearly \$13,000,000, and the Arrowrock Dam in Idaho, costing over \$5,000,000, never would have been built by private capital; and if they had been built by private capital the cost of water irrigation owing to the higher rates of interest that private capital would have had to pay, would have made the cost of irrigation so high the farmer could not have used the water.

Likewise if the farmers in the fertilizer using States are to depend upon private capital, the cost of air fertilizers will be so high that they no more could use air nitrogen fertilizers than they can to-day use Chilean fertilizers at the present exorbitant and prohibitive costs.

Suppose a dam cost \$10,000,000 and that the power at this dam would produce 300,000 tons of nitrogen-phosphorous fertilizer and that 3 per cent is paid on the \$10,000,000. This would be \$1 per ton fixed charge. If the interest was 6 per cent it would be \$2 per ton, and if 9 per cent it would be \$3, and we are informed that few power companies can secure capital for less than 9 per cent when all interest costs for capital are paid.

Therefore the fertilizer-using farmers of this country are asking you to do for them just what Congress has done for the farmers of the arid States of the West in providing water for irrigating western lands. The cost of water irrigation measures the cost of crop production in the arid States of the West and the cost of fertilizer measures the cost of food products and cotton products in the Southern States.

As an example of this please read the little pamphlet I am inclosing, showing comparative use of cottonseed meal nitrogen as a fertilizer as against air nitrogen as a fertilizer. If the Government builds dams for producing nitric acid for national defense, the power at these dams can be used for manufacturing cheap fertilizers in times of peace, and the little comparison I am inclosing you between cottonseed meal and air nitrogen fertilizers illustrates what cheap water power will do and how cheap electricity will contribute to decreasing the cost of cotton and food crops in fertilizer-using States.

Our inclosures herewith will, we believe, support our contention that the Government itself should take steps to relieve the fertilizer situation and free the farmers of this country from the Chilean saltpeter monopoly, and if you will read the inclosed statistics and facts we can not doubt that you will assist us.

I call your attention to a copy of a letter herewith from a Florida grapefruit grower who has experimented successfully in using cyanamid, or lime nitrogen, in his grapefruit grove, and the day will come when nitrogen will be a necessity to the fruit grower of your State.

Yours, very truly,

R. F. BOWER.

Mr. WORKS. Mr. President, earlier in the day I had occasion to submit some observations on the present-day tendency to legislate all enterprise and all responsibility upon the National Government, and I called attention to the temptations that presented themselves to do just that thing.

We have before us right now a conspicuous example of that kind of legislation and what leads to it. The people in the South especially, and, of course, in other parts of the country, need fertilizer. They ought to have it. I shall be glad to see them have it; but why should the Government of the United States be called upon to go into the fertilizer business and supply this necessity to the people of the South or anywhere else?

I agree with the Senator from Montana [Mr. WALSH] that there is no necessity that the Government should go into the business if the Government itself gives the opportunity to improve these power sites and use them for the common good. The Senator from Montana and I disagree as to the manner in which this should be done. I think both of us desire that full opportunity should be given to private capital to improve these power sites and put them to beneficial use. I agree also with the Senator from Montana that the Government should manufacture for itself the nitrogen that it uses for national purposes, because I believe, as I think I have said before, that the Government should manufacture everything that is to be used in war, and not allow it to be speculated upon by private individuals.

But, Mr. President, as I suggested earlier in the day, we are going a long way in centralizing government. I do not know whether or not other Senators feel as seriously about that situation as I do, but I am beginning to believe that there is not a State rights Democrat left in the South. They may be in theory—they possibly think they are yet—but the course of legislation here proves absolutely to the contrary. I reiterate what I said this morning—that the Democratic Members of the Senate are leading in just this kind of legislation that is giving away the sovereignties of the States and imposing upon the Government the obligations that belong to the States.

Mr. HARDWICK. Mr. President, if the Senator will permit me, I hope he will except me from that statement.

Mr. WORKS. I beg the Senator's pardon. I very much approved of what he said on this question, and he seems to be one exception to what I have said.

The VICE PRESIDENT. The question is on the amendment of the Senator from Georgia [Mr. HARDWICK] to the amendment of the Senator from South Carolina [Mr. SMITH].

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

The VICE PRESIDENT. The Secretary will call the roll.

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

Bankhead	Hughes	Overman	Smith, S. C.
Brandeggee	Husting	Owen	Sterling
Bryan	Johnson, Me.	Page	Sutherland
Chamberlain	Jones	Pittman	Swanson
Clapp	Kenyon	Ransdell	Thomas
Clark, Wyo.	Kern	Reed	Thompson
Culberson	La Follette	Robinson	Tillman
Cummins	Lane	Saulsbury	Underwood
Curtis	Lewis	Sheppard	Vardaman
Dillingham	Lodge	Sherman	Wadsworth
Gallinger	Martine, N. J.	Shields	Walsh
Gore	Nelson	Simmons	Warren
Gronna	Newlands	Smith, Ariz.	Williams
Hardwick	Norris	Smith, Ga.	Works
Hollis	Oliver	Smith, Md.	

Mr. LEWIS. I desire to announce that the senior Senator from New York [Mr. O'GORMAN] is absent on official business, and is paired with the senior Senator from New Hampshire [Mr. GALLINGER].

The junior Senator from Maryland [Mr. LEE] has been called to his State. He is paired by transfer with the junior Senator from West Virginia [Mr. GOFF].

The junior Senator from South Dakota [Mr. JOHNSON] has been called out on official business.

The junior Senator from Indiana [Mr. TAGGART] has been called to his State on official business.

Mr. WALSH. I wish to announce that my colleague [Mr. MYERS] is absent from the Chamber on account of official business.

The VICE PRESIDENT. Fifty-nine Senators have answered to the roll call. There is a quorum present. The pending question is the amendment of the Senator from Georgia [Mr. HARDWICK] to the amendment of the Senator from South Carolina [Mr. SMITH].

Mr. KENYON. On that I ask for the yeas and nays.

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

Mr. BRYAN (when his name was called). I have a pair with the junior Senator from Michigan [Mr. TOWNSEND], and therefore withhold my vote.

Mr. GALLINGER (when his name was called). I have a general pair with the senior Senator from New York [Mr. O'GORMAN], but upon matters connected with this bill I am privileged to vote. I vote "yea."

Mr. MYERS (when his name was called). I have a pair with the junior Senator from Connecticut [Mr. McLEAN], who is absent. I transfer that pair to the senior Senator from Nebraska [Mr. HITCHCOCK] and will vote. I vote "nay."

Mr. SUTHERLAND (when his name was called). I inquire whether the senior Senator from Arkansas [Mr. CLARKE] has voted?

The VICE PRESIDENT. He has not.

Mr. SUTHERLAND. I have a pair with that Senator, and for that reason withhold my vote.

Mr. TILLMAN (when his name was called). I transfer my pair with the junior Senator from West Virginia [Mr. GOFF] to the junior Senator from Maryland [Mr. LEE] and will vote. I vote "nay."

Mr. SMITH of Michigan (when Mr. TOWNSEND's name was called). I desire to announce the unavoidable absence of my colleague [Mr. TOWNSEND], on account of sickness in his family. He is paired on this matter with the senior Senator from Florida [Mr. FLETCHER].

Mr. UNDERWOOD (when his name was called). I have a general pair with the junior Senator from Ohio [Mr. HARDING]. As he is absent, I transfer that pair to the junior Senator from Indiana [Mr. TAGGART] and will vote. I vote "nay."

Mr. WEEKS (when his name was called). I have a general pair with the senior Senator from Kentucky [Mr. JAMES]. I transfer that pair to the senior Senator from Idaho [Mr. BORAH] and will vote. I vote "yea."

Mr. WILLIAMS (when his name was called). I transfer my pair with the senior Senator from Pennsylvania [Mr. PENROSE] to the senior Senator from Tennessee [Mr. LEA] and will vote. I vote "nay."

The roll call was concluded.

Mr. BECKHAM. I am paired with the senior Senator from Delaware [Mr. DU PONT]. As he is absent, I transfer that pair to the junior Senator from Louisiana [Mr. BROUSSARD] and will vote. I vote "nay."

Mr. OWEN. I transfer my pair with the junior Senator from New Mexico [Mr. CATRON] to the junior Senator from South Dakota [Mr. JOHNSON] and will vote. I vote "nay."

Mr. CURTIS. I have been requested to announce that the Senator from Idaho [Mr. BRADY] is paired with the Senator from Florida [Mr. FLETCHER], and that the Senator from New Mexico [Mr. FALL] is paired with the Senator from West Virginia [Mr. CHILTON].

The result was announced—yeas 24, nays 47, as follows:

YEAS—24.			
Brandeggee	Gallinger	Oliver	Smoot
Burleigh	Hardwick	Overman	Sterling
Clark, Wyo.	Jones	Page	Stone
Colt	Lippitt	Pomerene	Wadsworth
Curtis	Lodge	Smith, Ga.	Weeks
Dillingham	Nelson	Smith, Mich.	Works
NAYS—47.			
Ashurst	Johnson, Me.	Owen	Smith, Ariz.
Bankhead	Kenyon	Pittman	Smith, Md.
Beckham	Kern	Poindexter	Smith, S. C.
Chamberlain	La Follette	Ransdell	Swanson
Clapp	Lane	Reed	Thomas
Culberson	Lewis	Robinson	Thompson
Cummins	McCumber	Saulsbury	Tillman
Gore	Martin, Va.	Shafroth	Underwood
Gronna	Martine, N. J.	Sheppard	Vardaman
Hollis	Myers	Sherman	Walsh
Hughes	Newlands	Shields	Williams
Husting	Norris	Simmons	
NOT VOTING—25.			
Borah	du Pont	Johnson, S. Dak.	Sutherland
Brady	Fall	Lea, Tenn.	Taggart
Broussard	Fletcher	Lee, Md.	Townsend
Bryan	Goff	McLean	Warren
Catron	Harding	O'Gorman	
Chilton	Hitchcock	Penrose	
Clarke, Ark.	James	Phelan	

So Mr. HARDWICK's amendment to the amendment of Mr. SMITH of South Carolina was rejected.

Mr. GALLINGER. Mr. President, I have never yet been able to bring myself to believe that the Government ought to engage in business in competition with private parties; and for that reason I have, with some degree of consistency, I think, voted against all propositions looking to that end.

I voted against the bill to establish a Government armor-plate plant, believing that it was not good policy for us to engage in that business; and for the same reason I expect to vote against the amendment which is now under consideration, although I have tried to bring myself to the view that I might with some degree of consistency support it.

Recently I have been handed a letter written by an intelligent Englishman, printed in the New York Sun, on the armor-plate proposition, in which he, to my mind, conclusively shows that it is a very dangerous thing for any Government to establish a plant for the manufacture of munitions of war when it probably will drive out of existence the private plants; and he discusses the matter with so much intelligence and, to my mind, with so much conclusiveness that I desire to ask permission to print it in the RECORD. I would read it were it not for the fact that I am quite as anxious as any Member of this body to facilitate as much as possible the business of the session, so that we may in due time be able to return to our homes for a little rest and recreation.

I now ask that the article which I send to the desk may be printed as a part of my remarks.

The VICE PRESIDENT. Without objection, it will be so ordered.

The matter referred to is as follows:

[From the New York Sun of Wednesday, Apr. 5, 1916.]

THE ARMOR-PLATE QUESTION—AN ENGLISHMAN'S IMPRESSIVE STATEMENT OF BRITISH EXPERIENCE.

To the EDITOR OF THE SUN.

SIR: An Englishman can wish nothing better for America than that she may profit by British experience in this war. If I might venture an opinion based on a 20-years' acquaintance with the United States I should say that both in what we have done and in what we have left undone during the past 18 months there are some lessons well worthy of American attention. One of those lessons, perhaps, indeed, the supreme lesson, is the vital importance of encouraging during the years of peace as many private manufacturers as possible to engage in the production of war material.

If that is really a desirable end, and all the belligerent nations have learned in a pretty hard school that it is the alpha and omega of preparedness, then I can not help thinking that the armor-plate bill now before Congress defeats it. I can not help thinking that instead of increasing it positively diminishes your industrial readiness for war.

Neither can I help giving thanks to Providence that the British Parliament was never tempted to act as the American Congress now apparently contemplates acting; that it never thought of legislating the private armor-making firms out of existence and of putting all its naval eggs in the basket of a Government plant; and that when the storm burst we were able to turn to immediate account the organization and the skill and the equipment and the unequalled practical knowledge of a host of firms that knew the armament business from top to bottom and that a wise public policy had induced to keep themselves in a state of instant efficiency and responsiveness.

Let me say without a moment's hesitation that we could not have built up the British fleet on any other policy; that it, and it alone, has enabled us to turn England into one vast arsenal of war; and that nothing but a disastrous confusion and delay could have ensued had we depended exclusively upon a Government plant for any of the indispensable of naval or military material.

Suppose that 5 or 10 years ago the British Admiralty had called together the heads of the armor-making firms in the United Kingdom and addressed them thus: "Look here, you are making too much money. You are not charging us a reasonable price. You form a ring among yourselves and you have ceased to compete with one another. We are not going to stand it any longer. We are going to put up a Government plant and make our own armor. The fact that we begged you to go into the business and encouraged you to persevere in it, to invest new capital and to build new shops to meet our requirements, no longer weighs with us. We are through with you; and so far as we are concerned you can dismantle your plants, disband your organization, turn all your skilled workmen adrift, and convert your shops into purely industrial establishments."

Suppose the British Admiralty had taken this stand, what would have been the result? The result would have been that in August, 1914, outside of a solitary Government plant, managed, of course, as negligently and inefficiently as all such bureaucratic enterprises must be, we should have had neither the men nor the machines to make even a single plate. All the skill and experience which our private firms had amassed would have been dispersed. All the plant that they had accumulated, plant that is useless for any other purpose, would have been scrapped or sold. Instead of half a dozen splendid organizations, on which to build and from which to expand, we should have had but one—and that one, by its very nature, wrapped in the comfortable stupor of officialdom, inelastic, unbusinesslike, totally incapable of rising to even half the height of so tremendous an emergency.

What would it then have profited us to have saved a few thousand pounds in time of peace if when the war came we had to squander millions of pounds in a vain effort to recover all we had thoughtlessly cast away? How should we have gained if in lopping off the profits of the armor makers we had imperiled the nation? Could any one conceive a more perfect example of the penny-wise and pound-foolish policy than one which, in the name of economy, weakened the navy, risked an irreparable defeat, and prevented us on the day of Armageddon from utilizing the country's industrial resources?

Of course, nothing of the kind occurred, or was ever even thought of. We have in Great Britain, I believe, five or six armor-making firms. The Admiralty experts consult with them continuously, apportion the work among them, arrange the price—Parliament very wisely never attempts to meddle with such details—and drive the best bargains they can in the interests of the nation. With common sense and a rational spirit of give and take on both sides the system works admirably.

Very possibly these private companies earn large and liberal profits on their Government contracts. If they do, what of it? Every Englishman is well content that they should, because every Englishman

knows that by merely remaining in existence and in a condition to fill the Admiralty orders they are rendering the nation a supreme service. This war has taught us that there is no imaginable profit which it would not have been well worth our while to pay over to the armor-making firms simply to keep them in being, and that no saving to the treasury could ever have compensated us for having driven even one of them out of business.

As a matter of fact, I am very confident that the British armor-plate manufacturers, while always treated with a businesslike generosity, have never been allowed to reap extravagant or illegitimate rewards. My confidence is grounded in the fixed conditions of the case. People talk of the Government being at the mercy of the manufacturers. But the manufacturers are equally at the mercy of the Government. It is by far their largest, in most cases it is their only customer. It is in just as good a position to dictate the terms as they are. It depends on them, but not a bit more than they depend on it. With the merest modicum of honesty and business intelligence and diplomacy the situation becomes entirely manageable, and if Englishmen, under such circumstances, were to find a British Cabinet advocating a national armor plant as the only method of escaping the exactions of the manufacturers, they would say at once and unanimously, "This Government is convicting itself and its agents either of gross dishonesty or gross inefficiency."

It is with such reflections at the back of my head that I contemplate the bill that is now before Congress, the bill appropriating \$11,000,000 to build an armor plant with a capacity of 20,000 tons a year. So far as I can make out the effect of this measure, if it passes in its present form, will be to force the private armor-making firms out of the business. I should probably seem exaggerating if I were to express the intense apprehension with which an Englishman and a friend of America, who has known something of the difficulties of his own country during the past 18 months of war, views such a prospect.

As an outsider, I have no call to discuss the details of the bill. But I have been very much struck with one point—that, except Italy, the United States pays less than any other naval power in the world for its armor, and very substantially less than we pay in England. It is surely a puzzling world. Here is America prepared to make the manufacture of armor plate a Government monopoly, because she can not buy it cheap enough. And here is England, which also is a business nation, and really does know something about naval administration, paying for her armor plate a considerably stiffer price, and yet perfectly satisfied with the arrangement on broad grounds of national security. Are we wrong, or are you?

It would be an impertinence on my part to answer that question dogmatically. But I may perhaps be allowed to summarize roughly the conclusions to which experience has led the British people. They find:

1. That no greater disservice can be done to a country than by discouraging its manufacturers in the production of the material of war.
2. That no matter what profits the manufacturers may make out of the Government in times of peace, they will all be returned to the nation multiplied one thousandfold in war.
3. That the problem of industrial preparedness for war is far more than a mere matter of finance, and that higgling over prices and profits, from any comprehensive standpoint of national defense, is the smallest and least relevant part of the whole issue.

SYDNEY BROOKS.

NEW YORK, April 4.

MR. UNDERWOOD. Mr. President, I desire to offer as an amendment to the amendment offered by the Senator from South Carolina [Mr. SMITH] the matter which I send to the desk.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The SECRETARY. On page 4, at the end of the proposed amendment, it is proposed to insert:

That the Secretary of War is authorized and directed, for the purpose of securing a suitable air-nitrogen process for the use of the Government of the United States, to make a contract or contracts with the owners thereof, for the use, rental, lease, or purchase of a suitable air-nitrogen process, and the Secretary of War is authorized to operate or lease the plant, hydroelectric power, or works provided for in this act for the making of nitrogen products for the manufacture of fertilizers in times of peace when the output of said plant is not needed for the manufacture of explosives.

MR. UNDERWOOD. Mr. President, the purpose of this amendment is twofold. As I read the bill, there is no provision in it for the Government to acquire an air-nitrogen process. As I understand, all of the processes are owned by private parties and are patented. If we are going to pass this bill and build a great power plant to make air nitrogen, we must acquire a process.

It is possible that under the general power of condemnation in the Government we could, in times of peace, condemn a process for war purposes. I think undoubtedly we could in times of war. No power of condemnation is given in the bill. But if we can condemn, under the general power of the Government, an air-nitrogen process for war purposes, we certainly can not condemn it for any other purpose than war purposes.

If we are passing this bill to prepare the Government for a war emergency, we will have to develop a capacity for making nitrogen that would serve us if the possibility of war happened. It has been stated, I think, by those in authority that Germany to-day is using 270,000 tons of nitric acid, and that it is supposed this Government would need at least two-thirds of that quantity—at least 180,000 tons of nitric acid—in the event of war.

MR. HARDWICK. How in the world can the Senator tell what sort of a war it is going to be?

MR. UNDERWOOD. Certainly not.

MR. HARDWICK. Does he figure that on a war of the very greatest magnitude?

Mr. UNDERWOOD. It is based on the supposition that we are preparing an army for the time of a world-power war. We build an air-nitrogen process on the same basis.

I will state to the Senator from Georgia that if it is proposed to build a plant to make nitric acid only for peace purposes there is no occasion for our building one at all, because we can get Chilean nitrate in time of peace to fill the requirements of the Government. It is only in the event that we became involved in war with a great war power that our Chilean nitrates might be cut off, and we would need a supply of nitric acid at home. Therefore, if we are going to build this plant for a preparedness purpose, it ought to be of sufficient capacity to meet that possible emergency. It is apparent that we will have no use whatever in times of peace of a plant that has a capacity to produce 180,000 tons of nitric acid.

Mr. TILLMAN. Except for the farmers.

Mr. UNDERWOOD. But I am talking about its use for war purposes. You will have no possible reason for the use of that amount in time of peace for war purposes. The practical question confronts the Senate: Are we going to build a plant of that kind, invest millions of dollars in it, and continue to send to Chile and pay a tax to the Chilean Government of \$11.60 on every ton of Chilean saltpeter that comes from there, and have an idle plant in the United States that we have built to protect us in time of war and decline to use it? I take it that the common sense of the American people would repudiate any such proposition.

If we are going to use this plant in times of peace to make nitric acid, we have got to acquire the process by purchase or lease. I think it can be done. If it can not be done, then the whole proposition falls down, and the Government will spend no money. But there is no provision whatever in the bill to authorize the Secretary of War to make a contract for the purchase of any air-nitrogen process or for the lease or the use of it. My amendment merely gives the Secretary of War the authority to make a negotiation and purchase the right to use one of these processes.

Mr. WALSH. Mr. President—

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

Mr. WALSH. Is it not the view of the Senator from Alabama that the power given by the act to construct and operate a plant necessarily implies the right to acquire any patented process?

Mr. UNDERWOOD. It is not, but why should we leave it in any doubt, I ask the Senator?

Mr. WALSH. I was wondering whether there could be any doubt.

Mr. UNDERWOOD. I think there is very serious doubt. If the Senator's contention is correct, that the statement to build a plant gives power to purchase a process, I have no desire to have this amendment adopted; but I think it is in serious doubt, and certainly there can be no harm in what I state here, "that the Secretary of War is authorized and directed, for the purpose of securing a suitable air-nitrogen process for the use of the Government of the United States, to make a contract or contracts with the owners thereof for the use, rental, lease, or purchase of a suitable air-nitrogen process." He might be able to lease it satisfactorily or he might be able to purchase it. I merely make the language broad enough so that the Secretary of War can properly exercise his discretion. If the bill is now broad enough itself, my amendment can do no harm. It is not in conflict with the purpose of the bill. If it is not broad enough to allow him to acquire this process, then the amendment certainly ought to come in or you negative the whole purpose of the bill.

Mr. WALSH. For information, I ask the Senator from Alabama if the patents are not upon the machines that are in use in the equipment of the plant, and you can not put them in the factory at all without permission to use these machines?

Mr. UNDERWOOD. I think this amendment will authorize the Secretary of War to make a contract with the men who own these patent rights. We can not go and take it away from them for peaceful purposes. I admit, of course, the Government of the United States in the stress of war could do it, but there is no power in the Government to take it away in time of peace. We have got to see if we can not negotiate a contract by which it can be done. If a satisfactory contract can not be made, then the whole bill goes down.

Mr. LIPPITT. Will the Senator from Alabama yield for a question?

Mr. UNDERWOOD. Yes.

Mr. LIPPITT. I wish to ask the Senator how large a proportion is the present use of nitrates. He spoke of 180,000 tons. Is that equal to the present peace consumption of nitrates in this country?

Mr. UNDERWOOD. Not of nitrates. I spoke of the concentrated nitric acid.

Mr. LIPPITT. It all depends upon nitrates.

Mr. UNDERWOOD. There are some differences; but of the concentrated nitric acid, of which I am speaking, I am informed the peace needs of our Army and Navy are about 20,000 tons, and that would leave about 160,000 tons that could be disposed of for commercial purposes. I am satisfied that that amount, or more than that amount, of nitric acid can be easily consumed in the country, although I have not the figures and can not state it definitely.

Mr. LIPPITT. Does the Senator know how large a proportion of nitrates used in this country are used in agriculture?

Mr. UNDERWOOD. Very much the larger proportion. I can not give the figures. I have not them here.

Mr. LIPPITT. I am informed that it does not exceed 25 per cent of the present consumption of nitrates.

Mr. UNDERWOOD. I am satisfied that the Senator's information is entirely wrong.

Mr. LIPPITT. It may be. I will give my information. My information is obtained from a very intelligent and able essay that was written by Mr. Cushman, of this city, upon the consumption of chemicals in the war. In that essay he states that not over 25 per cent of the total consumption of nitrates in the country are used for agricultural purposes—for fertilizers. The balance of it is used for explosives of various kinds for peace purposes, for digging, for blasting for subways, tunnels, and things of that sort, and for the general chemical uses of nitric acid.

Mr. UNDERWOOD. I will say to the Senator that I do not controvert his statement, because I am not informed; I have not the figures. I think he is mistaken. I will state also to the Senator that there is the possibility of a wonderful consumption of fertilizers in this country if they could be acquired at a cheap price, but the limitation on the consumption of fertilizers in this country to-day is the price that the farmer has to pay for them. The possibility exists in the development of this plant of cheap nitric acid, and that means cheap fertilizers.

Mr. LIPPITT. Of course the same thing applies to cotton. If the Government would establish cotton fields and sell cotton to American consumers at cost, as the amendment proposes to sell this article to agriculturists at cost, America would do a large part of the cotton manufacturing. However, I will speak about that. I just wanted the Senator's view.

Mr. UNDERWOOD. As I said, I would be glad to furnish the Senator the figures accurately if I could. I have not the figures and I can not give him accurate information.

The second clause of this amendment provides:

And the Secretary of War is authorized to operate or lease the plant, hydroelectric power, or works provided for in this act for the making of nitrogen products for the manufacture of fertilizers in time of peace when the output of said plant is not needed for the manufacture of explosives.

In other words, the amendment leaves it discretionary with the Secretary of War in time of peace, when it is not necessary to use the plant to make explosives the Government needs, to either operate the plant and make the nitric acid that is to go into fertilizers to be sold for fertilizers or to lease the plant, the power, for somebody else to do it. I do not seek to ask the Congress to decide which way it shall be done. I think it would be unwise for us to write in the bill the question as to whether the Government shall operate or the Government shall lease. The Government will continue to own, the Government will continue to control the plant, the Government will have its hands on the plant, and I assume that the intelligence and patriotism of the Secretary of War will protect the rights of the American people and the Government when he determines whether he will operate the plant for the Government in times of peace or whether he will lease the plant to somebody else to operate in times of peace with a reversion in times of war.

Mr. GALLINGER. Mr. President, will the Senator permit me?

Mr. UNDERWOOD. I yield.

Mr. GALLINGER. Are we to understand that the amendment the Senator has now offered is to take the place of the printed amendment the Senator proposed?

Mr. UNDERWOOD. No; I merely offer this amendment as a new paragraph to the amendment of the Senator from South Carolina. I, myself, have an amendment to the bill that is entirely independent of this, but I am so anxious—

Mr. GALLINGER. Just one other question. I assume I am right in the supposition that the terms of the Senator's amendment now offered contemplate that the Government for an indefinite time, for all time, if you please, shall engage in this business in times of peace?

Mr. UNDERWOOD. Yes; I think that is a fair conclusion. My own proposition that I offered was to authorize the Secretary of War to investigate this whole question and make tentative contracts, or see what contracts could be made, and report that matter back to Congress; but I feel that this question is so important to the American people as a preparedness proposition, a Government proposition, and so important to the great agricultural interests of this country, that I do not propose to come in in conflict with the amendment offered by the Senator from South Carolina.

It has been charged on the floor that I had offered an amendment here for a particular purpose to carry a development somewhere else. I have no such purpose.

Mr. OVERMAN. Mr. President—

Mr. UNDERWOOD. Just allow me to answer this, please. I have no such purpose. It is my desire to put an amendment on this preparedness bill that will protect the Government in time of war and will relieve the people in time of peace, and if I can not have my way about it I am willing to have the way of the Senator from South Carolina. My amendment is not in conflict with his purpose. I think that the Senator from South Carolina will vote for the amendment that I offer. It is merely to perfect his amendment so that we can utilize this process for all purposes. I yield to the Senator from North Carolina.

Mr. OVERMAN. The only difference I see—and I will ask the Senator if I am right—between the first paragraph of the amendment of the Senator from South Carolina, on page 3, and the amendment of the Senator from Alabama is that the Senator from Alabama proposes to lease and there is no provision to lease in the paragraph named. The amendment of the Senator from South Carolina says:

That the products of such plants shall be used by the Secretary of War or the Secretary of the Navy for military or naval purposes, and any surplus not so required may be sold and disposed of by the Secretary of Agriculture under such regulations as he may prescribe.

The difference between the amendments is as to leasing?

Mr. UNDERWOOD. The last part of the amendment I have offered merely adds to the powers of the amendment of the Senator from South Carolina, because it gives the power to lease the plant.

Mr. HARDWICK. Does not the Senator, however, authorize in express terms the Secretary of War to carry on a fertilizer business?

Mr. UNDERWOOD. The bill itself authorizes it.

Mr. HARDWICK. The Senator makes it plainer that he is also to embark in the fertilizer business.

Mr. UNDERWOOD. I expect to vote for the amendment offered by the Senator from South Carolina. This bill would be futile if it were intended to let the plant lie idle. I merely emphasize what I consider to be the purpose of the bill.

But, answering the junior Senator from North Carolina [Mr. OVERMAN], that is not the only purpose of my amendment. The other purpose is to give the Secretary of War the direct authority to make a contract to acquire one of these processes, which I think is the most important if we are going ahead with this business.

Mr. SAULSBURY. Mr. President—

The VICE PRESIDENT. Does the Senator from Alabama yield to the Senator from Delaware?

Mr. UNDERWOOD. I yield.

Mr. SAULSBURY. I desire to ask the Senator from Alabama if it was intended—as I think the words necessarily mean in the latter part of his proposed amendment—that the operation or lease of the plant when not needed for the manufacture of munitions of war should be limited to nitrogen products for the manufacture of fertilizers alone, or if the suggestion of the senior Senator from Rhode Island [Mr. LIPPITT] is correct, that of the whole product of nitric acid made in this country 75 per cent is used for other purposes than fertilizers, whether the Senator from Alabama intended that the product of this plant should be used for the general purposes of the country?

Mr. UNDERWOOD. No; I intended just what it says. I am free to say to the junior Senator from Delaware my purpose is to limit the use of the nitrates coming from this plant to fertilizers in order that the agricultural interests of the country could get the benefit of it rather than the business interests.

Of course, if we strike out the word "fertilizers" they could use it for other purposes; but I am satisfied in my own mind that the agricultural interests can be benefited, and that they can consume in time of peace the entire production of this plant. It is my purpose to direct that the product of this plant in time of peace shall go to the promotion of agriculture. If that does not meet with the approval of the Senate it is very easy to strike out that word. I think it ought to stay in.

Mr. SAULSBURY. I ask the Senator whether that would not practically mean the cyanamide process?

Mr. UNDERWOOD. No; I do not think so, but whatever process is the best for agriculture I think ought to be adopted. If the cyanamide process is the only process that can be utilized both for war and for peace, for powder and for fertilizers, I say candidly I propose to vote for that process; that is the process for me.

Mr. HARDWICK obtained the floor.

Mr. WALSH. Mr. President—

Mr. HARDWICK. I will yield to the Senator from Montana, if I may do so without losing the floor.

Mr. WALSH. I wish to ask the Senator from Alabama how he justifies, either from the standpoint of governmental policy or the standpoint of law, his proposition that this excess of nitric acid may be sold for the use of farmers for fertilizer purposes but should not be sold to anybody else who desires to use it in any other line of business?

Mr. UNDERWOOD. I think if the Government has the power to sell it at all the Government has the power to direct to whom it shall be sold. If the Government has a surplus number of uniforms on hand that it is going to dispose of, not needed for the Army, I think the Government could say at what price they should be sold and to whom they should be sold. I do not think there is any constitutional trouble about that.

To the part of the Senator's question directed to me as to why we should discriminate in favor of agriculture and not discriminate in favor of other business, or why we should not put the business consumption of nitric acid upon the same basis as we do agriculture, the only answer I have to make is, that I think it is more important to the general benefit of the country that agriculture should be preferred with reference to acquiring nitrates for fertilizers than that general business should be favored.

Mr. WALSH. If the Senator from Georgia [Mr. HARDWICK] will pardon me for just a moment, I wish to say that we have two great industries in the State of Montana—agriculture and mining. Both of them need nitric acid; the mining interest for the purpose of supplying themselves with explosives to carry on their business; the agricultural interest with nitrogen for the purpose of supplying fertilizer. How could I go home to my State and justify myself in thus discriminating in favor of one class of my people as against the other?

Mr. UNDERWOOD. I will say that I represent a great business district, where probably—I would not say as much, but I would say probably—as much explosive is used as is used in the State of Montana, and that is the district where my home is; but when you come down to the disposal of the product, when you dispose of it to agriculture for fertilizers, it means cheaper food for the masses of this country; it means that preparedness of which nothing else can take the place; it means the preparedness that raises strong men for this Government.

Mr. HARDWICK. May I resume the floor, Mr. President?

Mr. LIPPITT. Mr. President, does the use of nitrates in the raising of cotton mean cheap food to the people?

Mr. UNDERWOOD. Mr. President—

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Alabama?

Mr. HARDWICK. I do.

Mr. UNDERWOOD. Fertilizer is not used alone for cotton fertilization, but if it were it would be very useful to the Senator from Rhode Island.

Mr. LIPPITT. May I ask the Senator—

The VICE PRESIDENT. The Senator from Georgia [Mr. HARDWICK] was recognized about five minutes ago, and he still has the floor.

Mr. HARDWICK. Mr. President, I believe I will proceed myself just a little bit on this proposition. I have had the floor a long time, and I have not yet said a word.

Mr. President, not only is the amendment proposed by the Senator from Alabama [Mr. UNDERWOOD] remarkable, but his position is still more remarkable. His position is a position that no Democrat of his conspicuous ability and performance has ever before assumed in this country; and I regret it, because I love my friend from Alabama personally as well as any friend in this body, and few men anywhere hold a higher place in my regard. I therefore deeply regret that he should be the first conspicuous Democrat to take such a position.

The Senator from Alabama goes even further than the pending amendment in his repudiation of every Democratic tradition and in his violation of every Democratic principle that has ever been uttered by a sound Democrat since the foundation of this Government. He goes further, I say, in violation of those things than does even the Senator from South Carolina [Mr. SMITH]. The Senator from South Carolina at least, Mr. President, had

the modesty to cloak for a while his real design. The Senator from South Carolina insisted that this was purely and properly a governmental function that the Senate of the United States was called upon to authorize the Government to exercise, and that his amendment only proposed that we should manufacture or sell such surplus product as was necessarily produced in the proper performance of a governmental function, to wit, the manufacture of gunpowder for the Government of the United States; but now the Senator from Alabama, one of the most distinguished leaders of our party, and a so-called conservative—God save the mark!—comes into this Chamber with a proposition like this. He says: "I want to develop a power so great and I want to build a plant so large that it would supply the maximum requirements of this Government if it were engaged in war with all the balance of the world." That is not an event that we think is likely to happen; it is not an event that any of us desire; so that part of it is a mere prop upon which the rest of the Senator's proposition rests. Then the Senator from Alabama turns on us and says: "While this tremendous plant, geared to maximum capacity to produce all the powder and all the other explosives that this Government of ours could possibly use if we were engaged in war with the balance of mankind, is not being operated for the purpose of supplying our needs during a world-wide war we will operate it to the maximum capacity for the express purpose and for the sole purpose of making fertilizers to sell to the farmers of the United States."

The Senator from Alabama ought to apologize to Debs and to every other Socialist that he has ever criticized during his whole political career. I am grieved to see a Democratic Senator, nurtured in the faith of Thomas Jefferson, one of the most distinguished and able members of our party, and one of my best-beloved friends, make such a mistake. If Jefferson were here and could have heard this proposition of the distinguished Senator from Alabama, I think he would have left this Chamber in disgust; and if he could, although dead, hear it now, he would turn over in his grave in holy horror. Yet we belong, forsooth, to the party of Jefferson, and believe in the doctrine that Jefferson preached and believe in the faith that Jefferson professed!

Let me ask my friend from Alabama, if the Government is going to manufacture cheap fertilizers for the farmer, why not manufacture cheap clothes, cheap shoes, cheap food, and cheap everything else for the laboring man?

Mr. SMOOT. And agricultural implements?

Mr. HARDWICK. Why not manufacture agricultural implements, as is suggested by the Senator from Utah? Why not manufacture every necessity of life? Where will you stop, let me ask the Senator from Alabama, the business activities of this Government if the Senate and if the other House of Congress ever make the mistake of adopting so radical a proposition as that which he has presented? Can we discriminate along these lines? Can we differentiate between these things? Can we say to the farmer, "We will put up an enormous plant and manufacture and sell to you at cost all the fertilizer you need," and then turn around and say to the starving laboring men in the great centers of population—who suffer far more than our farmers, and at whose door want stands far more often than it does at the door of any farmer in this land, North, East, South, or West—"Your children can starve; you can go in rags, unemployed it may be, if hard times are on and the Republicans are in; but in spite of that, in spite of your condition, we will not give you food or clothing or shoes or hats or even bread at cost?"

Of course, my friends will understand my remarks about the Republicans were jocular. My own honest belief about that is that hard times come when Republicans are in power and when Democrats are in power, and neither party has very much to do with that, although we of both parties poke fun at each other across these aisles on this subject, and the country is occasionally treated to a lot of claptrap about it.

But I think, with the utmost good feeling and with the utmost friendship for my friend from Alabama, that, as bad as is the proposition of the Senator from South Carolina, as patent as is its purpose, and as plain as is the subterfuge about it, the pretense that what you are trying to do is really to furnish the Government with its gunpowder—in spite of all that, in principle the amendment suggested by the Senator from Alabama is infinitely worse. The Senator from New Hampshire [Mr. GALLINGER] caught it very quickly. He asked my friend from Alabama: "Does not this mean that you have embarked the Government of the United States permanently into the business of manufacturing and selling fertilizers?"

Mr. UNDERWOOD. No; manufacturing and selling nitric acid.

Mr. HARDWICK. Well, for use in manufacturing fertilizer. Nitric acid is one of the elements of fertilizer; it is one of the constituent elements from which fertilizers are made. I do not blame the Senator for being a little restless.

Mr. UNDERWOOD. I am not restless; and, if the Senator from Georgia will yield—

Mr. HARDWICK. I yield to my friend.

Mr. UNDERWOOD. I have not any doubt in the world about this. My friendship of nearly 20 years with my friend from Georgia is so great and our views usually so similar that I regret that the Senator from Georgia can not see that the proposition of using this idle factory to make nitric acid that may benefit the agricultural interests of this country is a mere incident to the war purpose, instead of having the plant lying idle; but I take, of course, with all good nature, the criticism of my friend from Georgia. I merely wanted the RECORD to show that my purpose is to make nitric acid, not fertilizer.

Mr. HARDWICK. What is the difference whether you make it in the raw state or in the second stage of manufacture? Is there any difference in the fundamental principle between the two? What is the difference between making and selling nitric acid or fertilizer to the farmer and making and selling shoes or boots or bread to the laboring man? What is the difference, and how are you going to deny the appeal of the laboring men when they turn on you, and say, "You furnish the farmers of this country with their fertilizer at cost; we are starving; give us our bread at cost; give us our food at cost; give us our shoes at cost; establish for us a great department store in every great center of population. The Government of the United States with its great capital"—you all remember the arguments during the progress of this debate—"with its superior business facilities, will be able to run a business of almost any kind more cheaply than private capital can do it. Now we count on you, and we make the same request of you that you have granted to them; give us all these things from the Government at cost."

Mr. President, it is a sad day for this body and for this country when distinguished and able Senators, who occupy the high place in the public regard and the warm place in the affections of their colleagues that the Senator from Alabama so justly holds, make a mistake like this. I am not here to lecture him; I am not trying to do that; I may be wrong; I may be absolutely in error; but if I am I have learned my Democracy at the wrong source, and I have got to unlearn all the Americanism I know. I was taught, Mr. President, at my mother's knee that individualism was the corner stone of this Republic and that the individual citizen was the edifice upon which was built American greatness and American glory; and yet I come to this body and find distinguished Senators, much older than I am, a great deal wiser than I am, far wiser, advocating before this body and before the American people such a socialistic proposition as this, that, under the guise and under the pretext of equipping a Government factory so big that it can supply this country with powder enough and explosives enough to war with all the balance of mankind, we are going really to equip a mammoth guano factory, to sell at cost to all the farmers of the United States the fertilizer they require, or as much of it as possible.

Mr. GALLINGER. Mr. President—

Mr. HARDWICK. I yield to my friend from New Hampshire.

Mr. GALLINGER. Does it not, after all, resolve itself into this, that the Government will go into the manufacture of a certain product that the farmers use and sell it to the farmers who own farms at cost, and do nothing for the men who do not own farms and can not possibly acquire farms?

Mr. HARDWICK. It may come to that; it is an endless circle, I will say to my friend. Once we embark on this sort of enterprise, what man can say where or when we will halt? Once we start on this course, who can tell whither it will lead or how long it will take us to arrive at utter destruction?

Mr. President, there may be, although I dislike to believe it, Senators in this body, distinguished and dignified as it is, who may think that it is necessary for them to make capital with their farmer friends at home by favoring all sorts of wild propositions and holding in terrorism over the Senate the threat that if you vote against this proposition the farmers of your State will know that you are not for them or not for their interests. I know that my distinguished friend from Alabama is not in such a category as that, if there are, in fact, any such Senators here.

Mr. STONE. Mr. President, will my friend yield?

Mr. HARDWICK. With pleasure.

Mr. STONE. I want to get a little clearer view of this subject than I have. I understand the proposal of the Senator



from Alabama to be that the Government shall interest itself in establishing a hydroelectric plant in order to extract nitrates from the air for powder making for public purposes. Does the Senator favor that?

Mr. HARDWICK. Undoubtedly; I am not opposed to that.

Mr. STONE. I am not opposed to that. I voted with the Senator to strike out the provision he moved to strike out, but now what I wish to ask the Senator is this: If he and I, cooperating with the Senator from Alabama, should succeed in erecting such a plant as I have indicated, with large amounts of Government money invested in it, and we should come to a point at a time of profound peace when that immense power is not needed and is not used for public purposes, would the Senator have it lie idle or would he be willing that some individual, some corporation, might come along and purchase that power, paying the Government for that power and utilizing it in making fertilizers or anything else?

Mr. HARDWICK. Has the Senator finished his question?

Mr. STONE. I wish to know what the Senator's position is.

Mr. HARDWICK. I will state it to the Senator frankly. I agree with the Senator, I think, if I get the drift of his mind, on this question. Of course, if we build a factory—and that is not necessarily involved in this proposition at all—one phase of it is that we should develop the water power necessary in order to make nitrogen, or to run the machinery of the factory that would make it, for gunpowder purposes; but whatever we did along that line for purely legitimate public purposes, whether we merely developed the water power or whether we constructed the factory, undoubtedly, if we did not use it or when we did not need to use it to make gunpowder, I would favor leasing it or selling it or disposing of it in some way, under competitive bidding, so as to give no one man or no one corporation an advantage over another, to private parties, firms, or corporations, to be used by them in any business in which they might desire to engage, and then to be retaken by the Government whenever it needed it to make still more powder for public purposes.

Mr. BRANDEGEE. Mr. President—

Mr. HARDWICK. I yield to the Senator from Connecticut.

Mr. BRANDEGEE. What does the Senator think of the proposition to leave to the Secretary of War the decision of a governmental policy, as to whether the Government shall continue in this business or whether it shall lease the power?

Mr. HARDWICK. I thank the Senator for the suggestion. I was just coming to that. The Senator from Alabama [Mr. UNDERWOOD] now proposes an amendment. The part about the patents is unimportant. I think the Senator from Montana [Mr. WALSH] is right that in the general power to construct such a plant the power will be implied to acquire the patents. Be that as it may, the Senator's rejoinder that it will not do any harm to put it in is good; but the important point comes in the second paragraph of the Senator's amendment.

The Senator from Alabama proposes what? That the Secretary of War, while this country is at peace, after we have erected this mammoth factory—large enough to supply the needs of this Government for explosives if it were engaged in war with all the balance of the world—shall either lease it out or operate it himself in the manufacture of commercial fertilizer. The Secretary of War is to run a mammoth guano business; and, Mr. President, my friend the Senator from Alabama absolutely leaves to the determination of the Secretary of War, a Cabinet officer, the decision of the great governmental question as to whether or not the Government of the United States is going into the fertilizer business or is going to lease out its property to private persons who desire to engage in that business.

In other words, we have sunk so low that the Congress of the United States can no longer decide these great questions of governmental policy for itself, but it has got to put it in the disjunctive and let a mere Secretary, elected by nobody, responsible to nobody except his chief, say whether or not we shall embark on a socialistic business of this kind and character.

Mr. MARTINE of New Jersey. Mr. President, will the Senator yield to me for a question?

Mr. HARDWICK. Just for a brief question; yes.

Mr. MARTINE of New Jersey. I want to ask whether the Senator does not realize that fertilizers are of prime necessity to agriculture in the United States?

Mr. HARDWICK. Undoubtedly; and I want to say one thing—

Mr. MARTINE of New Jersey. Then I—

Mr. HARDWICK. I will not yield any further right now, because I catch the drift of the Senator's question.

Mr. MARTINE of New Jersey. I just want to ask another question.

Mr. HARDWICK. No; I want to answer one at a time. I am going to answer the Senator's question. Wait a while. I will yield to the Senator again directly.

Mr. MARTINE of New Jersey. I have another question I want to ask the Senator.

Mr. HARDWICK. All right.

I do not believe my friend from Alabama is any closer to the farmers of the South than I am. I was reared on a farm and I live in a small agricultural town of 2,000 people; not in a great manufacturing and industrial center, like that in which the Senator from Alabama resides. The people of my own town and county have no other industry than agriculture. I know fully as much about the needs and aspirations and the sufferings and privations of the agricultural masses of this country as either my friend from Alabama or my distinguished friend from New Jersey; and yet I am making no particular protestations of my undying love and extraordinary partiality for these people. My life has been spent among them, and I do not have to do it; and I have told them repeatedly, in private and in public, that I would do no more for them and no less for them than I would for any other class of people in this country. I do not believe in class legislation. Jefferson did not believe in it. Jefferson said, "Equal rights to all men; special privileges to none."

Mr. MARTINE of New Jersey. That was before the day of Standard Oil.

Mr. HARDWICK. What was the Senator's suggestion?

Mr. MARTINE of New Jersey. If the Senator will permit me, I said that was before the day of the Standard Oil Trust, when Jefferson made that announcement.

Mr. HARDWICK. And the Senator from New Jersey is not more opposed than is the Senator from Georgia to any special privileges that may have been given, by acts of either commission or omission, to the Standard Oil and other like monopolies. I neither cater to the great corporations of this country—who have received, I think, undue legislative privileges—nor do I attempt to make unsound appeals to the farmers of this country because there are so many of them. I do not have to do it, thank God, among the people among whom my life has been spent.

Mr. MARTINE of New Jersey. Now will the Senator yield to me?

Mr. HARDWICK. No; not for the present, Mr. President. I want to proceed. I have told them recently, repeatedly, "I shall not ask, and you ought not to expect, special favoritism before the law. It has been your motto always, as it was Jefferson's battle cry, that you did not want any special privileges; you did not require any special rights." And why on earth, Mr. President, any Senator should think that the great farming masses of this country, the men who live close to nature and who commune with her, and who keep their standards correct and their ideals pure, should expect or require of us any such treatment is more than I can understand. There may be walking delegates among them. There may be so-called leaders of unions and organizations among them who will advocate just such propositions as this, and who will condemn Senators or Members of the other body who do not support every proposition of this kind that they favor; but of those men I have not the slightest fear, and for them I have not the slightest regard. I do not propose to be dragged on by them into violating the fundamental principles not only of Democracy but of Americanism and of right and of justice between man and man. I do not think the farmers of my State require it, and, if they did, they would not get it at my hands, no matter how much they required it. I believe they are too just and too fair-minded people to require of me that I should vote special privileges to them. All they want me to do is to give them an equal chance with everybody else in the Republic and to see that nobody else puts his hands in their pockets. That I always try to do and am always willing to do.

As for the proposition that we must, forsooth, because the farmers or some of their officers tell us that they want it, insist upon establishing a mammoth guano factory, whether it is located at Muscle Shoals or in Georgia or anywhere else, I want to say to my friend from Alabama, in order that he shall not misunderstand me, that if this sort of thing is done over my protest I hope it will be established at Muscle Shoals, because I believe, from all I have heard, that at Muscle Shoals is located the greatest power in the South, and one of the greatest in the Republic. If this power is utilized it ought to be utilized upon correct governmental principles, and I agree that Muscle Shoals will not have to do anything but stand on its own merits in competition with all the water powers of the Republic; but that is neither here nor there. Because some men are saying—officers, it may be, of so-called farmers' organizations—that it is neces-

sary for the Government to go into the business of manufacturing fertilizers in order to serve the farmers of this Republic, I do not believe my people will expect or require me to yield to any such demand as that. I do not think we ought to go into such a business, either for the farmers or for the laboring men, for the lawyers, or the doctors, or the merchants, or the business men, or anybody else.

As I said this morning, I think the Government of the United States will have fully enough to do if it will not engage in any other sort of business except the governing business. It seems to me like its hands will be full if it will do that, because multitudinous and vexatious problems are already pressing on us from that standpoint alone. But this proposition that the Government of the United States is to embark first in this business and then in that business and then in the other business, on land and on sea, and it may be after a while in the air, is far too much for an old-fashioned Democrat like myself.

Mr. MARTINE of New Jersey. Mr. President, will the Senator yield to me for one second?

Mr. HARDWICK. I will; yes.

Mr. MARTINE of New Jersey. I have no purpose of making any speech, but I only want to impress one fact upon the Senator from Georgia. I think he is not aware of the fact. He admits that fertilizer is a necessity. I want to impress upon him the fact that all the great fertilizer plants in this country are owned and controlled by one corporation, and that is the Standard Oil Co. The Mapes and the Bokers, the Millers and the Listers—you can sail along the Kill Van Kull, in the State of New Jersey and see these great, ponderous plants presenting their frontage to the water, and you will find each one of them says: "Principal office, Standard Oil Building, 26 Broadway"—"Standard Oil Building, 26 Broadway." So I say to the Senator from Georgia that the farmers of this country are in a dire situation so far as that is concerned, and it illy becomes the Senator to characterize as being special pleaders for buncombe effect to the farmers those who advocate some system whereby fertilizers may be made cheaper.

Mr. HARDWICK. Mr. President, I am glad the distinguished Senator from New Jersey has given me that information. He seems to be better acquainted with what the Standard Oil Co. is doing than I am. But I can say to him that so far as Georgia is concerned, the Standard Oil Co. has no hold there that I know of on our fertilizers. The Virginia-Carolina Chemical Co. is supposed to have some. Be that as it may, have we not got laws on our statute books, put there by a Democratic administration, broad enough and strong enough to meet that situation? Have we a Republican Attorney General, or a Democratic Attorney General? Are we obliged to embark on all sorts of socialism because we can not get the laws that we have on the statute books enforced with our own administration in power? Is that what the Senator means?

Mr. MARTINE of New Jersey. Well, I have heard it stated that the process of the law is eternally slow.

Mr. HARDWICK. Yes; it is eternally slow. It is not as fast as the rate at which you would send this country to perdition if you could embark it on all such schemes as this.

Mr. MARTINE of New Jersey. What constitutes a scheme in the Senator's eyes would not constitute it in mine.

Mr. HARDWICK. That is all right. The Senator and I—I am happy to say—disagree about many things. But I do not think the suggestion of the Senator that because fertilizer is a necessity of life the Government ought, therefore, to engage in its manufacture and sale, will appeal to the reason of the Senate. It does seem to me that the suggestion of the Senator that because fertilizer is a necessity of life, therefore the Government ought to manufacture it and sell it to its people, answers itself.

Mr. President, I know not what course any other Senator in this body, Democrat or Republican, may take, but as far as I am concerned my decision is irrevocable on this question. I can not and will not embark on enterprises of this sort to please anybody in this Republic, in my own State, or anybody else's State, be he farmer, laborer, workingman, or what not.

Mr. OWEN. Mr. President, the issues which appear to be drawn in the discussion which has taken place would seem to be as to whether or not, under any circumstances, the Government of the United States should use the powers of nature now going to waste in the water powers of this country for the manufacture of fertilizers or explosives or other uses to which nitric acid may be properly put.

I do not feel willing to allow the occasion to pass without saying that, for one Democrat, I am in favor of using the combined powers of the people of this country in using these water powers and turning them, not in a slight way, as this amendment proposes, but on a large scale, into the service of mankind.

I want to see in this country, as a measure of proper preparedness for the future, abundant and cheap food, abundant and cheap raw materials, abundant and cheap explosives for protective purposes and for internal purposes. I should like to see the Government harness these water powers, which it owns with money costing the Government 2 per cent, and I should like to see these nitrates furnished to whoever wants them to increase the productive capacity of the land of this country. I do not, as a Democrat, apologize for that position, nor do I sympathize with the condemnation of the Senator from Alabama [Mr. UNDERWOOD] because he wished to use in a small way these powers.

Thomas Jefferson taught good doctrine for his day, but Thomas Jefferson had no conception of the combined powers that exist now in the hands of a few men to control, as the Senator from New Jersey [Mr. MARTINE] pointed out, the entire output and delivery and use of fertilizing agents. Thomas Jefferson had no conception of the modern monopoly. Thomas Jefferson strongly and violently opposed monopolies of every character; but here is one place where the Government of the United States can use the cheap water powers now going to waste. Here is one place where the people of the United States, acting through their representatives on this floor and in the other Chamber, can use their combined powers for the common welfare and the general good. I do not feel willing to hear that doctrine denounced here by the Senator from Georgia, and I have no sympathy whatever with his views upon that subject.

RECESS.

Mr. CHAMBERLAIN. Mr. President, I move that the Senate take a recess until to-morrow at 12 o'clock.

The motion was agreed to; and (at 5 o'clock and 58 minutes p. m.) the Senate took a recess until to-morrow, Thursday, April 13, 1916, at 12 o'clock meridian.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, April 12, 1916.

The House met at 12 o'clock noon.

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

*O Lord our Lord, how excellent is Thy name in all the earth! who hast set Thy glory above the heavens.*

Look down, we beseech Thee, from Thy purity with compassion upon our infirmities, our weaknesses, and our sins which doth so easily beset us. Inspire us with pure thoughts, high ideals, and noble purposes, that we may meet the conditions of life with brave and manly hearts and fulfill every obligation Thou hast laid upon us with patriotic zeal and fervor; that under Thy guidance we may further every good and render unto the people valiant service with patience and perseverance, that our Republic may fulfill its purpose to the good of mankind and to the glory and honor of Thy holy name. Amen.

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

EXTENSION OF REMARKS.

Mr. HICKS. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. FAIRCHILD. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the Agricultural appropriation bill.

The SPEAKER. Is there objection?

There was no objection.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Waldorf, one of its clerks, announced that the Senate had passed bills and concurrent resolution of the following titles, in which the concurrence of the House of Representatives was requested:

S. 5229. An act granting the consent of Congress to the county commissioners of Warren County, Pa., to construct a bridge across the Allegheny River in the borough of Warren, County of Warren, in the State of Pennsylvania;

S. 8606. An act for the relief of contributors of the Ellen M. Stone ransom fund; and

Senate concurrent resolution 20.

Resolved by the Senate (the House of Representatives concurring), That the President of the United States is hereby authorized and requested to appoint a representative of this Government to appear at the celebration of the landing of Sir Francis Drake on the shores of Marin County, Cal., on the dates of May 19, 20, and 21, 1916: *Provided*, That the expenses of such representative shall be paid by those in charge of the celebration, and that no expense whatever shall be required of the Federal Government.

The message also announced that the Senate had passed with amendments the bill (H. R. 11471) to amend an act entitled "An act to reduce tariff duties and to provide revenue for the Government, and for other purposes," approved October 3, 1913, in which the concurrence of the House of Representatives was requested.

## SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committee, as indicated below:

S. 4014. An act to supplement existing legislation relative to the United States Court for China and to increase the serviceability thereof; to the Committee on Foreign Affairs.

S. 4432. An act to amend section 8 of an act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914; to the Committee on Banking and Currency.

Mr. GARNER. Mr. Speaker, I ask unanimous consent that for the present the bill just referred to in the message from the Senate, the sugar bill, remain on the Speaker's desk, without prejudice, until the return of the gentleman from North Carolina [Mr. KITCHIN].

The SPEAKER. It does not take unanimous consent to have that done, unless there is a desire to have it printed for the information of the House.

Mr. GARNER. I do not know but that it might be advisable to do that.

The SPEAKER. It will be held on the Speaker's table.

## DEED TO HOMESTEAD OF ABRAHAM LINCOLN.

The SPEAKER. This is Calendar Wednesday, and the unfinished business is the bill (H. R. 8351) to accept a deed of gift or conveyance from the Lincoln Farm Association, a corporation, to the United States of America, of land near the town of Hodgenville, county of Larue, State of Kentucky, embracing the homestead of Abraham Lincoln and the log cabin in which he was born, together with the memorial hall inclosing the same; and further, to accept an assignment or transfer of an endowment fund of \$50,000 in relation thereto.

Mr. CLARK of Florida. Mr. Speaker, I ask unanimous consent that in addition to the time allowed under the rule for general debate, one hour be added, one half to be controlled by the gentleman from Illinois [Mr. MCKINLEY] and the other half by myself.

The SPEAKER. The gentleman from Florida asks unanimous consent that the general debate on the bill H. R. 8351 be extended to three hours, one half to be controlled by himself and the other half by the gentleman from Illinois [Mr. MCKINLEY]. Is there objection?

There was no objection.

The SPEAKER. The House will automatically resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 8351, with Mr. BARNHART in the chair.

Mr. CLARK of Florida. Mr. Chairman, I believe when the committee rose on last Wednesday I had 15 minutes remaining?

The CHAIRMAN. The gentleman had 18 minutes remaining.

Mr. CLARK of Florida. Mr. Chairman, I yield five minutes to the gentleman from Illinois [Mr. FOSTER].

Mr. FOSTER. Mr. Chairman, I am very glad to support this bill, which provides for the acquiring by the Federal Government the birthplace of Abraham Lincoln. If this bill becomes a law, it will forever preserve to the people of the United States the birthplace of this illustrious and greatly beloved man who stood not only for the preservation of the free institutions of our own country but was an example for all the world. His birthplace was a log cabin and his parents were humble though respectable people. His useful and honorable life well demonstrates to the world what a man may accomplish for himself in this country by building up character, integrity, and unselfish work in the interests of the people. Mr. Lincoln did not have the opportunity of an education in any great college or university, but he did learn the value of character, the principle of fair dealing, and recognized the rights of humanity. He came from Kentucky to Indiana and then to Illinois at an early age and followed surveying, was postmaster and a village merchant in New Salem, Menard County. He studied law, was admitted to the bar, and practiced his chosen profession, going from court to court, or, as it was known in that early day, by riding the circuit. Many of those with whom he was associated in early life and practiced law with him became famous as lawyers and occupied responsible places, not only in Illinois but in the Nation. Nearly all of the associates of

Abraham Lincoln in Illinois at that early time have passed away. There is, however, in this House one who knew Lincoln, practiced law with him as a young man on the circuit in the eastern part of the State along the Wabash River. I refer to Hon. JOSEPH G. CANNON, ex-Speaker and at present a Member of this House. Mr. CANNON also had the distinction of being present at one of the great joint debates which took place between Lincoln and Douglas, at Charleston, Ill., in 1858. These debates between these intellectual giants will never be forgotten by the people of Illinois, and each spot where these men met to discuss the great issues then before the people has been carefully marked, that they might be preserved throughout all time. Mr. Lincoln was a member of the Illinois Legislature in 1836 and 1837, which met in the city of Vandalia. The old statehouse is still there and now used as a courthouse. Among those who served with him in that legislature and afterwards became distinguished were Stephen A. Douglas, James Shields, Archy Williams, Ninian Edwards, John J. Hardin, Jesse K. Dubois, John A. McClernand, and Usher F. Linder, and others that might be mentioned. He also served in the legislature of 1838-1840. Mr. Lincoln did not specially distinguish himself during his term of service in the legislature, but did take an active interest in local affairs in the State. He afterwards became a Member of Congress, serving one term in the House of Representatives.

The stirring times which brought on the Lincoln-Douglas debates in 1858 throughout the State of Illinois, in which they held joint discussions in every congressional district of the State, developed great interest in the questions of that time, which then divided the North and South, and made Mr. Lincoln famous throughout the Nation and had much to do with making him President of the United States. Mr. Lincoln was a remarkable man in the fact that he never seemed to hold revenge or resentment against a man in the world. His kindly disposition toward those who differed with him in what he believed to be right was one of the strong characteristics of his nature. Many harsh and unkind things were said about Mr. Lincoln as a public man, and he was severely criticized in his public acts as President, but with all the abuse which was heaped upon him it did not cause him to return this ill treatment or say any unkind things. No President of our country ever suffered more anxiety in regard to the welfare of the Nation than he, and no one ever bore it with greater fortitude. When we read of his life and the many slanderous things said of him one sometimes wonders how he was ever able to bear up under it all. It seems that our Presidents must many times remain silent during severe criticism. Theirs is the welfare of the Nation, and they have a duty to perform as its Chief Executive and must not turn from the right as they see it, however much they may be criticized. People are often too prone to criticize a President for partisan purposes; not only was this the case in Lincoln's time but down to the present. Lincoln did not hesitate to change his mind whenever he was convinced it was for the best interest of the country to do so, but every time he did so he was abused for it. He was personally abused, yet all this criticism failed to change his nature, but he went forward determined to perform his duty as he saw it. He did not spend his time abusing those who indulged in abuse of him, but went about his work determined, as he said—

With malice toward none and charity for all to do the right as God gives us the power to see the right.

His chief desire was to preserve the Union, that our country might be united and the flag once more be the emblem of liberty for all the people in every part of this Republic. His solicitude for the welfare of the individual soldier was many times demonstrated during those long four years by his kindness, and his sympathy and encouragement to those who were unfortunate in losing their relatives and friends in the Army was well known to all. His memorable speech at Gettysburg will live as long as time lasts as one of the greatest ever delivered in all the history of the world. His second inaugural address showed in every word his determination to prosecute the war to a successful conclusion and save the Union, and our duty when the battle was over to care for those who fought for our country, but to forgive those who fought on the other side. He recognized they were our brothers and our own people, and if this country was to again be united we must treat them as such. They fought for what they believed right, and when the surrender at Appomattox took place the Old Flag was again acknowledged as the emblem of peace and liberty, and we can all say—

Your flag and our flag,  
And how it floats to-day  
O'er your land and my land  
And half the world away.  
Blood red and rose red,  
Its stripes forever gleam;  
Snow white and soul white,  
The good forefathers' dream.

Sky blue and true blue,  
 With stars that beam aright;  
 A gloried guidon of the day,  
 A shelter through the night.  
 Your flag and my flag—  
 Oh, how much it holds  
 Your heart and my heart  
 Secure within its folds.  
 Your heart and my heart  
 Beat quicker at the sight;  
 Sun kissed and wind tossed,  
 The red and blue and white.  
 The one flag! The great flag!  
 The flag for me and you!  
 Glorified, all else beside,  
 The red and white and blue.

It was unfortunate for the North, but more especially for the South, that he should have been taken away at a time when his service was so much needed in reconstructing that devastated portion of our country which had suffered the ravages of war. Had he lived, it is believed that the unfortunate condition which resulted after the close of the war would never have taken place. He held no enmity to the South, but it was believed his love and solicitude for the people there was such that the outrages committed after peace was declared would never have taken place had he been permitted to serve out his term and give his assistance to the people in rebuilding their homes and country. To-day our country is happy, indeed, in the knowledge that we had an Abraham Lincoln during those trying times. The people of Illinois are proud that they furnished to this country and to all the world an Abraham Lincoln who preserved this Union that they who follow after him might enjoy these blessings of a happy and a united country and that our country will be a beacon light to all the world as a land of liberty. Let us preserve these blessings to all our people. We can not be true to the flag unless we are true to the principles for which the flag stands. We are all thankful that there is no sectional feeling within our borders and the bitterness of 1861 and 1865 is gone, and that men meet without sectional quarrel and only with kindly feeling to each other. We thank God that upon this floor those from the South are here to speak in praise of Lincoln. They had their heroes in battle, whom they praise. Why should they not? Shall they be criticized for doing so? Their loved ones fought for the cause they believed just, and many lost their lives on the battle field. The example of the life and character of Abraham Lincoln is an inspiration to every individual to put forth his best efforts for his country. Times may come when people take sides upon great questions and contend for what they conceive to be the best, and it is right that such should be the case with every true American. With such questions settled by the majority, they acquiesce in what is best for the greatest number. In no other way can our Republic be preserved. We should emulate the life and character of this illustrious martyr that we, too, may render some valuable service to our country. Let us not endeavor to take from society in this world without giving something in return. With rights and privileges come responsibility. We should do our part. Let us perform our work so that it may be said of us, "We have fought a good fight and have kept the faith."

Abraham Lincoln is gone, but the inspiration of his life will live forever. [Applause.]

Mr. RAINEY. Mr. Chairman, I ask unanimous consent to extend my remarks in the Record.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MCKINLEY. Mr. Chairman, I yield such time as he desires to the gentleman from Illinois [Mr. CANNON]. [Applause.]

Mr. CANNON. Mr. Chairman, Lincoln was born in Kentucky, if I recollect right, on the 12th day of February, 1809. No one could have dreamed what his future would be. They have found the log cabin where he was born, the place upon which it stood, the farm upon which his father failed to make a living, and it has been purchased and endowed with \$50,000 and is now tendered to the Government of the United States. It is meet and proper, in my judgment, that this bill should pass. We are building a great memorial here in the city of Washington to Lincoln, and I am glad of it, as is everyone, but that memorial, located just beyond the Washington Monument, marks his service as a lawyer, as a statesman, as President. That memorial is not so high as the Washington Monument, but it is broader and longer; it is not dwarfed by the Washington Monument, nor by the Capitol, nor should it be. But, after all, if he had not been born he would not have been President. I am not a believer in special providences, but if I were I would say that he was born with a mission. Mr. Chairman, there is an old Greek

myth that one of the tasks of Hercules was to meet and overcome Antaeus.

He ascertained that the secret of Antaeus's strength was that every time he touched the earth his strength was renewed. So, placing his arms about him, he held him up in the air until he died for the want of sustenance. The Greek myths, many of them, tell the story of strength renewed by touching the earth. We all understand that in this country, and, in fact, in all countries, in the main the men who lead in achievements are of the generation or near to a generation that has touched the earth. [Applause.]

The genesis of Lincoln was a happy one. The family moved over into Indiana on the way to Illinois. They halted first in Indiana, and then settled in Illinois, in the county of Coles, and then over in the county of Menard. He was a boatman, then a surveyor, a merchant, soon became a lawyer, and a successful one, and went to the legislature. He had everything in common with the people of the borderland. Politician as well as lawyer, though not a reformer, he was a partisan. He was a member of the Whig Party, and one of his principal opponents at the bar in the early days was Mr. Douglas. Douglas forged ahead, came to the House of Representatives, was elected and reelected to the Senate of the United States, and became the leader of his party, being a wonderfully strong man.

Lincoln was ambitious. He possessed a law practice that would not be counted lucrative now, although it abounded in a large number of cases. If fees had been paid then of the size of the fees now, with the amount now involved, he would have had a wonderful income. Judge Davis, upon whose circuit he practiced, told me that the largest fee which Mr. Lincoln ever received was \$5,000, in a litigation for the Illinois Central Railway, touching the 7 per cent of the gross earnings that went into the treasury of the State and freeing the railway from taxation. Mr. Lincoln was successful for his client, and held his breath, and charged \$5,000, but had to sue the corporation to make it pay. Mr. Davis, afterwards Justice of the Supreme Court of the United States, told me that Mr. Lincoln never before had received such a fee, and rarely as much in the aggregate as \$5,000 a year.

He had this equipment for his afterlife work. Born in Kentucky, he came to Illinois, which was settled in the central and southern portions from Kentucky, Tennessee, North Carolina, and Virginia principally. For a long time settlements were sparse in the northern part of the State, although there was a considerable settlement there from the East. But the early settlements were mostly from the Southland. There came some Democrats and some Whigs, about evenly divided in politics, and they used to say when they spoke of the Kentuckians—Whigs, Democrats, strong partisans—that the Kentuckian took his politics like he did his whisky, namely, straight. And so it was.

Mr. Lincoln became a candidate for the Senate after the passage of the Kansas-Nebraska bill. In 1858, Mr. Douglas being a candidate to succeed himself, he was Mr. Lincoln's opponent; and this was the issue, in substance: Lincoln was not an abolitionist; nor was Douglas, for that matter. Douglas was for squatter sovereignty; that is to say, Lincoln took the position that slavery was not national; that it was sectional, and that a State when it came in, or even after it came in, could legalize slavery, but that in the national domain there was no law to protect the property where it was invested in the slave, the South taking the position that it was property, and therefore it was entitled to protection in the national domain.

Mr. Douglas said that he would be, to a certain extent, neutral. Said he, "We will let the Territorial legislature, the people of the Territory, determine whether slavery shall exist in that Territory or not, prior to its admission as a State, if it be admitted as a State afterwards. And the contest was a fierce one. The Whig Party was divided in twain; the Democratic Party in the North was divided in twain; and there never was, I dare say, in all the history of the country such a campaign as was made by Mr. Lincoln and Mr. Douglas. Lincoln held his own, but Douglas had a national reputation. Lincoln's reputation was as a lawyer in the Middle West, north of the Ohio River. This campaign brought him to public notice because he could hold his own with the "Little Giant." It was the foundation which made him a candidate for the Presidency and which resulted in his election. Of all men living, in my judgment there was no man in the United States who was so well equipped from his early life to be President as Abraham Lincoln. [Applause.]

My colleague, Dr. FOSTER, said that I had known Lincoln and attended the Lincoln-Douglas debates in 1858. That is true in a measure. As a young man I met Lincoln on a number of

occasions—on the ninth judicial circuit of Illinois, at the Illinois convention which made him the candidate of the State for President, and during that memorable campaign in 1860. I attended the debate between Lincoln and Douglas at Charleston, Ill., in September, 1858. The prairies of central Illinois were vacant that day, for all the people went to Charleston to hear the two champions in the fourth debate. They were pretty equally divided in their loyalty to the two men, and in that section at that time men were virile in their partisanship. There were banners and bands, and the little town was overrun with people from far and near. The meeting was held on the fair grounds, and each party had its chairman to welcome its leader and preside together.

It was at that meeting that Lincoln took advantage of Douglas to make the Democratic chairman testify against him. The Hon. O. B. Ficklin, a former Representative in Congress, was the Democratic chairman and had welcomed Douglas and introduced him to the audience. In that speech Douglas repeated his charge that Lincoln had refused to support the administration's conduct of the War with Mexico. Lincoln had denied this charge at Freeport and at Jonesboro, but when it was repeated at Charleston he showed that old human trait of "getting even." When he referred to the charge and his former denials, he whirled about, reached out his long left arm, and, taking Chairman Ficklin by the collar, yanked him out of his chair and to the front of the platform, much as an old-fashioned schoolmaster brought out a bad boy to be trounced. The crowd, anticipating a fight, became excited, but Lincoln remarked: "I am not going to hurt Col. Ficklin; I only call him as a witness. Now, the colonel and I were in Congress together, and I want him to tell the whole truth about this Mexican business." Col. Ficklin was in an embarrassing place; he told the audience that he was the friend of both Douglas and Lincoln and did not want to be a party to the dispute, but that Lincoln had voted just as he did for the supplies for the Army in Mexico, though Lincoln had voted for the Ashmun amendment, declaring that the President had exercised unconstitutional powers in beginning the war. It was Lincoln, the lawyer on the circuit, compelling the witness for the prosecution to testify for the defense.

The Republicans were wild with enthusiasm and the Democrats disappointed over the incident; but there was no further disturbance, and the adroitness of Lincoln disposed of the charge that he had been disloyal to the Army in refusing to vote the necessary supplies to the troops in Mexico. Lincoln lost in that senatorial contest, but it made him the Republican leader in 1860, as it made impossible the election of Douglas to the Presidency by dividing his party on the slavery question.

Lincoln did not suit the extreme North, because in the main it was extremely radical, with the Garrisons and the Phillipses, and many others. Of course, he did not suit the extreme South, because there too was radicalism; but when you came to Missouri and Kentucky and portions of Tennessee, Pennsylvania, Ohio, Indiana, Illinois, and Maryland, there was a division almost half-and-half. They were virile men. The Caucasian race is virile, and where they honestly have convictions you know that they are ready to fight for them. Lincoln knew how far he could go in that great contest with our arms, and whether he could succeed or not, by being able to keep his hand upon the public pulse on the very stage where the war was principally conducted, namely, in the borderland. He could place his hand upon his heart beats, shut his eyes, put the question to himself, and determine what it was necessary to do and say, and receive the support not only of the Republicans, but the Democrats in the main, strong partisans as they were. And it was necessary to have a substantial vote. We all know what happened in Missouri. In Kentucky the Kentuckians boast that their quota was full in both armies, which was true, and so on along the borderland. There were specks of war at times in Illinois and in Indiana. Battles were fought, one or two in the district that I now represent, in the circuit upon which Lincoln traveled, between men, our kind of men, our blood—Americans.

In the meantime the radicals in the North were not satisfied. They said he went too slow. Ministers in the pulpit, many of them, openly said he was not performing his duty. There was an abolition sentiment in the North; the farther north you got the stronger the abolition sentiment. It was not so strong in the borderland as it was in New England and in New York and in northern Pennsylvania and northern Ohio. Delegations of preachers came to see him and put it up to him: "Why don't you free the slaves?" They said the Lord had sent them. He gave them this answer, in substance: "It seems to me if the Lord had a communication to make to me, I being chiefly responsible as leader, He would give it to me direct." [Laughter.]

Friends of his grew lukewarm. I read the weekly New York Tribune, the only real newspaper we had in our township. It came in—two or three hundred copies—at a dollar a year. When I was a boy it was a great champion of protection and bore testimony against slavery—a radical. And yet when the real trouble came Horace Greeley in the Tribune said, "Let the erring sisters go in peace," and quarreled with Lincoln, because Lincoln would not help contribute to that end. And so it was all along the line.

By the by, will you bear with me? I do not want to weary you—

SEVERAL MEMBERS. Go on!

Mr. CANNON. For the first two years of the war the Union Army did not have great success. In the fullness of time came Vicksburg and Gettysburg and victory. People took heart. Two million two hundred thousand men, most of them enlisted, by that time were trained. We had in our Army more than were in the Confederate Army. We greatly exceeded them in number. We were much better off. We had more of railways than they had. But they were fighting, do not you see, upon their own ground, as France is now fighting. It is easier to defend the hearthstone than it is to conquer the hearthstone. Well, there was much of trouble. People in the North wanted to compromise. In the South they did not want, in considerable number, to compromise. They were fighting for what they conceived to be their rights under the Constitution. [Applause.] Lincoln, you recollect, in answering one of his letters in 1862, said to Greeley:

If I could save the Union without freeing any slave, I would do it; and if I could save it by freeing all the slaves, I would do it; and if I could save it by freeing some and leaving others alone, I would also do that.

Strange—he was criticized, especially in the Northland as well as in the Southland. He was reminded that the Constitution guaranteed property in the slaves. He acknowledged it. He said:

I have taken an oath to defend the Constitution—but he added in his homely way—was it possible to lose the Nation and yet preserve the Constitution? By general law, life and limb must be protected, yet often a limb must be amputated to save a life; but a life is never wisely given to save a limb.

And in the time of war for the preservation of the Union and the preservation of the Constitution, when it became necessary, laws were silent, and in three weeks after the preachers had visited him he gave notice by proclamation, if the States of the South did not return to their allegiance by the 1st of January, as a war measure he would declare the slaves free, and he did.

Now, the partisan papers of the North, including the New York World and the New York Herald and Greeley in the New York Tribune, were firing into him. Greeley was not pleased—and I will tell you about that a little later on, if you will indulge me. Those partisan newspapers did not want to see him re-elected. They attacked him from every angle, fiercely and vigorously, not striking above the belt, but below the belt. No man in my time was abused as he was by the press. But it did not seem to bother him. He did not complain. It was wonderful how the papers commended and patted on the back Fremont, who was our first leader in 1856, and took him up when the radicals, you know, held a convention at Cleveland. The newspapers were full of Fremont's candidacy, and the radicals who were to nominate him did not say much about Lincoln's political prospects. I sometimes think that history repeats itself when I recollect the action of the newspapers of that time. Well, I will not come nearer speaking of more recent history. [Applause.]

Greeley, editor of the greatest Republican paper of the country up until the beginning of the war for the Union, had a personal grievance against Lincoln. When the convention met at Chicago, with factional troubles in New York, Thurlow Weed and Seward and that faction prevailed over Greeley, and he could not go to the convention as an original delegate, but he got a proxy from a delegate for Oregon, and he was in the convention and worked for the nomination of Lincoln. Lincoln elected, Greeley had the right to believe that he ought to have been in his Cabinet. He began to fight and find fault. The situation grew worse and worse. Lincoln picked Chase and those who had opposed him in the convention for nomination, including Seward, and put those two in his Cabinet. The great trouble was upon Seward, his Secretary of State, and Lincoln said to Greeley's friends: "We can not take two men from New York; I am pursuing this policy." The politicians did not see as well as the statesmen. Greeley became aggrieved, and they fought all through until 1864 came. I will not take time to tell what he said and what Lincoln said in reply. It is good

reading. You will find it in McPherson's History of the Rebellion.

A MEMBER. Tell that story.

Mr. CANNON. The gentleman says, "Tell that story." The surroundings are not as good as they could be for telling that story (the surroundings are good, you know, but we are all prohibitionists now). [Laughter.] But I will tell that story, if you will indulge me, because it throws a strong light upon Lincoln's character. Lincoln was nominated; McClellan was nominated; Lincoln for the preservation of the Union and the prosecution of the war. And, mind you, you did not, down South, have anything to do with McClellan's nomination. He was nominated by the Democratic North, upon a platform declaring the war a failure and advocating an armistice, that we might preserve the Union by compromise. Lincoln, in his characteristic way, said, referring to it as reported in conversation, "Suppose we were to try to compromise. We talked about that, and many people tried it before the war began. But can one man make a bargain?"

Well, it looked as if Lincoln was to have a hard time for reelection. He believed that he ought to be reelected. The Republicans believed that he ought to be. Many Democrats in the North believed that he ought to be; but the campaign was hot.

For four or six years, along about 1878, 1879, and 1880, I had a colleague in the House here by the name of Waldo Hutchins. He was a Democrat at that time, although prior to Greeley's candidacy for the Presidency he had been a Republican. In the Greeley campaign he became a Democrat, voted for Greeley, and then later was elected to Congress as a Democrat. He was a strong, honest, square man, and a truthful man, I have no doubt. He knew Mr. Lincoln very well. Mr. Hutchins told me that one evening he climbed the long stairway in the Tribune building, then, I believe, the highest building in New York, and found Greeley in his office, and said, "Mr. Greeley, what's the news?"

"Oh, nothing, nothing," said Greeley.

After a little conversation Greeley said to Hutchins, "There is a letter I received."

Hutchins said he took the letter and read it, and it was from Mr. Lincoln's secretary, addressed to Greeley, and it said, "The President instructs me to say that he would like to have an interview with you, and as matters are at present he finds it impossible to get away from Washington. Is it asking too much to ask you to come to Washington?"

The letter was two days old. Said Hutchins to Greeley, "Have you answered the letter? Have you been to Washington?" "No," said Greeley.

"Why don't you answer it?"

"Oh, I don't care to."

Hutchins told me that he grabbed the letter and said, "I will take it."

Greeley said, "As you choose."

Mr. Hutchins said he rushed down the stairway and found a hack, and said to the driver, "I will give you three times your fare if you will catch the last boat to Jersey City."

The driver laid on the whip, and Hutchins caught the last boat and caught the train, although it was in motion when he got on board for Washington. Hutchins came to Washington and went to breakfast at the Willard Hotel. Then he went to the White House. The messenger said, "Why, Mr. Lincoln can not see you now. He is just getting up."

Said Mr. Hutchins, "I must see him."

"Oh, well, you can not see him now. It is impossible."

Said Hutchins, "Take this card to the President"; and he told me, "I scribbled upon my card that I had come in consequence of that letter that his secretary had written to Mr. Greeley."

The messenger came back and said, "The President says to show you up."

"He was dressing, and we talked, and I told him what Greeley had said. Lincoln said, 'I am glad you came. Greeley has a just grievance from his standpoint against me. He voted for my nomination and advocated my election. He had a right to believe that he would be recognized, and he would have been under ordinary conditions, but under the conditions as they then were and now are I could not, performing my duty as President, ask him to be a member of my Cabinet. I believe I shall be reelected. I believe I ought to be. God knows if it were not for the sense of duty that I owe to the people and to civilization I could not be hired to be President. If I am reelected, I believe it will be but a short time until this great struggle will close. Seward is a great man, but of a different faction from Greeley. When this war closes we will have great need for a diplomat at the Court of St. James. We have a

long account to settle with Great Britain. Seward has performed great service as Secretary of State. I believe he could perform better service as ambassador to the Court of St. James. By the by, Franklin perhaps was the greatest man that ever lived in this country—philosopher, statesman, scientist. He was Postmaster General under the confederation."

Hutchins said, "Yes; so he was."

Lincoln said, "Franklin was a printer. Greeley is a printer. Do you know I believe Greeley would make a good Postmaster General. I think I am right in saying that is the position he would rather occupy than any other."

Hutchins said, "Am I at liberty to say that to Mr. Greeley?"

"Oh, you can say it, but, mind you, I am not making a promise to bind me in the constitution of my Cabinet. I am telling you how I feel toward him personally. I am honest about it."

Hutchins departed, went to New York on the next train, climbed the stairway again, and repeated the conversation to Mr. Greeley. Greeley said, "Did Lincoln say that?"

"Yes."

Without another word Greeley wheeled in his chair, sat at his desk, and for 20 minutes wrote, and then read to Hutchins that greatest of all bugle calls published in the New York Tribune, which I think did much, perhaps more than all the other papers put together, to reelect Lincoln, lining up the Republican Party from the standpoint of patriotism, and the salvation and preservation of the Union.

Sequel: Said Mr. Hutchins, "The day before Mr. Lincoln was assassinated I got another letter from his secretary stating that the President desired to meet me, and asking me if I would come to Washington. I left on the next train, the same train that I had taken in September or October before. I arrived in Washington in the morning, and when I got off the train the newsboys were crying that the President was assassinated. I have no doubt on earth but that he called me to Washington to tender through me the Postmaster Generalship to Mr. Greeley."

So Mr. Lincoln was a politician. He was a partisan, but he had that great common sense as a leader which led him up to the preservation of the Union. Greeley and some of Lincoln's generals and some members of Lincoln's Cabinet criticized him. Some members of his Cabinet were perfectly willing to take the whole thing out of his hands and run the Government. He just let them stay. You know they were useful. He went on in the even tenor of his way. I will not go into that further. You all recollect about it who are old enough, and the rest of you have read about it. Nobody regarded Lincoln as a hero during that great contest. His recognition as of heroic mold came after his death. You know heroes are great fellows. Sometimes the people regard them as heroes, and sometimes they proclaim themselves as heroes. [Laughter.] Let me say to you that that does not apply to one party alone. There are other pebbles on the beach. [Laughter.] With his great good sense, with his feet in the soil, with no collegiate course, God made him, and his associations in youth and manhood had been such that he was enabled to lead and lead successfully.

You remember what George William Curtis said in notifying Lincoln of his second nomination:

Amid the bitter taunts of eager friends and the fierce denunciation of enemies, now moving too fast for some, now too slow for others, they have seen you throughout this tremendous contest patient, sagacious, faithful, just, leaning upon the heart of the great mass of the people and satisfied to be moved by its mighty pulsations.

By the by, I am reminded of the Gettysburg speech. Edward Everett made a great speech there. Everybody was listening to Everett. Nobody knew that Lincoln's little three-minute speech was a jewel. It was not said to be a jewel until long after he was dead. After it was made the partisan press attacked it. Some of them said it was ridiculous and vulgar. Well, you know how it was in a hot campaign, and the campaign was very hot in 1864 in the Northland. Yet there is not one school boy in a hundred in the United States in a high school who knows that Edward Everett made the principal address on that occasion, but I dare say that ninety out of a hundred of the bright-faced boys and girls can repeat Lincoln's three-minute Gettysburg speech. It is a classic, and will live when you and I are dead and gone and forgotten.

Then take the letter that he wrote to the Irish woman in Boston, who lost four or five sons in defense of the flag. That was a wonderful letter. I had rather have the capacity to write that letter, or to make such a speech if the occasion arose, than to have all the property of all the earth. [Applause.]

Now, I have catch'heads here enough to last me a long time, but I have talked too long. [Go on! Go on!] Well, not much.

Listen to one of the radicals during the campaign of 1864. Wendell Phillips was an extreme radical of the North. He said:

If William Lloyd Garrison stood in the President's place I should have no fears. Can I put the same trust in Abraham Lincoln? In the first place, remember he is a politician, not like Mr. Garrison, a reformer. Politicians are like the foreleg and shoulder of a horse, not an upright bone in the whole column.

[Laughter.]

That which is not itself crooked stands crooked—

[Laughter.]

and but for the beast, could not move. Reformers are like Doric columns. Might may crush them, but can neither bend nor break.

I suppose a reformer has his place. I sometimes think they get pretty thick. They say that their province is to fight with the Almighty, that the Almighty and one are a majority. Well, they have their place. I am not here to abuse them. Nearly all of them are honest, but once in a while one of them is a hypocrite, makes his living by being a reformer, but who would think of one of them for a Member of Congress, or Senator, or President. For those offices we want a politician, a man of affairs, a man whose range of vision can cover the whole country, and if necessary the whole world.

Lincoln was assassinated by a crazy man. Later on Garfield was assassinated, and later on McKinley; and when Lincoln was assassinated it was the saddest day for the Southland and the Northland. [Applause.] There would have been no mistake made, in my judgment, if Lincoln had not been assassinated. When the proposition was made to put South Carolina and Virginia together in one military district he said, "No; I want to keep the States separate so far as I can to preserve their autonomy and to help strengthen the Union." [Applause.] But he was assassinated. If he had remained President when your State governments were being formed you would not have had reorganizations that made peons practically of the late slaves, and when that happened then came reconstruction with all the hardships that followed. It was a great loss to the North and a great loss to the South.

I believe the hand that used the weapon to take the life of Lincoln was inspired by the press, North and South, that denounced Mr. Lincoln. I believe the same thing is true of Garfield, and the same thing is true of McKinley. I believe in the freedom of the press, but, oh, at times a terrible effort is required to guarantee that freedom when the liberty of the press gets to be the license of the press.

Now, one further word and I will sit down. When I get to talking about Lincoln in common conversation, I suppose I could talk all day, as many of you and millions of others could throughout the country. Who are the men that have effected civilization in all the days from the Master born in a manger? Who were His disciples, the fishermen. And from the time of His crucifixion down to this time He has grown and grown, and His teachings, notwithstanding the great struggle we are having now among three hundred millions on the other side—His teachings grow more powerful and useful to the human family.

The men that have been the strongest leaders of the world are men born in the cabins, in humble life, and of humble parentage. A Member referred to Napoleon the other day. Napoleon was of the first generation that we know anything about, and substantially when he died that was the end of the generation, although there is one man who is respectable in ability and a citizen of the United States.

And so you run along. Take it in poetry. Robert Burns, a son of the soil. Robert Burns speaks of the people in his wonderful songs, and, in my judgment, has done more for civil and religious liberty than any man for many, many generations—and I was going to say centuries. [Applause.]

Who was the father of Shakespeare? He had no descendants, so far as I know, and yet his plays will live through all time. And then there were Goldsmith, Whittier, Dickens, Thackeray, Tolstoi, Andrew Jackson, Garfield, Morton, Sherman, Grant, Carnegie, Bell—and I could stand, if you had the patience to listen, and read a list by the hour. The old saying on the Wabash, homely as it was, is true, "It is three generations from shirt sleeves to shirt sleeves." It was true then and true now, and has been true substantially in the whole history of the world.

You know that if you go into New York or into Chicago or the great centers you will find that three out of four men in business who direct the affairs of men were sons of farmers or others who lived in the sweat of their faces, who worked in early life and have become qualified for their subsequent career. Once in a while one of them makes a very great fortune, and if he gets too strong somebody tries to take it away from him, and sometimes succeeds, and we call him a pluto-

crat; he commenced as a democrat and became a plutocrat. [Laughter.]

By the way, I have for the first time in my life been reading Emerson a little bit, and in his essay on Napoleon he winds up near the close with this statement. Napoleon, you know, became first consul, overrun Europe substantially, was then Emperor, then came St. Helena. He was a democrat and ran through all of the stages before he died, but Emerson uses this sentence, "The democrat is a young conservative; the conservative is an old democrat; the aristocrat is a democrat ripe and gone to seed." [Laughter.] The first part of this definition applied to Lincoln, who was thoroughly democratic and also conservative, but never aristocratic. Emerson said of him, "He stood, a heroic figure, in the center of a heroic epoch. He is the true history of the American people in his time." [Great applause.]

Mr. CLARK of Florida. Mr. Chairman, I yield 15 minutes to the gentleman from Ohio [Mr. SHERWOOD].

Mr. SHERWOOD. Mr. Chairman, sitting here to-day in this presence I could not help but grow reminiscent listening to the splendid tribute to Abraham Lincoln by my old friend, Mr. CANNON. That vital historical recital reminded me of the time when we came into the Forty-third Congress together on the first Monday of December, 1873. [Applause.] I believe that Mr. CANNON and myself are the only Members in either branch of Congress now in public life who were Members of that Congress. There were historical characters in that Congress, men called to deal with both ethical and fundamental questions growing out of the Civil War, questions that stirred the blood and commanded the most potent mental endeavor. Just across this aisle sat two intellectual athletes—Gen. Benjamin F. Butler, of Massachusetts, and S. S. Cox, of Ohio and New York—who continuously measured the strength and potency of their rasping scimitars at close range. Near the seat where now sits our able and alert leader of the minority [Mr. MANN] sat my old Army comrade, James A. Garfield, then chairman of the Appropriations Committee, afterwards President of the United States. Right in front of the Speaker's desk, in his wheeled chair, was Alexander H. Stephens, of Georgia, late vice president of the Confederate States, a man of intense and powerful intellectuality, a true type of that array of intellectual giants that made both the House and the Senate great forums of debate during and after the war.

James G. Blaine, the idol of his party, was Speaker of the House and the recognized leader. On the Republican side sat 6 representatives of the negro race, just enfranchised, and on the Democratic side 10 or 12 of the battle-scarred veterans of the Confederate Army. I had the honor of a seat between Gen. "Joe" Hawley, of Connecticut, and George Frisbie Hoar, of Massachusetts, the former then famous as a soldier, the latter as the exponent of the highest culture in the domain of civics. But lest I be classed as a reminiscer, I will not indulge in reminiscences further. I am not a pessimist. I believe in to-day, I believe in the future, I believe in the better day to come. And if the debates I have listened to in this Congress seem tame and commonplace, it is because no vital questions to stir men's blood have been under consideration, questions to waken the full force of high intellectual effort. Should a great crisis confront this Congress, I sincerely believe that there is material on this floor on both sides of this historic Chamber to equal in forensic power the record of the past. Such a crisis may not be far off. I remember also the first speech of my colleague, Mr. CANNON, made 43 years ago on the floor of this House, and then, as to-day, we all sat up and took notice. [Applause.]

#### THE LOG-CABIN MEMORIAL TO LINCOLN.

You will all concede that nothing new can be said of Abraham Lincoln. History and biography and the muse of poetry have been busy with his name and fame for over a half a century, and history has said its last word. It was that crash of cannon shot against the walls of Fort Sumter which started the movement that made the name of Abraham Lincoln the most sacred heritage of the redeemed Nation. Without the titanic conflict that followed the name and fame of Abraham Lincoln might never have inspired a national lyric.

It is not great men who make great epochs of history. It is great epochs that make great men. Had there been no Trojan War there would have been no Homer. Had there been no conflict of the kings in the formative period of English literature there would have been no Shakespeare. Had there been no War of the American Revolution, there would have been no George Washington, and had there been no Civil War from 1861 to 1865, there would have been no Abraham Lincoln.

The American people were leading a dull and melancholy life before that awful struggle of arms, but with that crash of cannon shot against the walls of Sumter came a new and in-

spired life. When the storm burst, the finger of God dropped the plummet into the Dead Sea, and with the overflow came new hopes, new ambitions, and new inspirations. And throughout that four years' struggle, the most desperate and long continued of modern wars, the leading hand, the guiding spirit in the camps and courts and capitols of the Nation was Abraham Lincoln, the President and Commander in Chief.

I remember on the 4th of November, 1864, we were on a march in Tennessee, a forced march, toward the battle field of Franklin. The Ohio Legislature had passed a law (they had the old ballot system then before we had imported the system from Australia) that the soldiers in the field should vote. The Ohio presidential tickets had been sent to me for my regiment, the One hundred and eleventh Ohio. We were on a forced march the day of the election for President of the United States. We were to start at daylight. Just before daylight I had my horse saddled and rode back 3 miles to the rear and borrowed from our brigade surgeon, Dr. Brewer, an ambulance and a camp kettle. Whenever we rested that day, on that rapid march the soldiers of my regiment voted in that old camp kettle in the ambulance. We counted the votes at night by the light of the bivouac fires. One-third of my regiment were Democrats and yet there were only seven votes against Abraham Lincoln in the whole regiment.

I remember also after the Battles of Franklin and Nashville, and after we had driven Gen. Hood and his army across the Tennessee River, we were placed on transports and carried up the Tennessee and the Ohio to Cincinnati; then across Ohio and Virginia on the Baltimore & Ohio Railroad to Washington. We reached this city March 3, consigned to an ocean voyage to some point in North Carolina to meet the army of Gen. Sherman coming up the coast from Savannah. Abraham Lincoln was to be inaugurated the following day, March 4, 1865. I was looking for a war horse in Washington, as my last horse was shot at the Battle of Franklin, but I was determined to see Lincoln and hear his second inaugural address. I had never seen Abraham Lincoln. There was a vast crowd on the east front of the Capitol. It seems to me there must have been 20,000, with many hundred boys in blue, and officers in full uniform, including Gen. Joe Hooker. I had on my old war-worn uniform, once a blue uniform, now tarnished with grime from the red clay roads of northern Georgia and the sticky mud of west Tennessee. My old slouch hat with a hole burned in the crown, caused by sleeping with my head too close to a bivouac fire, was not a fitting crown for inauguration day, but I worked my way through that vast throng to within 6 feet of Abraham Lincoln, and I heard him deliver his last oration on earth. I heard him say:

Fondly do we hope, fervently do we pray, that this mighty scourge of war may speedily pass away. With malice toward none, with charity for all, with firmness in the right, as God gives us to see the right, let us strive to finish the work we are in; to bind up the Nation's wounds; to care for him who shall have borne the battle and for his widow and his orphan.

[Applause.]

Over a half century has passed since that eventful day. I can see Lincoln now as I saw him then—a tall, gaunt man, with deep lines of care furrowing his cheeks, with inexpressible sadness in his face, the face of a man of many sorrows. A sad face, a strong face, a face radiant with the inspiration of a great soul, as he voiced in prophecy the ultimate destiny of this Nation. As a soldier of the Republic I heard Abraham Lincoln voice his national ideals in his last message to the American people.

Two million soldiers fought under Abraham Lincoln, the revered President and Commander in Chief, in the most desperate and longest enduring war of modern times. Over and above the 2,000,000 soldier graves that are, or soon will be, there rises triumphant in the radiant glory of a world-wide beneficence, the prescient prophet of emancipation, the leader in the grandest epoch-making era of all civilization. [Applause.]

Then I recall another scene that I shall never forget. It was the day after the surrender of Lee's army at Appomattox. Our Army was marching up the right bank of the Neuse River, in North Carolina. I saw in the distance a man on horseback, riding a splendid horse—riding like mad—and as he approached the head of our column it was plainly to be seen that he must have been riding hard, for his horse's flanks were white with foam, his eyes flashed fire, his nostrils red as blood. As he neared our front he shouted at the top of his voice, "Lee's whole army has surrendered." Every marching soldier behind a gun voiced the gladness of his heart. The whole Army went wild. That line of march was about 10 miles long, and I could almost hear the last shout of joy away down to the end of the line. That officer was Lieut. Riggs, of the staff of Gen. Schofield, the commander of our Army corps. We were all tired of war, and that was the gladdest day that

Army ever saw. It was the proudest day any Army ever saw since God created the world. We had fought the good fight, we had kept the faith, and we knew that the war was nearing its end, and that we could again go to our homes and clasp again the angels of our own household. And what a terrible change from universal joy to the deepest gloom followed this gala day. On the 15th of April, 1865, after we had reached the environs of Raleigh, I saddled up my horse to ride into the city. I had to pass through the camps of about 60,000 soldiers. Camps are always noisy. There are always some soldiers who are singing songs, and our Army was always buzzing with cheerful voices. They were all cheerful then, because we were seeing the end of the war. But that morning the camps were as still as the grave. I met a staff officer and inquired, "Why this silence in the camps?" He replied, "President Lincoln has been assassinated." There was universal mourning in the Army. Every soldier loved and revered Abraham Lincoln, and that whole camp was as silent as this House in the midst of the prayer of the chaplain. That is how the Army regarded Abraham Lincoln. Every soldier loved him as a brother.

Now, as to this log-cabin tribute: We have built many monuments to Lincoln. We have dedicated many statues in bronze and marble; we have four in the city of Washington. I was under the great dome this morning. I saw Vinnie Ream's marble statue of Lincoln in the plain clothes of an American citizen; I saw Borglum's representation of the face of Lincoln, double heroic size. In Judiciary Square there is another figure in marble of Lincoln, and in Lincoln Park there is a true-to-life figure of Lincoln in bronze in the act of unshackling a slave. We are building a splendid temple to him on the banks of the Potomac. That is all right. But monuments and temples and statues have no emotion, no human sympathy, no voice. But here is Lincoln's old Kentucky home. Here is the log cabin where he was born. Here is a silent monitor teaching a vital lesson in patriotism. Here is a symbol of hope and cheer to every poor boy struggling against poverty for an honorable career. Here is a Mecca where all the children of the Nation can gather and take courage in the story of a man, born in a rude log cabin, who learned to read books at night in the silent woods by the light of a pine-knot fire, and who became the guiding hand—the leading spirit—in one of the greatest epochs of all history. [Continued applause.]

Mr. CLARK of Florida. Mr. Chairman, I would like to inquire how much time there is remaining on this side.

The CHAIRMAN. The gentleman from Florida has 21 minutes remaining and the gentleman from Illinois [Mr. McKINLEY] 35 minutes.

Mr. McKINLEY. Mr. Chairman, I yield five minutes to the gentleman from Minnesota [Mr. SMITH].

Mr. SMITH of Minnesota. Mr. Chairman, under ordinary circumstances, after hearing the able and exceedingly interesting speeches of Hon. JOSEPH G. CANNON and the Hon. ISAAC R. SHERWOOD and others upon the life and deeds of Abraham Lincoln, I would not be so presumptuous as to attempt to add anything to what has already been said about "the greatest memory of our earth."

The transfer by the patriotic Commonwealth of Kentucky of the log cabin in which Lincoln was born to the gentle care and protection of the United States is no ordinary occasion.

I never expect to witness a more patriotic and inspiring scene. It is an event that arouses in every American heart a desire to give expression to the love and veneration in which he not only holds the great emancipator but everything connected with his life from childhood to the grave.

From the fullness of the American heart the mouth speaketh of the things that make life worth living; of the things that ennoble and sanctify God's heritage to man.

Would that I had the ability to depict for you my heart's image of Abraham Lincoln; it would fill you with thanksgiving to Almighty God for having sent in the hour of our country's direst need Abraham Lincoln—the greatest power for good and the greatest leader of men since Christ—"a Christ in miniature," said Tolstoy.

Filled with such emotions, I know that my generous and patriotic colleagues will bear with me while I in my humble way on this historic day lay a sprig of laurel on the tomb of one of our own kind and generation—the immortal Lincoln—the friend of man.

Born of humble and illiterate parentage, on Nolan Creek, in a wild and unsettled hickory forest of Kentucky, in this rude cabin—a very strange and unlikely place for the birth of the Nation's saviour. From this lonely home in the wilderness, devoid of books, schools, and churches, and even of the stimulus of educated companions, this incomparable child of the forest by



sheer force of character advanced step by step in knowledge and statecraft until he reached the highest position in the gift of the greatest Nation on earth. And this, too, at a time when that Nation needed its greatest genius to save it from self-destruction.

These inspiring exercises testify more eloquently than any words of mine how completely he restored the Union as it was before the mighty rebellion, in which he was the matchless leader. To-day the Southland is vying with the Northland in paying homage to the memory of the preserver of our Commonwealth, its flag and free institutions. If the shades of the venerated and martyred Lincoln could witness this scene of a reunited and happy people, its cup of joy would overflow.

His was a life filled with greatness and sadness—free from malice, jealousy, and revenge.

His solicitude for the welfare of the South after the fall of the Confederacy was beautifully expressed in these words:

I want the people of the South to come back to the old home, to sit down at the old fireside, to sleep under the old roof, and to labor and rest and worship God under the old flag. For four years I have seen the flag of our Union riddled with bullets and torn with shell and trailed in the dust before the eyes of all the nations, and now I am hoping that it will please God to let me live until I shall see that same flag unsullied and untorn waving over the greatest and most powerful Nation of the earth—over a nation of freemen—over no master and over no slave.

When Lincoln gave expression to these noble sentiments his heart was filled with solemn joy over the close of the war, and his mind was occupied with hopes for the future welfare of his country and his countrymen. For some time he had been laying plans by which the States could be reunited, and the brave men who had fought on both sides of the mighty struggle could live in peace and happiness ever after. Events followed each other in such quick succession the great President did not have an opportunity to impart to his associates his plans of reconstruction before he was removed from this earth by an assassin's bullet, and the earthly career of the "best-loved man that ever trod this continent was translated by a bloody martyrdom to his crown of glory."

Though the soul of Lincoln had returned to its God as white as it came it left behind a grief-stricken Nation—a Nation in tears. He had won for himself a place in the hearts of his countrymen that will endure until the end of time. While we love our great benefactor as an individual, he loved us as individuals and collectively. The secret of his remarkable life was his intense love not only of man and mankind but of all nature. He was so constituted that he grieved at the pains and rejoiced at the pleasures of his fellows. His sympathy knew no bounds, going so far as to forget himself in his desire to be useful to mankind. It was his strongest instinct, inherited from his refined, gentle, and sensitive mother and wonderfully developed through his childhood association with nature.

Lincoln's lowly birth served to develop him to the fullest perfection and endowed him with the highest and noblest qualities in man.

His childhood association with running brooks, vine-clad rocks, and hickory forests teeming with song birds, and overrun with wild flowers, had much to do with forming his simple, earnest, and truthful character.

He grew to man's estate with a heart in full sympathy with every phase of life, capable of consorting and sympathizing with all things. In this respect he differed from his associates, for they were only capable of sympathizing with a few things. Though many of them were intellectual giants, they lacked the power to develop a broad human outlook; they were limited to their particular point of view, the political, the social, the commercial, and the religious, and judged life accordingly. Hence, anything outside their contracted sympathies, they condemned as a thing of evil, and spent their energy trying to save it from damnation.

What was true of Lincoln's associates applies with equal force to the men of this day and age. Prejudices and antipathies originating in birth are seldom eradicated, and never if the child is brought up in a narrow groove.

Our environment exerts upon us a strong incentive to think, act, and judge as others do.

Lincoln's success in life and his usefulness to mankind was his ability to rise above this parrot-like existence and to place himself in the position of others in order that he might understand them and be of use and service to them. Because of his broad, human, educated sympathies he was enabled to do this to a greater extent than any other historic personage of the world. There was no misguided sentiments in his make-up. Is it any wonder that constituted as he was he became the matchless leader of men? While an idealist in the truest sense, he was, at the same time, unusually practical and sound on all questions that affected man's relation to society.

That Abraham Lincoln was in fuller sympathy with mankind than any other man is evidenced by what he said and what he did for mankind during his earthly existence.

When a man said to him, "The people will go wrong on this subject," he replied, "Intellectually, probably they may; morally, never. In the multitude of counsel there is safety," said he, quoting from the Bible. Expressions of this kind flowed from his lips in countless number:

God must have loved the common people, for he made so many of them.

You can fool all of the people some of the time, some of the people all of the time, but you can not fool all of the people all of the time.

He always saw the distinction between an attempt to suppress public opinion and direct public opinion.

Our duty is to direct public opinion in the right channels; never to attempt to suppress it. That was Lincoln's philosophy, and his life and works are an exemplification of that philosophy.

Under Lincoln the Nation had a new birth of freedom, and it is for us, the living, to dedicate ourselves to the preservation of that Nation to sustain which he gave the last full measure of devotion.

Mr. MCKINLEY. Mr. Chairman, I yield five minutes to the gentleman from New York [Mr. HICKS].

Mr. HICKS. Mr. Speaker, it is not for me to review the story of Lincoln's life or relate the memories and traditions which cluster around his name. That story, with its pathos and trials, its tragedies and triumphs, its humor and its sadness, has been told so often that it is impossible to illuminate the picture or add to the reverence and the homage which the world pays to Abraham Lincoln.

Born in obscurity, nurtured in abject poverty, he closed life's fitful course the grandest figure of his generation, the noblest contribution of America to an enlightened civilization.

For many and many an age proclaim,  
At civic revel and pomp and game,  
With honor, honor, honor to him,  
Eternal honor to his name.

The life of Lincoln, with its contrasts and contradictions, defies analysis and refutes the theory of heredity. The environment in which he was reared is in direct antithesis to the inspiring significance of his life. Misjudged, maligned, ridiculed, yet undaunted and undismayed, sustained by the unseen Hand that guides the destinies of men, he trod the weary path alone.

In the mysterious laboratory of Nature he was touched with the magic wand. In the murky night of his early years there glowed that invisible flame within. In the quiet of the nighttime, through the silence that is in the starry sky, there came to him that long, far call.

In Lincoln were combined the noblest attributes of the mind, the heart, the soul. The stones in the foundation upon which was reared the structure of his life were simplicity, honesty, sincerity, and sympathy, bound together in enduring strength by his faith in his fellow men, his faith in his country, and his faith in his God. Where was the touch that raised him to such heights? What was the loadstone of his power? Wherein lay the secret whereby he stands forth the embodiment of the ideals and the personification of the spirit of the Nation? We ask, but we ask in vain. No positive, final answer has yet been given to the query.

In the crisis through which the Nation is passing let us keep constantly before us the memory and deeds of Lincoln; let his unswerving courage and lofty patriotism be our guide in this hour of trial and tribulation. We may be divided upon issues affecting our domestic policy, but upon the preservation of the rights and dignity of the Nation there can be no division. Upon that subject, Mr. Speaker, we stand united as Americans, and our determination to maintain absolute and inviolate the honor of the flag must rise supreme to all prejudice for or against any of the contending powers; superior now and always to the selfish interests of other nations. Let the spirit of Lincoln the patriot, Lincoln the American, strengthen our hands and give courage to our hearts, and so enable us to face the problems of the present as he met those of the past, with the full measure of devotion to our country.

The acclaim of loyalty and patriotism which wells from the hearts of the Nation's representatives on the floor of Congress upon every allusion to the name of Lincoln is a benediction of the past and an inspiration for the future. Forgetting sectional animosities, rising above political prejudices, every State offers its tribute of affection and veneration to the memory of the martyred President and proclaims its loyalty and devotion to a great united country. The honor of that name is the heritage of all, North and South. The bitterness and the anguish engendered by the mighty conflict of a half century ago have faded away; the dark clouds of hate and jealousy which hardened the hearts of men on both sides of that struggle have given

place to the sunshine of respect and confidence. Under the softening influence of that noble sentiment of Lincoln, "With malice toward none and with charity toward all," the line of Mason and Dixon has been obliterated. Across the chasm once drenched with the blood of heroes are extended the hands of brothers, brothers who like—

The mighty mother turns in tears  
The pages of her battle years,  
Lamenting all her fallen sons.

To you gentlemen of the Southland in whose veins flow the blood of the soldiers in gray, who in your magnanimity claim that Lincoln is yours as well as ours, let me answer, as one from the North, Yes; Lincoln is yours as well as ours, and Lee is ours as well as yours. [Applause.] But in revivifying the memories of the past I would rather forget that there are any yours. I prefer to remember only that it is all ours; that American greatness and American heroism knows no section and belongs to no generation; that in our nationalism we are all Americans united in a common cause, possessed of a common love for country and for flag. [Applause.]

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

Mr. HICKS. Mr. Chairman, I ask permission to extend my remarks in the Record.

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

There was no objection.

Mr. CLARK of Florida. Mr. Chairman, I yield two minutes to the gentleman from Missouri [Mr. RUSSELL].

The CHAIRMAN. The gentleman from Missouri [Mr. RUSSELL] is recognized for two minutes.

Mr. RUSSELL of Missouri. Mr. Chairman, I have no prepared speech, and will not in the short time I have make any extended remarks, but I want simply to express my favorable consideration and my approval of this bill, the purpose of which is to accept for the Government the cabin home and birthplace of Abraham Lincoln as a donation from the present owners, the Lincoln Farm Association of the State of Kentucky. I believe that it is a patriotic and a proper thing to do, both because we owe it to the memory of this great man to accept this donation of his birthplace and because I believe it is important as an inspiration and encouragement to other boys of our country who have been or who may hereafter be born in humble homes and of humble parentage. It helps to impress upon the minds of all American boys that the humblest in birth or station among them may aspire to places of the highest distinction and honor.

I knew of Lincoln when I was a boy. I remember the Civil War very distinctly, and when the war began, and when my eldest brother went to fight on the side of the South for four years. I as a child was prejudiced against Abraham Lincoln. I was taught to believe he was an enemy of the South; but before that war was over we took a different view of it, and our people got to believe that he was our friend, a patriotic man in the discharge of a great duty to humanity and to his Government. I was, as an 11-year-old farmer's boy, in the cornfield dropping corn on the 15th day of April, 1865. My father went to town to get his mail, and when he came back he told us that Abraham Lincoln had been assassinated. There was no man in this Union more deeply grieved than my father, and all of his family shared in his genuine grief.

I overheard the minority leader of this House [Mr. MANN] about five years ago say one day when Washington's Farewell Address was being read that he hoped the time would some time come when some Democrat would have the patriotism to read in this House Abraham Lincoln's Gettysburg speech. I accepted the suggestion, and four times on Lincoln's birthday I have read that great and masterful speech, and, with the permission of the Speaker of this House, I intend to read it every year on Lincoln's birthday as long as I remain a Member of this House. [Applause.]

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. MCKINLEY. Mr. Chairman, I yield 10 minutes to the gentleman from Nebraska [Mr. SLOAN].

The CHAIRMAN. The gentleman from Nebraska [Mr. SLOAN] is recognized for 10 minutes.

Mr. SLOAN. Mr. Chairman, I can not hope to bring a new message on Abraham Lincoln to the House of Representatives. It is a tribute to the general intelligence of the American people that few men, either of learning or of experience, can bring any new message to the American people with reference to this primal American character.

I talked a short time ago with the author of this bill. He expressed the thought that seemed specially pertinent, that the discussion on this floor at this time should be related

largely to the nativity, rather than to the achievements of America's statesman and martyr. I was pleased that in the preparation of the few remarks I shall submit I confined myself to facts touching his nativity rather than his achievements or death.

The devotees of Christianity have among their finest pictures, upon which has been expended the genius of many artists in all the ages, the "Nativity." The "Nativity" graces the walls of all the great art galleries where the divine touch of the artist has been made imperishable for the view and admiration of men. I trust that some American artist in the years to come will make classic the American "Nativity"; and that the subject will be the birthplace of Abraham Lincoln.

The Lincoln homestead of which we speak has a record running first from the Crown of England to the colony of Virginia. Then resting in the State of Virginia, and finally through private conveyances it reached the name of Thomas Lincoln, the father of the martyred President. What a strange train of events has passed since the title granted by the crown to the title now granted to the Republic. During that time, of course, there has been much added value. The acreage has been reduced and the wildwood has been removed. Spacious and imposing buildings have been erected thereon. There is carried, in addition to the value of realty, valuable personal property amounting to \$50,000. But how insignificant is that added value when we consider the value that the name, fame, and achievements of Abraham Lincoln have contributed to the American Republic.

Clustering around Lincoln's natal year are grouped the birth of many characters far-famed for their achievements.

Charles Robert Darwin, whose study and communion with nature passed its artificial bounds, was born the same day as Lincoln. He saw demonstrated far-reaching and progressive laws which, now indorsed by the scientific world, has advanced scientific research further than had been accomplished since Lord Bacon's inductive philosophy overthrew the system of Aristotle 300 years before. February 3, 1809, over in Germany, Mendelssohn, whose divine touch, combined with creative genius, made him one of the world's princes of harmony, was born.

January 19, 1809, came Edgar Allan Poe, that weird poet of the night and storm, whose eccentric genius, both assailed and defended by critics, has left its impress on American verse, furnishing that rare accomplishment—a distinctive style.

In the same year Lord Tennyson, Britain's greatest laureate, was born in England. He said "Better fifty years of Europe than a cycle of Cathay." Well might it now be written: "Better a century of America than a millennium of Europe."

In that same year Gladstone, Britain's greatest statesman since the day of Pitt and Peel, first saw the light.

In America that year gave us Oliver Wendell Holmes, wit, humorist, poet, and philosopher, to lighten the hearts and instruct the minds of his countrymen.

That year also gave us Cyrus McCormick, who invented the American reaper, which has contributed so largely to our agricultural production.

In the Hall of Fame, based upon the world's general estimate, all of these occupy commanding positions, but easily towering above them all stands Lincoln.

He first looked upon the sun from a lonely environment, the lardwood cabin in the then county of Hardin (now county of Larue) in the new State of Kentucky, which had at that time, through the chronicles of Boone and his contemporaries, earned the sanguinary appellation of "Dark and bloody ground." Christ was born, not in a walled city, nor yet in the contending capitals of Samaria or Jerusalem. His nativity was humble Bethlehem. The nativity of Lincoln was not in intellectual Massachusetts, commercial New York, or chivalric Virginia. His parents were as unambitious as their forest home would indicate. What ancestral strain of purpose, character, and mind with which he was endowed came from his mother. One of those mothers who, suppressed by her position and burdened by her cares, can seldom command the recognition due, except it be in the generation delayed, when the plaudits are given to the words and deeds of a wise or successful son. And in this way will the American people remember Nancy Hanks Lincoln.

At this time Thomas Jefferson, the inspired author of the Declaration of Independence and the strict constructionist of the American Constitution, was just closing his second presidential term. Napoleon had but recently strengthened America and weakened Europe by the sale of the Louisiana Territory to the United States. He was at that time walking on the writhing forms of European kings. The sun of Austerlitz had risen, Jena and Friedland had been won, and Europe rocked at his feet as he stood at the zenith of his power, while kings

became his subjects, and emperors, to no purpose, were combining against him. When Lincoln was born there was yet to come the conflagration of Moscow, the snows of the north, Waterloo, St. Helena, and a rocky tomb. Such was the setting surrounding the date which ushered Abraham Lincoln into the world.

Nor would this setting be complete if it were not noted that in the same dark and bloody realm, in a community now part of the county of Todd, within less than a year of Lincoln's birth, Jefferson Davis was born. Less than a hundred miles separated their birthplaces, but throughout their momentous careers there was little convergence, yet had a strange relation.

Two companion snow drops, pure, clear and crystalline, as they fall touch the loftiest peak of the mountain chain. They freeze into a mighty mass which yields to nothing except the wooing of the summer sun; and while they lie but a few inches apart, in their melting mass each moves down a different slope; each finds its mountain torrent conveying it to flooded river, and that swollen river to the sea. One reaches the turbulent Atlantic, the other the peaceful Pacific. Davis moved southwardly to Mississippi, the then great cotton State, where slavery thrived. Lincoln found his way through Indiana to the prairies of Illinois, where labor was free.

One year's schooling was the measure of Lincoln's scholastic opportunity. Jefferson Davis, well taught, was later educated at West Point.

Each presided during four years of tragedy over a Republic. The one Republic struggled for an existence, the other battled to maintain its integrity undiminished. There was citizenship sufficient for the two greatest Republics on earth, but I rejoice to hear from either side of this hall the satisfaction that but one remains.

The cabin home this afternoon being considered was in the State which produced these two great characters. In that great struggle it seemed, as it were, that that State could not decide between the fortunes of her two matchless sons. It presented a divided allegiance. This measure furnishes to-day a fitting text for fraternal, patriotic sentiment from every part of this expanded Union.

Above his body at the Springfield home stands a monument viewed annually by tens of thousands. At the entrance to the great park at Chicago which bears his name, in heroic mold stands in imperishable bronze one of the most imposing statues of America. It was a triumph of the genius of St. Gaudens, America's premier sculptor. Hundreds of thousands who visit the great metropolis by the lake view it annually, departing with inspiration of renewed patriotism. At the National Capital, soon to be completed near the scene of his activities, is a magnificent Greek temple erected to the memory of Lincoln. Few out of the multitudes annually visiting Washington will fail to visit it and render tribute to Lincoln's memory. But down in Kentucky is the fourth Lincoln shrine. In point of reference and sequence it should be first, because it points to origin as the others call our attention to achievement, fame, mortality. Collectively they evidence to all the ages the miracle of the Republic. Humility of origin with greatness of soul are the stepping stones to primacy among men. [Applause.]

The CHAIRMAN. The time of the gentleman from Nebraska has expired.

Mr. SLOAN. I would like to have about three minutes more. Mr. SLAYDEN. Mr. Chairman, how much time is left altogether? I understand 13 minutes on this side.

The CHAIRMAN. Nineteen minutes. The gentleman from Florida [Mr. CLARK] has 19 minutes remaining, and the gentleman from Illinois [Mr. MCKINLEY] has 15 minutes.

Mr. SLOAN. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

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

There was no objection.

Mr. MCKINLEY. Mr. Chairman, I yield one-half a minute to the gentleman from Ohio [Mr. FESS].

The CHAIRMAN. The gentleman from Ohio [Mr. FESS] is recognized for half a minute.

Mr. FESS. Mr. Chairman, listening to the address of Gen. SHERWOOD, a reference to a certain event—the bombardment of Fort Sumter—indicated to me that the significance of the vote to-day will be intensified when we recall that this is the anniversary of the opening of the Civil War.

Fifty-five years ago to-day Edwin Ruffin fired the first gun at Fort Sumter, and I thought that it would be significant just to remind Congress of that incident.

And 51 years ago day after to-morrow will be the anniversary of the assassination or of the shot that eventuated in the death

of Abraham Lincoln, so that these two incidents give intensity to the vote upon this occasion to-day. I wanted by recalling those incidents of that particular time to refresh the memory of the House.

Mr. MCKINLEY. Mr. Chairman, I yield five minutes to the gentleman from Ohio [Mr. SWITZER].

Mr. SWITZER. Mr. Chairman, it will always be to me a fond remembrance to recall that as a Member of the American Congress I not only had the opportunity but that I availed myself of the privilege to vote for the appropriations made for the construction of that magnificent memorial, now nearing completion, in the Capital of the Nation to the memory of the great Civil War President, "God's grandest gift of man to men"—Abraham Lincoln. From the ranks of the frontiersmen he rose to the Presidency of the Nation. This obscure country lawyer did not believe that the Nation could survive half slave and half free. He was firmly convinced that "a house divided against itself could not stand." Regardless of the contention that it would be unconstitutional so to do, he found a way to liberate 4,000,000 bondsmen and still preserve the Union.

Charged with the commission of all manner of high crimes and misdemeanors and unconstitutional acts while in office, no man was more reviled than he; yet to-day no name is more lauded and revered than his. All sects, creeds, and parties vie with one another in loud protestation of their great loyalty and high respect for the opinions held and for the principles and policies advocated by Abraham Lincoln. Time has vindicated the absolute justice of his course, and silenced the carping criticisms of his enemies beyond the peradventure of a murmur.

In dedicating to the Nation the birthplace of this illustrious American, there is given to Kentucky renewed luster and added fame. The Nation through its Congress accepts this token of high respect to the memory of our martyred President as the most magnanimous of the many generous and noble deeds for which the people of the great State of Kentucky are so famed. The dark and bloody ground, the home of Daniel Boone and other noted pioneers, by this patriotic act is consecrated anew to that Jeffersonian idea of liberty, the equality of all men before the law, which was ever so near and dear to the heart of Abraham Lincoln. As the generations come and go, we trust that they may not only travel to the last resting place of this great man and visit the Nation's memorial to his name, but that they may also journey to the scenes of his childhood, and at the fountain head of his noble life drink deep the holy inspiration which has animated this tribute of patriotic citizens to the crowning glory of the Nation—the final memorialization of the birthplace, the life, and the last resting place of Lincoln. [Applause.]

Mr. MANN. I yield five minutes to the gentleman from Vermont [Mr. DALE].

Mr. DALE of Vermont. Mr. Chairman, a new Member finds it interesting to watch a bill on its way through this House and to observe the statements that carry effect in its passage.

During the past week there have been indications that sectional and conflicting interests will continue as long as there is water in rivers and harbors; but, Mr. Chairman, to one coming from the far North and meeting in this forum the generous, loyal men of the South it is pleasant to quickly perceive that the time is past when argument can gain force here from those old war issues that lie buried under principles that we now all welcome as immortal. [Applause.]

When we speak here of the leaders of that period of strife that was we summon quickest response at mention of the human sympathy in each for all the embattled hosts. In the final judgment of mankind upon the great men of history it is kindness which survives the brightest. It is that which ennoble the manner in which the heavy obligations of the South were assumed when they were laid on the well-nigh breaking heart of Robert E. Lee. Because the man of whom we speak to-day was, in his high position, distinctly gentle and considerate, Members from the Southland give cordial support to this pending measure. For this reason they express tender and heroic sentiments that are tributes of the finest nature to the character of Abraham Lincoln. Artistic skill may well exhaust itself in memory of the kindness of this supreme man; but the substance of the expression of that quality is elusive, and it may leave the marble hall for the log cabin, its natural home. There we find the best expression of that broad sympathy that went out through all the cabins of the North and of the West and awakened heroic impulse in the youth of the common people.

When the Third Regiment from the State of Vermont was formed it included many men who were born in log cabins. In that regiment as it camped up here on the Potomac 10 miles

away was a boy, William Scott, who, while doing double service for his comrades, fell asleep on picket; was court-martialed, and condemned to be shot. Then in the darkness of the night the President of this great Nation at war, wearied as he must have been, ordered his horse and carriage and rode out to save the life of that young boy. In the pitiful affair at Lees Mill he fell, whispering a prayer for Abraham Lincoln. Enlisted with him were three Stevens brothers, sons of a widowed mother in my home. One of those boys fell at Lees Mill, one was the first to be shot out here on the Rockville Pike in the battle for the defense of this Capital, and one went home disabled for life. These boys and all those like them felt the inspiration of this great man, and it enabled them to face danger more easily, and it took away from them the sting of death.

Incomparable man that he was, where do we find the source of his inspiration?

In that humble home there came to him, earlier than memory, the consciousness of one who was the very substance of patience and tenderness and mercy, and was to him the origin of justice. In her face he beheld first the expression of the infinite qualities that made his own character sublime. In that there is reason enough to save the old log cabin.

All his life was unnatural in that it forced ill causes to good effects. In form and feature he was rough shapen and plain, but through relief of agony to many he became the handsomest man in all the world. The legislature rejected him for the Senate, and out of disappointment he made humor by saying that he felt like the boy who stumped his toe—too hurt to laugh and too big to cry.

He came to his inauguration in a guarded train along a line where the telegraph wires had been cut that men might not shoot him, and above the cloud of threatened intent rose the spirit that impelled him to drive all night to save a boy from being shot.

The multitude besieged him to dull weariness, and it made sensitive a tone in his nature that felt response to the cry of an infant in the throng, and he said, "Send in next that woman with a baby." He was called a countryman, unfit for official place, but when the telegram came from the man in command of the Armies in the great crisis of the war indicating the fearful loss of life that must follow, Dr Edward Everett Hale, observing him as he moved among and counseled with the polished and able gentlemen of his Cabinet, said that his grace of manner and wisdom of expression were superb. When at last that group of eminent statesmen who had concurred in the opinion that he lacked the ability to be President stood over him, and it was said "now he belongs to the ages," his life closed in a splendor of blending contrasts.

In that rude shelter of his childhood there dwells more than in statue or memorial the emotion of that process by which his own want increased his sense of human need and made him generous.

The common comforts of life, the just estimate of men, and all the elements of equity, he knew only through the giving of them to others.

Out of longing that grew intense by denial the very passion of his humor and tenderness and mercy became supreme. That which he found not for himself he gave in abundance to others, and his whole life was passed in bringing from resisting conditions marvelous results.

Nothing indicates so well the life that was itself a contrast, a paradox, the meager compensation that came to him and his rich bestowment to the Nation as the log cabin and the marble hall by which it is inclosed.

Ah, Mr. Chairman, let us preserve this old log cabin, that generations may learn from it the qualities that there had birth and are changeless and deathless forever. [Applause.]

Mr. CLARK of Florida. Mr. Chairman, I yield 10 minutes to the gentleman from Kentucky [Mr. BARKLEY].

Mr. BARKLEY. Mr. Chairman, if it were necessary to apologize to the House on this occasion for occupying its time for a few moments, I feel that it would be sufficient to say that my reason for speaking is not only the fact that I, in part, represent the State in which Lincoln was born, but also from boyhood I have been tremendously interested in his character and career.

It is very appropriate that during this year the Lincoln farm should be donated to and accepted by the Government of the United States, for it is the one hundredth anniversary of the removal of Abraham Lincoln from Kentucky to Indiana, he having crossed with his family the Ohio River in 1816, never thereafter having returned, so far as I know, to the place of his birth.

If time were afforded I should like to recount the names of those men who, during the history of this Nation, have gone out from Kentucky to bless the civilization of every State in

the Union and the Nation itself as a whole. If I could recount the names of the governors and Senators and Members of this House, the ambassadors to foreign nations, the ministers of the Gospel, the teachers of men, and the long list of worthy sons in every walk of life, whose birthplaces were in the same State in which is located this remarkable home which gave Lincoln to the Nation, I am sure I might be able to enlist your admiration for the product of that great State on whose soil Lincoln himself was born. To Kentucky has frequently been ascribed the honor of producing a variety of things for the benefit of humanity, but I think we may properly, on this occasion, refer to the great men, as well as the great women, who have gone out from that State and mingled with the people of every section, all with honor to themselves and credit to their native State.

In all this list two names stand out preeminent. One is the name of Jefferson Davis and the other is the name of Abraham Lincoln. We frequently marvel at the peculiar and fortuitous circumstances by which the careers of men are hedged about. But who can explain on any other theory than the guidance of a providential hand, the fact that both Jefferson Davis and Abraham Lincoln, rival leaders in the great Civil War, were born under Kentucky's sun, and were nestled to the bosom of two of her noble women?

I shall not attempt in this brief address to refer, except incidentally, to the statesmanship or to the achievements of Lincoln in public life, because, after all, these are not the things that grip our hearts; these are not the things that cause us to shed a tear to-day over the grave of Abraham Lincoln. I prefer, on this occasion, to let my mind run back to the little humble cabin in Kentucky, where Lincoln, in 1809, first looked upon a world of wonders. I prefer to think of him "cooning" a log across Knob Creek at the age of 5 and falling into its waters and having to be pulled out by a companion just in time to prevent him from drowning. I prefer to think of him at the age of 7, holding to his mother's hand, as he and she performed their last duty before leaving Kentucky by visiting the little grave of the baby boy, who was born and died in those lonely hills, from which, so far as I am aware, he was never removed. I prefer to think of Lincoln to-day reading the Holy Scriptures to his mother night after night as she lay upon her deathbed in that lonely home in Indiana.

I prefer to think of him as he wrote his first letter, at the age of 10 or 11, asking an old Kentucky preacher, whom he had known before his removal to Indiana, to come over and preach his mother's funeral, a service which could not be performed for lack of a minister at the time of her burial. I prefer to think of Lincoln to-day as he wept over the grave of beloved Ann Rutledge, his heart bleeding as no other heart could bleed, and exclaiming as he fell upon the new-made mound: "Here lies the body of Ann Rutledge and the heart of Abe Lincoln."

These are the things that endear Lincoln to us and to our memory, because these are the things that touch our sympathy, these are the incidents which appeal to us most strongly in the early life of him whose whole career comprises the greatest individual tragedy which has been enacted upon the stage of American national life. These touch the tender cords and the wellsprings of the human heart, and we forget the Gettysburg speech and the second inaugural address and the Douglas debates. We forget his struggle with his Cabinet and with the tremendous problems with which he was surrounded and confronted. All these things for the day are put aside, and we remember the lonely, tragic boyhood of this wonderful man and faintly realize the moral foundation, formed as he passed through these crucibles of the human heart, which enabled him to give expression in the heat of a great political campaign to the sublime sentiment, "I am not bound to win, but I am bound to be right," a sentiment whose meaning ought to be applied with double force in the perilous times in which we live both to public problems and to public men.

As we think of this great character, coming as he did from Kentucky, we remember with great pride that in his veins was infused the same blood and in his heart the same spirit that emboldened Daniel Boone, the Kentucky pioneer, to cut and fight his way into a wilderness and help to carve out of it one of the greatest Commonwealths of this Nation, for Lincoln himself was a relative of Daniel Boone, his grandfather having been a cousin of the great pioneer. And I am glad to say in passing that this rugged courage which guided the life of Lincoln and of Boone is still to be found among the sons of old Kentucky, for we have it typified in the rugged honesty and sterling character of our own Speaker of the House, CHAMP CLARK, of Missouri, who himself was born and reared in Kentucky, and also in the leader of the minority, Mr. MANN, who although not having been born in that State itself, yet boasts that his for-

bears came from that soil which gave to the Nation and to the world Jefferson Davis and Abraham Lincoln. [Applause.]

We have heard many stories of Lincoln, and I confess that I never tire of reading or hearing the stories about him. These stories which illustrate the humanity of Lincoln are not confined to his boyhood, nor to his young manhood, but are found all through his mature manhood, when the burdens of public duties were heaviest upon his shoulders. The other day I read a very pathetic story which touched my heart, and which illustrates forcibly the truth of the quotation, "He who stoops to lift the fallen, does not stoop but stands erect." There was a schoolhouse somewhere near the back yard of the White House, and as the boys played across the fence, from day to day, Lincoln frequently went out to watch them. One day the teacher decided to give the boys a lesson in neatness, and commanded them that they should have their shoes fresh shined before coming to school the following day. The next day the boys came to school with their faces and hands clean, with clean clothes upon themselves, and with their shoes all shined. There was one little one-armed boy, however, the son of a dead soldier who had given his life in the Civil War, whose mother made her living here in Washington as a washwoman, who had no blacking in the house, and consequently he undertook to shine his shoes with stove polish. When he reached the school, his shoes shined with stove polish, the other pupils began to ridicule him, and his little heart was filled with sorrow and humiliation. Mr. Lincoln, hearing the gibes at the little one-armed fellow, made a detailed inquiry and ascertained the cause of the trouble. The next day Mr. Lincoln took this little boy and bought him two new pairs of shoes, two suits of clothes, and bought for his sisters new linen and dresses, and sent groceries and clothes to the home of his mother. He then put in the boy's hands a note to the teacher, in which he asked her to place upon the blackboard the following words: "Inasmuch as ye have done it unto one of the least of these, my brethren, ye have done it also unto Me." A few days later he took occasion to visit the schoolhouse in person, and finding the quotation still on the board, he asked for a piece of crayon, and going to the board he said, "Boys, I have another quotation from the Bible in my mind that I want to put under this other one, that you may observe it and apply it to your future lives." And then he wrote, "It is more blessed to give than to receive," and wrote under it his simple signature, "A. Lincoln."

Mr. Chairman, in the turmoil of our modern-day politics, in the confusion of our political rivalry, and in the narrowness and bitterness of our partisan fights in Congress, let us to-day rekindle our hope and faith in the destiny of that Nation to which Lincoln gave his life, and let us hope that in the years that are to come we and our children and our children's children, for a thousand generations may more and more appreciate the simplicity and sublimity of Lincoln's character, to the end that we may contribute to the consummation of that spirit of public devotion and common well-being, which will enable us to say with him, "I am not bound to win, but I am bound to be right." [Applause.]

The State of Kentucky is glad to give to the Nation this humble, yet sacred little farm, whose one great product is to-day the admiration of the world, and when future generations shall view this little home, this log cabin in the hills of Kentucky, may they be inspired with the hope that the flag which hangs above your head, for which Lincoln, as well as countless others before and after him, gave all that they had—their lives—and the Union for which it stands, may always mean what he thought it ought to mean, the equality of man before the law, and the equality to pursue the legitimate objects of happiness and of service without regard to clime or creed or section. [Applause.]

As the Nation will this day accept the gift of the Lincoln farm, may we not hope that at a day not long postponed a similar acceptance may be registered of the Davis home, and that these two spots, not far from each other in the soil of Kentucky, may be enshrined in the love and imagination of patriots everywhere, typifying the reunion of heart and hope and hand through which our common country shall more and more become the land of opportunity and the beacon light of liberty for us and all who shall follow us, which shall become brighter and brighter unto the perfect day. [Applause.]

Mr. CLARK of Florida. Mr. Chairman, I ask that the bill be read for amendment.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

*Be it enacted, etc.,* That the United States of America hereby accepts title to the lands mentioned in the deed of gift or conveyance now in possession of the President of the United States of America, together with all the buildings and appurtenances thereon, especially the log cabin in which Abraham Lincoln was born and the memorial hall

inclosing the same, which deed or conveyance was executed on the \_\_\_\_\_ day of \_\_\_\_\_, 1913, by the Lincoln Farm Association, a corporation, to the United States of America, describing certain lands situated near the town of Hodgenville, county of Larue, State of Kentucky, which lands are more particularly identified and described in said deed or conveyance. The title to such lands, buildings, and appurtenances is accepted upon the terms and conditions stated in said deed or conveyance, namely: That the land therein described, together with the buildings and appurtenances thereon, shall be forever dedicated to the purposes of a national park or reservation, the United States of America agreeing to protect and preserve the said lands, buildings, and appurtenances, and especially the log cabin in which Abraham Lincoln was born and the memorial hall inclosing the same, from spoliation, destruction, and further disintegration, to the end that they may be preserved for all time, so far as may be; and further agreeing that there shall never be any charge or fee made to or asked from the public for admission to the said park or reservation.

Mr. MANN. Mr. Chairman, I ask unanimous consent that the word "appurtenances" be correctly spelled, in line 9, page 2.

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

There was no objection.

The Clerk read as follows:

SEC. 2. That the United States of America hereby also accepts title to the endowment fund of \$50,000 mentioned in the assignment and transfer, now in the possession of the President of the United States of America, which assignment and transfer was executed on the \_\_\_\_\_ day of \_\_\_\_\_, 1913, by the Lincoln Farm Association, a corporation, to the United States of America, transferring and turning over all its right, title, and interest in and to said endowment fund, heretofore invested in certain stocks, bonds, and securities held and owned by the Lincoln Farm Association, and more particularly identified and described in said assignment and transfer. The title to said endowment fund is accepted upon the terms and conditions stated in said assignment and transfer, namely, that the United States of America shall forever keep the said tract of land described in said deed, together with the buildings and appurtenances thereunto belonging, dedicated to the purpose of a national park or reservation, and that there shall never be any charge or fee made to or asked from the public for admission to the said park or reservation; and, further, shall forever protect, preserve, and maintain said land, buildings, and appurtenances, and especially the log cabin in which Abraham Lincoln was born and the memorial hall inclosing the same, from spoliation, destruction, and further disintegration, to the end that they may be preserved for all time, as far as may be, as a national park or reservation.

Mr. STAFFORD. Mr. Chairman, I move to strike out the last word. I assume there is a purpose in withholding inserting the dates of the conveyance.

Mr. CLARK of Florida. Yes; those dates are left blank to be filled in later. I think the deeds have not been executed as yet.

Mr. MANN. That is not a very good reason, because the date is 1913.

Mr. CLARK of Florida. That can be arranged later.

Mr. STAFFORD. As I understand the bill, the deed has already been tendered.

Mr. CLARK of Florida. That is what I thought.

Mr. JOHNSON of Kentucky. It is at the White House.

Mr. CLARK of Florida. The gentleman from Kentucky is looking for a copy so that we can put in the dates if we find it.

Mr. STAFFORD. It is better to have the dates inserted or else to describe the deed generally.

Mr. JOHNSON of Kentucky. This bill was introduced in a former Congress, when Mr. Taft was President, and the papers were left there.

Mr. STAFFORD. So the deed is already executed and is being held in escrow awaiting acceptance by the Government?

Mr. JOHNSON of Kentucky. That is my information.

The Clerk read as follows:

SEC. 3. That the President of the United States of America and the Secretary of State are hereby authorized to execute, in the name of the United States of America, such instrument or instruments as may be or may become necessary to comply with or carry out the terms and conditions of such gift or gifts and to secure the full benefit therefrom.

Mr. CLARK of Florida. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend, on page 3, line 25, by striking out the word "State" and inserting the word "War."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CLARK of Florida. I also offer the following amendment.

The Clerk read as follows:

Amend, page 4, by adding the following section:

"SEC. 4. That upon the passage of this act and the vesting of the title to the property accepted thereunder in the United States it shall be under the control of the Secretary of War and administered under such regulations, not inconsistent with the law, as he may from time to time prescribe."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CLARK of Florida. Mr. Chairman, I move that the committee now rise and report the bill with amendments to the

House with a recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. BARNHART, 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. 8351 and had directed him to report the same back with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The SPEAKER. Is a separate vote demanded on any amendment? [After a pause.] If not, the Chair will put them en grosse. The question is on agreeing to the amendments.

The amendments were agreed to.

The SPEAKER. The question is now on the engrossment and third reading of the bill.

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

Mr. JOHNSON of Kentucky. Since there was no objecting vote, I think, on account of history, it ought to be announced by the Chair that the bill was unanimously passed.

The SPEAKER. The Chair announces that the bill was passed unanimously.

On motion of Mr. CLARK of Florida, a motion to reconsider the vote by which the bill was passed was laid on the table.

Mr. CLARK of Florida. Mr. Speaker, I ask for the present consideration of the resolution which I send to the Clerk's desk. I think there will be no possible objection to it.

The SPEAKER. The gentleman from Florida asks unanimous consent for the present consideration of the resolution, which the Clerk will report.

The Clerk read as follows:

House resolution 200.

*Resolved*, That the speeches delivered on H. R. 8351, accepting from the Lincoln Farm Association title of the farm on which Abraham Lincoln was born, be printed as a House document, 10,000 copies to be distributed among the Members equally through the folding room.

Mr. MANN. I have no objection if it is to come within the limit of cost. If it does not, I suppose it will not be done.

The SPEAKER. Is it 10,000 or 15,000?

Mr. CLARK of Florida. Ten thousand.

Mr. MANN. If it is going to be printed, it ought to include the bill, too.

Mr. CLARK of Florida. I will make it include the bill—that the bill and speeches be included in the House document.

The SPEAKER. The Clerk will report the resolution as amended.

The Clerk read as follows:

*Resolved*, That the speeches delivered on H. R. 8351 and the bill in relation thereto, accepting from the Lincoln Farm Association title of the farm on which Abraham Lincoln was born, be printed as a House document, 10,000 copies to be distributed among the Members equally through the folding room.

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

The amendment was agreed to.

The resolution as amended was agreed to.

Mr. CLARK of Florida. Mr. Speaker, I make also the request that all gentlemen who have spoken on the bill be allowed to extend their remarks in the RECORD for five legislative days.

The SPEAKER. Is there objection?

There was no objection.

Mr. MADDEN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the bill.

The SPEAKER. The gentleman from Illinois [Mr. MADDEN] asks unanimous consent to extend his remarks on the bill just passed. Is there objection?

There was no objection.

ORIGINAL MANUSCRIPT OF RECORD.

Mr. SLAYDEN. Mr. Speaker, I move to call up the bill H. R. 4678—

Mr. MANN. Before the gentleman does that, can not we pass the Senate joint resolution No. 24 in a minute?

Mr. SLAYDEN. I am afraid to begin it, I will say to the gentleman frankly.

Mr. MANN. I do not think there will be any objection.

Mr. STAFFORD. There is not any serious objection.

Mr. MANN. Try unanimous consent.

Mr. SLAYDEN. Before the gentleman puts that, I can not afford to do it, I will say to the gentleman frankly. I expect to call that up immediately—

Mr. MANN. I was going to ask unanimous consent that as it is on call it be brought up and that it be read and considered as passed.

Mr. SLAYDEN. That is certainly very brief.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

*Resolved, etc.*, That the Librarian of Congress is hereby authorized and directed to return to Williamsburg Lodge, No. 6, Ancient Free and Accepted Masons, of Virginia, the original manuscript of the record of the proceedings of said lodge, which is contained in one bound volume now in the Manuscript Division of the Library of Congress, marked "Williamsburg Lodge, 5775," and which manuscript was taken from the files of said lodge during the Civil War by some party or parties unknown.

The SPEAKER. The gentleman from Illinois [Mr. MANN] asks unanimous consent that this resolution be considered as passed. Is there objection? [After a pause.] The Chair hears none.

AMERICAN ACADEMY OF ARTS AND LETTERS.

Mr. SLAYDEN. Now, Mr. Speaker, I was suggesting that on the Speaker's table is the bill S. 1424, which is identical in phrasing with the bill I have just moved to take up. Therefore I move to substitute that for the House bill.

The SPEAKER. The gentleman from Texas moves to substitute the Senate bill S. 1424 in lieu of the House bill of similar tenor called up on Calendar Wednesday. Is there objection?

Mr. DIES. Reserving the right to object, would that in any way interfere with the consideration of this resolution?

The SPEAKER. Not a particle. All there is to it is that the Senate passed a bill, and the House has one on the calendar exactly like that. He asks to have the Senate bill considered in lieu of the House bill. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the Senate bill.

The Clerk read as follows:

An act (S. 1424) incorporating the American Academy of Arts and Letters.

*Be it enacted, etc.*, That William Dean Howells, of Maine; Henry Adams, of the District of Columbia; Theodore Roosevelt, of New York; John Singer Sargent, of Massachusetts; Daniel Chester French, of New York; John Burroughs, of New York; James Ford Rhodes, of Massachusetts; Horatio William Parker, of Connecticut; William Milligan Sloane, of New Jersey; Robert Underwood Johnson, of New York; George Washington Cable, of Massachusetts; Andrew Dickson White, of New York; Henry van Dyke, of New Jersey; William Crary Brownell, of New York; Basil Lanneau Gildersleeve, of Maryland; Woodrow Wilson, of New Jersey; Arthur Twining Hadley, of Connecticut; Henry Cabot Lodge, of Massachusetts; Edwin Howland Blashfield, of New York; William Merritt Chase, of New York; Thomas Hastings, of New York; Hamilton Wright Mabie, of New Jersey; Brander Matthews, of New York; Thomas Nelson Page, of the District of Columbia; Elihu Vedder, of Massachusetts; George Edward Woodberry, of Massachusetts; Kenyon Cox, of New York; George Whitefield Chadwick, of Massachusetts; Abbott Handerson Thayer, of New Hampshire; Henry Mills Alden, of New Jersey; George de Forest Brush, of New Hampshire; William Rutherford Mead, of New York; Bliss Perry, of Massachusetts; Abbott Lawrence Lowell, of Massachusetts; James Whitcomb Riley, of Indiana; Nicholas Murray Butler, of New York; Paul Wayland Bartlett, of New York; Owen Wister, of Pennsylvania; Herbert Adams, of New Hampshire; Augustus Thomas, of New York; Timothy Cole, of New York; Cass Gilbert, of New York; William Roscoe Thayer, of Massachusetts; Robert Grant, of Massachusetts; Frederick Macmonnies, of New York; Julian Alden Weir, of Connecticut; William Gillette, of Connecticut; Paul Elmer More, of New Jersey; George Lockhart Rives, of New York, and their successors, duly chosen, are hereby incorporated, constituted, and declared to be a body corporate of the District of Columbia, by the name of the American Academy of Arts and Letters.

SEC. 2. That the purposes of this corporation are and shall be the furtherance of the interests of literature and the fine arts.

SEC. 3. That the American Academy of Arts and Letters shall consist of not more than 50 regular members, and the said corporation hereby constituted shall have power to make by-laws and rules and regulations; to fill all vacancies created by death, resignation, or otherwise; to provide for the election of foreign, domestic, or honorary associate members, and the division of such members into classes, and to do all other matters needful or usual in such institutions.

SEC. 4. That the American Academy of Arts and Letters shall hold an annual meeting at such place in the United States as may be designated and shall make an annual report to the Congress, to be filed with the Librarian of Congress.

SEC. 5. That the American Academy of Arts and Letters be, and the same is hereby, authorized and empowered to receive bequests and donations of real or personal property and to hold the same in trust, and to invest and reinvest the same for the purpose of furthering the interests of literature and the fine arts.

SEC. 6. That the right to alter, amend, or repeal this act is hereby expressly reserved.

Mr. SLAYDEN. Mr. Speaker, I ask that this bill be considered in the House as in the Committee of the Whole.

The SPEAKER. This is on the House Calendar.

Mr. SLAYDEN. My colleague from Texas [Mr. DIES] was making some request for information now as to debate on the bill.

Mr. DIES. There are a number of gentlemen who want some time on the bill under discussion.

Mr. SLAYDEN. We have reached it now. How much time does the gentleman want to use?

Mr. DIES. I can not speak for other gentlemen, but I would like about 20 minutes myself.

Mr. SLAYDEN. There will be only two hours, I will say to the gentleman.

Mr. MANN. If the gentleman will yield—

Mr. SLAYDEN. Yes, sir.

Mr. MANN. The gentleman from Nebraska [Mr. SLOAN] will ask for recognition in opposition to the bill.

Mr. DIES. That is precisely, Mr. Speaker, what I propose to do—to ask for recognition in opposition to the bill.

Mr. SLAYDEN. Mr. Speaker, I will say to the gentleman from Illinois, the reason I waited a perceptible length of time was that no one rose.

Mr. MANN. No one had occasion to rise. There was no chance for anybody to rise. Nobody had the floor.

Mr. SLAYDEN. But I asked the question, I will say to the gentleman from Illinois, and was trying to find out whether or not there was to be opposition on that side, and then I turned to my colleague, Mr. DIES.

Mr. MANN. The gentleman from Nebraska [Mr. SLOAN] will probably be able to give the gentleman from Texas [Mr. DIES] some time.

Mr. DIES. Oh, the gentleman from Texas probably will be able to give the gentleman from Nebraska some time.

Mr. MANN. The gentleman will not get time on that basis.

Mr. SLAYDEN. I was endeavoring to ascertain if we could not agree upon a time for debate, perhaps short of that provided by the rule.

Mr. MANN. The rules provide for the limitation of debate.

Mr. SLAYDEN. I said "short of that provided by the rule."

Mr. CLARK of Florida. Mr. Speaker, if the gentleman from Texas will yield to me for a moment, I suggest we take an hour for debate and divide it equally between the opponents and proponents.

Mr. MANN. Personally I am in favor of the bill, but if the gentleman from Texas and other gentlemen in opposition want time, I do not think you can limit it to 30 minutes to a side.

Mr. DIES. If the gentleman from Texas [Mr. SLAYDEN] controls half the time and the gentleman from Illinois controls half the time—

Mr. MANN. The gentleman from Texas [Mr. DIES] is not as bright as he usually is, because I specifically stated that the gentleman from Nebraska [Mr. SLOAN], who was opposed to the bill, was willing to yield to the gentleman 20 minutes, but that did not seem to satisfy the gentleman from Texas.

The SPEAKER. The recognition naturally goes under the practice of the House to the minority side, and the Calendar Wednesday rule fixes two hours for general debate on one of these bills unless it is changed by a vote of the House.

Mr. SLAYDEN. Then, it is understood, Mr. Speaker, that the gentleman from Nebraska [Mr. SLOAN] controls the time in opposition to the bill. I understood the gentleman's position, and I was trying to see if I could reduce the time to less than two hours.

The SPEAKER. The Chair will recognize the gentleman from Texas for an hour and the gentleman from Nebraska for an hour.

Mr. SLAYDEN. Does the gentleman from Nebraska desire to use his time now? I will ask him to consume part of his time now.

The SPEAKER. The gentleman from Nebraska [Mr. SLOAN] is recognized.

Mr. SLOAN. Mr. Speaker and gentlemen, this same measure having been before the House at a former session I opposed it. As I saw it coming up on this day I sought some way to meet the courtly suggestion of the gentleman from Texas [Mr. SLAYDEN] to aid in its passage. I should have been glad to have seen my way clear to do so. I find it difficult to resist the wishes of the gentleman from Texas, whose good fellowship and courtesy are proverbial in this House. His devotion to the public interests, and especially the artistic and æsthetic features of our National Government, the Members of Congress have long known and recognized.

But I find that the title to the bill at this time is "American Academy of Arts and Letters." We should note particularly what we propose to do in the passage of this bill. We authorize the organization of a national corporation under the name of "American Academy of Arts and Letters," and thereby establish in America an organization that will from its name and from location constitute itself a standard for literary and artistic productions in this country.

We must, however, not blind ourselves to the fact that by granting the proposed charter to the eminent gentlemen named in this bill, with its imposing name, we place in the hands of a body of very distinguished men not only the power to standardize literary and artistic achievements and say yea and nay to the ambition of all aspirants outside its pale but we give the membership the power to perpetuate itself through coming generations.

Now, if Congress will amend this bill so that it will be fairly representative, so that it will include the men and women of America, the novelists and historians, poets and philosophers, artists and sculptors, the native born and the naturalized, in every section of this country, and not be open to the charge of provincialism or favoritism, then we ought to favor it. Until that is done we should not grant the power that is evidently included in this bill.

A grant of this power should have such a broad and well-defined purpose and such a fairly distributed personnel as to constitute a guaranty that an artistic and literary aristocracy might not be established which would give mayhap unwarranted advantage to its membership and throw serious obstacles in the way to preferment and advancement of aspiring and deserving outsiders.

I want to call your attention, gentlemen, to the peculiar fact that residences of the 50 names given in the bill, candidates to become the immortals of America, are confined to Maine, New Hampshire, Massachusetts, Connecticut, New York, Pennsylvania, New Jersey, Maryland, and the District of Columbia. But as if to take the curse of provincialism from it, they have reached to far-off Indiana and named one, James Whitcomb Riley.

Now, then, this district or province within which these men come is less than one-sixteenth of the area of the United States; less than four-fifths of the area of the State of Texas. It seems to me that this great Nation of ours, expanded as it has from its early history, not only in area but population, wealth, and education—it is remarkable that all these have followed the course of the sun. It is peculiar that genius in art and literature is confined to the colonial area. This bill would forever confine it to the colonial area by leaving it in the power of these 50 men to appropriate the name of the "American Academy of Arts and Letters," and having the membership, self-selected, continue to confine it within these narrow limits. I am in favor, if you organize an association of this kind, of its being so broad that it will include all the genius of America, as well on the Atlantic as on the Pacific coast, in the North and in the South. [Applause.]

Mr. RAINEY. Mr. Speaker, will the gentleman yield there? The SPEAKER. Does the gentleman from Nebraska yield to the gentleman from Illinois?

Mr. SLOAN. Yes. Mr. RAINEY. Does the gentleman think of anybody in Nebraska that he thinks ought to be in the organization?

Mr. SLOAN. Mr. Speaker, I do. Out in the State of Nebraska to-day, if oratory is not a lost art, there lives as a resident of that State a member of the party of the gentleman from Illinois, a man who has talked to more people in this world, to more audiences, up and down more parallels of latitude and along more meridians of longitude than any of the orators among the 50 candidates for immortality named in this bill. [Applause.] What I say of Mr. Bryan has no relation to his political beliefs or practice, and is wholly without regard to whether his political fortunes are now at flood or ebb. More than that, the poet-philosopher of Lincoln—Bixby—is read by more for his quaint humor and his philosophy than is any of the poets or philosophers named in this list of 50 of the "immortals." He should be entitled to that man-made immortality. And, answering the gentleman further, since he has challenged it, we have a companion State out there—Kansas—which together with Nebraska have a greater area than this province of the immortals.

Mr. MONTAGUE. Mr. Speaker, will the gentleman from Massachusetts permit me to ask him a question?

Mr. SLOAN. From Nebraska. Mr. MONTAGUE. I mean Nebraska.

The SPEAKER. Does the gentleman yield?

Mr. SLOAN. Yes. Mr. MONTAGUE. Does the gentleman think the distinguished gentlemen he mentions desire to be of the incorporators of this academy?

Mr. SLOAN. I do not know whether they do or not. I speak of them, not for them. But I do not propose, where we have ability such as these men have, that we shall vote away to a province the right not only to be and to represent the American Academy of Arts and Letters, but to put it within the power of these 50 self-selected men to say who their successors shall be.

Let me say further that we have in our twin State—Kansas—Ed Howe, the editor-philosopher of the plains, whose quaint sayings, both in practical and profound philosophy, are distributed in nuggets throughout the United States. He is entitled to be one of a body whom we might call the elect.

Mr. MADDEN. Will the gentleman yield? Mr. SLOAN. I yield to the gentleman from Illinois.

Mr. MADDEN. Does not the gentleman think that the establishment of an organization such as is here proposed would have a tendency to create a body of able critics, who would encourage men to rise to a higher standard of excellence in letters and art?

Mr. SLOAN. I presume they would in the little province that they represent, but they have not been able thus far to take over, and I do not want to trust to them the custodianship of the standard of arts and letters of America for the centuries to come. Now, I want to finish in reference to Nebraska and Kansas, and then I will yield to the gentleman from Ohio [Mr. LONGWORTH] and deal with that great State, which has been left without representation among the immortals. Let me also speak of the poet who comes from my own district, loaned temporarily to the State of Kansas, the poet who is read in every community where the English language is presented in print, the poet whose wit and humor appeal to more of the English-speaking people of the world than all the poets named among the proposed 50 immortals. His works are read more than any other poet of any language, living or dead, outside the sacred writings. He is, moreover, the best-paid poet in the world; and yet Walt Mason, whose homely rhymes, breathing rhythmic wit, piquant humor, and quaint philosophy, is not here even suggested for a place among the immortals—

Mr. CLINE. Will the gentleman yield?

Mr. SLOAN. I yield to the gentleman.

Mr. CLINE. I want to ask, just for information, how did the number come to be limited to 50, and who prescribed the rules and qualifications for getting into this body?

Mr. SLOAN. The 50 eminent gentlemen who expect to constitute this body, and by power granted in this bill perpetuate themselves and their neighbors under the broad name of America and the narrow limits of their membership.

Mr. LONGWORTH. Will the gentleman yield?

Mr. SLOAN. I do.

Mr. LONGWORTH. To what tribunal would the gentleman propose that it be left to determine whether proposed members have attained to such a condition of literary excellence?

Mr. SLOAN. This is how I would dispose of it: I propose to introduce an amendment that these people, to whom this bill attributes all the brains of America, and who have seen fit to reside in this little province in the northeast, let it be called the Academy of Northeastern America. [Laughter.]

Mr. HICKS. Will the gentleman permit an interruption?

Mr. SLOAN. Briefly.

Mr. HICKS. I would like to ask the gentleman what relationship there is between State lines and literary ability?

Mr. SLOAN. There should not be any relation, but I do not propose to allow without objection an aristocracy to be established by men many of whom do not seem to know that there is anything or anybody west of the Allegheny Mountains or south of Washington. [Applause.]

Mr. LONGWORTH. Will the gentleman yield?

Mr. SLOAN. I yield to the distinguished gentleman from Ohio.

Mr. LONGWORTH. The remarks of the gentleman [Mr. SLOAN] a moment ago might seem to indicate that I was averse to this bill because I did not see in this list the name of anybody from my State. Even if that were true, Mr. Chairman, I do not see that this bill can be regarded in any sense as a pork measure. [Laughter.]

Mr. SLOAN. The gentleman may support the measure. He occupies an important position. I do not like to go into private affairs, but his position has become important in this country. He is the son-in-law of one of the proposed immortals, Theodore Roosevelt, who, of course, regardless of his splendid career as President of the United States, as historian and author is entitled to be one of the American immortals. In fact, I do not challenge the standing or ability of any of the distinguished men who make up the 50. We do object to their viewpoint that there are no others and that there is no other source. I believe it is an unsound theory that intellect can only thrive where soils are barren.

Mr. ADAMSON and Mr. SLAYDEN rose.

The SPEAKER. To whom does the gentleman yield?

Mr. SLOAN. I yield to Admiral ADAMSON, or, as some one has called him, A-DAM-SON of Georgia. [Laughter.]

Mr. ADAMSON. I wish to inquire if the admirable and facetious gentleman from Nebraska realizes that no mere act of Congress could make these "high brows" as smart as we are. [Laughter.]

Mr. SLOAN. It could not make the "high brows" as smart as the gentleman is. Of course, as to the use of the word "we," my modesty forbids. [Laughter.]

Mr. SLAYDEN. Will the gentleman yield?

Mr. SLOAN. I yield to the gentleman from Texas, who, I desire to say, Mr. Speaker, is one of my candidates for the list of immortals of the United States.

Mr. SLAYDEN. The gentleman from Texas never hopes to achieve such distinction as that.

Mr. SLOAN. Yes; but the gentleman knows that some are born great, while others will have greatness thrust upon them. Of the latter class is my distinguished friend.

Mr. SLAYDEN. Mr. Speaker, some targets are so small that they could not possibly be hit by the lightning of "high-brow" fame. But, Mr. Speaker, I want to call the gentleman's attention to the facts with regard to the birthplaces of these 50 men. Of course, the personnel of this association changes from time to time, because it is composed mostly of elderly men, and they die. A very distinguished member of that body died in Washington last year, Charles Francis Adams. At the time this list was made up there were 17 members whose birthplaces were in New England, 14 were born in New York, New Jersey, and Pennsylvania, 9 were born in the South, 7 in Ohio and Indiana. One was born in England—

Mr. SLOAN. I can not yield further, and I can not agree to pay the price for desertion of the South and going up into the northeast province.

Mr. SLAYDEN. I thought the gentleman would like to know the fact about that.

Mr. SLOAN. I want to call attention further to the fact, as an evidence of its provincialism and exclusiveness, that in this list of immortals who would perpetuate themselves there is not included the name of one American woman. You can not write American history and leave out American womanhood. You can not have a fair representation of American literary and artistic genius and leave out American womanhood. Even out in yonder hall of fame, Statuary Hall, there is a statue erected to a noble woman, Frances Willard, and she seems to get along very well with her cold and silent companions. But there was no room among these 50 American immortals for American womanhood to be represented.

The President of the United States is one of this list, and he is entitled to it, unaided by his proud position as the head of this Government, because of his achievements in the line of letters, as an author, historian, and orator.

Mr. LONGWORTH. I will remind the gentleman that he also has a son-in-law.

Mr. SLOAN. Yes; he has a son-in-law; but you should not make ado (McAdoo) about that. [Laughter.]

More than that, gentlemen, in the Senate of the United States the great HENRY CABOT LODGE, orator, statesman, diplomat, is one of the immortals, and he is entitled to be there. It is suggested that he has a son-in-law, but he is in Massachusetts and he is within the province.

Now, I fail to find an immortal among the 435 distinguished Members of this body. From this body I would have the courtly cavalier from Texas as my first choice [applause], because, in the early days when knighthood was in flower, on the field of battle he would have been known as the "Knight Courageous." In hall of council or on jousting field he would have been called the "Knight Courteous." And on ladies' carpet among the stately dames and damsels fair he would have been known as the "Knight Irresistible." [Laughter and applause.]

I have also read the Sacred Writings; have studied Wordsworth's Intimations of Immortality, and further dwelt upon that deathless soliloquy placed in the mouth of Cato by Addison; and I have come to the conclusion that man is immortal. So I have sat five long years on the side of this aisle content with being a friend to MANN. And then I look up yonder, to that seat of power, where by the side of the eagle and under the flag sits the Speaker. Of him I must say, paraphrasing the old kingly salute, "O Speaker! live forever." [Applause.] But this corporation, if organized, would bar the way, because the Speaker, regardless of his genius, is from Missouri, a part of the proscribed district.

I am in favor of all advancement that may be made. But I am not in favor of giving away to any section or sex of this country, or to any unfairly representative body of men in this country, the right to call itself the American Academy of Arts and Letters, with the power to perpetuate itself, and say to artistic or literary genius in every part of the United States you may or may not have the opportunity of becoming one of the immortals.

Of course, I might be expected to vote for this because one of my name is in the list. That is probably on the same theory that the river and harbor and public-buildings bills are worked, because I, apparently, have a project in William Milligan Sloane. He is a great historian, but a remarkably poor speller. He seems



unable to dispense with that final "e." Darwin's doctrine of elimination of unnecessary finals should be invoked.

Mr. SLAYDEN. Will the gentleman yield?

Mr. SLOAN. Yes.

Mr. SLAYDEN. I want to suggest that already this Congress has chartered seven associations and conferred upon them the right to call themselves the American Historical Association, the American National Red Cross Association, the American Numismatic Association, and the American Academy of Science, and so on. So Congress has set the precedent or adopted the custom.

Mr. SLOAN. The first followed by the second may have been a precedent. As the gentleman suggests, the others added may have grown into a custom, but I do not propose that it shall now by this addition become a disease without a protest.

Yet neither the American Historical Society nor the National Academy of Science are valid precedents for the action proposed here.

The American Historical Society started in with few members, but without limitation. Yet with less charter members it was more representative of the body of the country than is the list proposed in this bill. Any proper person may become a member of that society upon being approved by the executive council, and may continue by the payment of reasonable dues. Further, that society must make periodical reports to Congress and to the Smithsonian Institute.

The National Academy of Science was chartered in 1863, during the Civil War, with special purpose and duty, to serve the country in its stress. Its charter membership, then limited to 50, came from the following:

Maine, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Virginia, Ohio, Indiana, Illinois, Kentucky, Missouri, and California; also the District of Columbia.

It will be recalled that the Southern States were then in secession, and California was the only Northern State then in the Union west of the Missouri River except Kansas. Later, in 1870, Congress passed an amendatory act to that organization's charter, removing the limit on number of members. So that so far as the important and essential objections raised to this bill are concerned, the proceeding is without precedent or parallel.

Mr. PLATT. Will the gentleman yield?

Mr. SLOAN. Yes.

Mr. PLATT. Does not the gentleman think he could accomplish his purpose by introducing a bill to prevent Members from further flocking together?

Mr. SLOAN. No; I could not do that. That is the difficulty here. Men seek to obtain this exclusive name, American Academy of Arts and Letters, giving them the power to hold themselves before the American people as the artistic and literary censors; to say what poem should be authoritatively approved and what pictures may be hung. We want no aristocracy in letters any more than we do politically.

Mr. PLATT. Will the gentleman yield again?

Mr. SLOAN. Yes.

Mr. PLATT. If William Jennings Bryan was elected a member of this society, would he naturally move to New York?

Mr. SLOAN. He might. Mahomet went to the mountain. It was merely a place to be walked on. What I have said of Mr. Bryan relates to his matchless art. Of course, New York would like to get all of our literary talent. They need it. It might raise the general average of the little old town. I challenge the gentleman to say that these 50 men or anyone through their authority have asked any of these western gentlemen to become members of this exclusive body. Rather than establish this organization by congressional authority in this manner, we should wait until America's votaries of letters and arts, after discussion and full deliberation, give in crystallized expression a broad, sound, and liberal basis for an organization representing all America. It should have a basis coextensive with America's boundaries, worthy of her genius, and as varied as the excellence of her brilliant sons and daughters. [Applause.]

Mr. Speaker, I reserve the balance of my time.

Mr. SLAYDEN. Mr. Speaker, I yield 10 minutes to the gentleman from Illinois [Mr. RAINEY].

Mr. RAINEY. Mr. Speaker, I understand from the argument of the gentleman who has just taken his seat that his principal objection to the bill we are considering is that it provides for the incorporation of a self-constituted body of men who shall proceed to perpetuate themselves indefinitely. Now, if that is the objection the gentleman makes to the proposition of incorporating the American Institute of Arts and Letters, there is nothing in his position.

I want to tell the gentleman how these 50 names were selected. They did not select themselves. The American Acad-

emy of Arts and Letters was founded in 1904. It was a branch or an interior organization of the National Institute of Arts and Letters, and the National Institute of Arts and Letters was in its turn founded in 1898 by the American Social Science Association. The American Social Science Association was incorporated by Congress. So this proposed organization traces its origin back to the American Social Science Association, and the authorization of the incorporation of that association was made by this body.

This is the way in which these 50 gentlemen were selected: In the first place, 7 members were selected by ballot as the first members of the academy, and this selection was made by the members of the National Institute of Arts and Letters. These 7 members selected 8 others. Those 15 members selected 5 others, and the 20 members thus chosen selected 10 other members, and these 30 members constituted the original American Academy of Arts and Sciences. Many of them are not now living, but here are the first 7 members, selected as I have indicated, who formed the nucleus of this organization: William Dean Howells, editor of magazines; Augustus Saint Gaudens, sculptor; Edmund Clarence Stedman, author; John La Farge, mural painter and decorator; Samuel Langhorn Clemens, man of letters—and of Missouri, as somebody has suggested—born in Missouri, on the banks of the Mississippi River; John Hay, man of letters; Edward McDowell, the greatest musical composer this country has yet produced. These were the 7 original members. These members selected the next 8 and the 15 selected the next 5, and the 20 so chosen selected the next 10.

Now, can even the gentleman from Nebraska [Mr. SLOAN] suggest any substitute for any one of these original seven members of the American Academy of Arts and Sciences? William Dean Howells is the only one who is now living. It is proposed to incorporate the American Academy of Arts and Sciences, and the object of incorporating it is to enable it in a more effective way to further the interests of literature and of the fine arts.

That is not a sectional matter. In the old days of the literary supremacy of Athens, if they had been organizing an academy similar to this, they would have found no qualified members anywhere in the world except in Athens, an exceedingly small part of the earth's territory, and yet, if the gentleman from Nebraska [Mr. SLOAN] had been living in Athens in those days, with his ideas of arts and literature, and methods in which these matters ought to be promoted, he would have insisted on selecting some member from the middle of Asia and some one else from Siberia. According to his theory, if an organization of this kind were being effected in the days of the literary and military supremacy of the Roman Empire, he would have insisted that the biggest part of that Empire was the Desert of Sahara, and that they ought to go somewhere out into the Desert of Sahara and find some savage Arab chieftain and put him on the list, in order that the Desert of Sahara might be properly represented. [Laughter.]

I am not aware of the fact that we do much here in this body to perpetuate the arts and literature. We make speeches here, and we print them in the CONGRESSIONAL RECORD, but even the speech which was just made by the gentleman from Nebraska [Mr. SLOAN] is not much of a contribution to the literature of the world, and I doubt whether it will be read to any considerable extent outside of his district, and it will not be read there unless he sends a copy of it to every home in his district, to show how anxious he is that the wheat fields of Nebraska and the sand dunes of the western section of his district shall have the opportunity of having a member on this original board, so that somewhere out amid the wind-blown barrens of Nebraska a St. Gaudens may be developed.

Mr. CARAWAY. And what is the gentleman going to do with his speech?

Mr. RAINEY. It will be printed in the RECORD to-morrow morning. It is not my present intention to send it out. I will say to the gentleman, I have the right to send it out, but the gentleman need not worry about that. I am not pretending to make any contributions to either literature or art, though I believe I can make as valuable a contribution as the gentleman who is now interrupting me can make, and it will live just as long, and that would not be very long.

Mr. CARAWAY. And the gentleman has taken ten times more time to make it than I would, though it would not last ten times as long.

Mr. RAINEY. Mr. Speaker, this organization is to be empowered to receive bequests and donations and to hold the same in trust and to invest and reinvest these funds for the purpose of furthering literature and the fine arts. Can there be any possible objection to that? A nation makes a place in history proportionate to the place it attains in literature and the arts.

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

Mr. SLAYDEN. Mr. Speaker, I yield five minutes more to the gentleman.

Mr. RAINEY. Here in this body we occupy much time inventing methods of getting money into the Treasury, and then we occupy the rest of the time in inventing methods of getting money out of the Treasury; about the only contribution we make to the arts is to frequently authorize for some sixty or seventy thousand dollars some one to manufacture representations of soldiers with dangling swords and cocked hat, mounted on impossible prancing horses, and we put them on every corner of this Capitol until we have now almost as many statues of that kind as they have in all the rest of the world—every one of them offending and violating all of the ideals of beauty and art that have prevailed in the world since the days of the literary and artistic supremacy of the Grecian States. It is not going to hurt this country or its Capital, and it is not going to hurt Members of Congress to authorize the incorporation of an association which shall have for its object, and its sole purpose, the furtherance of literature and of fine arts.

New York and New England have a way of attracting men who become prominent in literature and in the arts. The great publishing houses are there, the great magazines are published there, the great centers of population are there, the great contributions to art and to the beauty of our present civilization are there, and of course these men who love art and literature and beauty flock to that section of the country. Why, Mark Twain, one of the original seven, came to New York from Missouri; and if any of these men mentioned by the gentleman from Nebraska [Mr. SLOAN] as being entitled to consideration really do anything that establishes for them the reputation of being great artists, or contributing something to the literature of the country which is going to last throughout the ages, we will find them coming to the northeastern section of this country.

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

Mr. RAINEY. Certainly.

Mr. LONGWORTH. May I suggest to the gentleman that the criticism of my very good and distinguished friend from Nebraska [Mr. SLOAN] carries with it an implied criticism upon the activities of the two gentlemen who represent his State in another body because they did not lift their voices against this bill—in fact, no Member of that other body did, as it passed unanimously?

Mr. RAINEY. That is true.

Mr. MADDEN. Perhaps the gentleman is jealous because the distinguished orator from Nebraska, Mr. Bryan, is not one of the 50.

Mr. RAINEY. Mr. Speaker, I have never heard from that side so many compliments for Mr. Bryan. [Laughter.] And I never heard that Mr. Bryan claims a place in any organization of this kind.

Mr. SLOAN. And, Mr. Speaker, I never have heard such a lack of defense of the peerless leader as I am observing now upon that side. [Laughter.]

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

Mr. SLAYDEN. I will ask the gentleman from Nebraska [Mr. SLOAN] to use some of his time now.

Mr. SLOAN. I yield 20 minutes to the gentleman from Texas [Mr. DIES].

Mr. DIES. Mr. Speaker, we have in the past killed this bill. Is it two or three times? Somebody tell me how many times we have killed it?

Mr. SLAYDEN. Does the gentleman want information in reference to that?

Mr. DIES. Yes; I will be glad to have it.

Mr. SLAYDEN. The only time the bill came up for consideration before was on a motion to suspend the rules, and a clean, effective, satisfactory majority voted for it, but not quite the two-thirds.

Mr. DIES. My recollection is that I have spoken against it twice myself.

There never was any old reason offered in the House for the passage of this bill. It has been up a number of times. Not one real reason has ever been offered for its introduction here, or any reason offered why we should pass it and make it a law. I have heard no new reason offered to-day for its passage.

There is a reason why you gentlemen ought not to deal with this question. Now, these 50 persons are perfect strangers to you, most of the time. Of course, my friend RAINEY and my friend SLAYDEN and myself understand their writings and paintings perfectly well; but most of you gentlemen—"honest injun" now—you are about to put your provincial hands to the stamping of 50 immortals, when there are not 50 men in the House

who have ever read a book or seen a painting written or painted by any one of these persons, except it was written by Mr. Roosevelt about that bewhiskered bird that cracks nuts in the middle of the night. [Laughter.] And some of us have read *The New Freedom*. [Laughter.] The Members of Congress, most of you, come from States which have no person within the limits of the State sufficiently erudite to be in this list of immortals, from Nebraska, from Texas, from Illinois, from Ohio, from Michigan—from Detroit—and also, we are going to put our—

Mr. MADDEN. What about Ford?

Mr. DIES (continuing). Novitiate hands to the task of placing the stamp of immortality on others.

Do you know, if these gentlemen came in here now, Mr. Sloan and Mr. Underwood Johnson—I believe the latter is better known than the rest, having lobbied for the bill—unless somebody told us they were coming, I would not know them. [Laughter.] Of course, my friends RAINEY and SLAYDEN understand the question. They have had three years to look it up. They have read *Who is Who in America*, and they know these gentlemen. You see when a man puts himself in *Who is Who*, he writes it himself, and that is about the only literary product of any of these 50 outside of *The New Freedom* and the bewhiskered bird incident that the gentlemen are familiar with.

There are some provisions in this bill that have a funny sound to me, or rather would have had a funny sound to me before I came to Congress. I have learned to accustom myself to all sorts of sounds since I have come here. This says:

The American Academy of Arts and Letters shall consist of not more than 50 regular members, and the said corporation hereby constituted shall have power to make by-laws and rules and regulations; to fill all vacancies created by death, resignation, or otherwise; to provide for the election of foreign, domestic, or honorary associate members, and the division of such members into classes, and to do all other matters needful or usual in such institutions.

Of course, the thing would not be entirely what the toadies want it to be, unless we can get a scorbutic duke or ramrod count from across the way, and when they bring the aforesaid Italian or Frenchman, or whoever they bring over to give added respect to the nobility here, they set in to make classes. I can see now class No. 1, with Prince So-and-So, or Baron Astor, or Sir Hiram Maxim. If they get the Maxims, they ought to put Hudson in. He wrote a book called *Defenseless America*. He is an employee of the Du Pont Powder Co. and author of the *Battle Cry of Peace*, that has made more ignorant women and little children shudder in this country than anything else.

Now, right along with that bewhiskered bird, Hudson Maxim, with his defenseless America and smokeless powder, ought to be nobility. It would be an oversight on the part of gentlemen not to put him in there. When they start with these classes, of course, first having shown the courtesy to the foreign gentlemen to arrange them into class 1, then there should be a different distribution of classes.

Of course if Confucius were living now he would not be in it, because he said a man who would not live upon rice and use his bended arm for a pillow, that he might apply himself to study, was not worthy the name of a scholar. They kicked him out in his day, and so they would in this country. If Shakespeare were living now, well—he committed several unpardonable sins, so far as this Congress is concerned, anyway. I recall one thing he said:

Get thee glass eyes, and like a scurvy politician seem to see things thou dost not.

That would debar Shakespeare. [Laughter.] If Robert Burns were living now—I am told they have practically nothing in the library now to remind one of Robert Burns. He certainly was so uncouth a man that he, the author of *Tam O'Shanter*, would not be allowed in these 50 immortals.

You remember he says:

Kings may be blest, but Tam was glorious,  
O'er a' the ill's o' life victorious.

[Applause.]

As bees flee hame wi' lades o' treasure,  
The minutes wing'd their way wi' pleasure.  
But pleasures are like poppies spread,  
You seize the flow'r, its bloom is shed;  
Or, like the snow falls in the river,  
A moment white—then melts forever.  
Or like the borealis race,  
That fit ere you can point their place.

Tied, the tenant of a landlord, to his plow, too poor, too neglected by the literary men of his time even to be given a place of decency; not the President of the United States, ex or present, not the discoverer of unknown and whiskered birds, not the author of the *Battle Cry of Peace*, but an excise man, whose job it was to test the strength and gravity and purity of the liquors they drank in merry old Scotland. [Applause.]

I do not know; I have been a great reader of books in my time, but I confess I have never read anything that has been written by any of this aggregation, except the President and the ex-President. [Laughter.]

Now, there was Samuel Johnson, the author of *Rasselas* and other publications that now escape me—

A MEMBER. The dictionary!

Mr. DIES. Yes; he wrote the dictionary, but his Rambler was his best work. He said a book was not fit to be read until after it had been written more than seven years. The great philosopher of France—his name has escaped me; not Montesquieu, but Miguel Montaigne, the great philosopher—said it was never safe to pronounce greatness upon any man until he was dead.

Now, gentlemen, I could not understand or fully appreciate a painting when I see it, or know whether it had been gotten up by the O. N. T. Thread Co. or one of these immortals. [Laughter.] Here we sit, taking up the time—and I am taking up the time—of the American Congress, imitating and toadying to foreign institutions, and wanting to reach out and connect Americanism with something that is un-American. [Applause.] John Randolph of Roanoke, whose liver was somewhat out of fix, never said a truer thing than when he said there is a universal frailty in human nature, a desire to connect yourself with somebody that is great.

There is a spirit of toadyism about this bill. Let these 50 men elect themselves to immortality as Shakespeare did; as Confucius, the Chinese philosopher, did; as Burns, the Scotch poet, did, and Gray, the English poet, did, when he wrote his *Elegy*. Let them elect themselves to immortality by writing themselves into worthiness of immortality. [Applause.]

If I were going to put the stamp of my approval on Mr. Roosevelt and on Mr. Wilson—two excellent gentlemen [laughter]—I would include the entire Cabinet of each one of them. What can a President do without his Cabinet? [Laughter.] I would get GARNER, of my State, on it. He is on the Committee on Ways and Means, that appoints committee assignments here. [Laughter.] I would like to have the Speaker on it. And I regard the ex-Speaker of this House [Mr. CANNON] as one of the keenest intellectual blades I have ever known in my life. [Applause.] I do not know that anybody can say I am toadying to him. [Laughter.] If he does, it would be the first time. I regard him as the brightest intellect I have known since I have been in Washington, I will say. Why not put him in there? You have put in alleged statesmen and politicians and people who have painted pictures that you never saw and which you would not understand if you did see them; men who have discovered birds with whiskers, that crack nuts all through the night, birds that were seen and commented upon a hundred years ago by Von Humboldt, of which he has left a record for our memory.

I understand that some of the men who have written books and articles in this list have retracted some of their works. [Laughter.] I ask, is the immortality based on the books themselves or on the retractions thereof? [Laughter.] Sometimes recantations possess more literary value than the things recanted. I remember Andrew Carnegie protested there was no such thing as a trust, but later on he retracted that and organized a trust, and now he says there ought not to be such a thing as a trust. [Laughter.]

This House is a fine body to make laws, to get what is coming to us in the various bills that have been passed, to see that our relatives in the Army and in the Navy are properly taken care of, to see that we get what is coming to us for our streams and waterways in river and harbor bills, to see to it that the people's money is voted away for this, and that, and the other thing. That is our business. We are hard-headed, practical men, but we are not judges of what constitutes literary or artistic merit. I have not met any literary men in this Congress since I have been here. [Laughter.] I have met nobody except, perhaps, Mr. RAINEY and Mr. SLAYDEN who are competent to put the stamp of their approval on those who shall go down through the ages as "immortals," whose works should not be allowed to die. There are some practical politicians here, but no profound literary critics. Some of us read the headlines, some of us read the large print in the *CONGRESSIONAL RECORD*; but this House is not what I should call a literary body. [Laughter and applause.] I would not submit to the Congress for its approval an article that I expected would make my name immortal. [Laughter.]

Of course, there have been some very unfortunate things along that line. The French philosopher, Montesquieu, submitted his two volumes, from which our existing Government is in a large measure taken, the *Spirit of the Laws*, to three friends, and what about it? The whole three agreed unani-

mously that if he published it he would make an ass of himself for all time. [Laughter.] But his egotism, Mr. Speaker, was such that he published that work in spite of the unanimous verdict of his three friends that it was worthless, and it is the only thing that he is now remembered by. There are critics in the world that could pass upon those who should be immortals; but we, gentlemen, who are almost perfect strangers to their works and arts, should not attempt to pass upon them. I do not think this type of bill should be brought in here. Let these gentlemen, taken from three or four States—let Massachusetts, Pennsylvania, and New York stamp them as immortals. Why come down here and get provincial persons like myself or provincial persons like my friend GARNER and my friend SLOAN and MARTIN MADDEN, or anybody else nearly, to attempt to do it? [Laughter and applause.]

Why do not they get the State that has produced this wonderful crop to stamp them? [Laughter.] It seems that the 48 States did not do it. The United States did not do it. These rare plants of literary genius and works of art; this wonderful aggregation were produced in three or four States. Let those States under their State laws incorporate them and stamp them. But if I, as a Member of Congress, am to vote upon a work of art, be it poetry or history or painting, rough though I am, uneducated, untutored, and provincial as I am, you must trot out your poetry and let me hear it read. [Laughter.] Let the men who want this bill bring in a painting and let us see it, and we will pass upon it. Of course we are not capable of doing it. We would not know whether it was one of GUSSY GARDNER'S preparedness maps or a painting by one of the distinguished Members of this organization. [Laughter.]

But before I vote for it, not knowing a person in this list and never having read anything written by one of them that is worthy to be perpetuated as a work of literature—I say that advisedly; I do not know a thing written by a man in this list that will go ringing down the corridors of time as great literature. As long as they print the Bible, the works of Shakespeare and Bunyan, and Æsop's Fables men will never stop to read much of the writings written by those who constitute these 50 so-called immortals. [Applause.] I suppose when we become sufficiently effete, if they will print some of this stuff in large headlines and run it in the current daily papers we will read the headlines in regard to it, but never unless something of that kind occurs; and I say it, meaning just what I say, I am not competent to pass upon the literary merits of any man. I would take Burns and Æsop's Fables and Shakespeare and the Bible and I would stop there, and if I were a hermit and going to live in a cell, as sometimes I wish I was, I would not want much else than the Bible and Shakespeare and Burns and Æsop's Fables to make my shelf a library. I am not competent to pass on the works of these gentlemen. I do not know them. I do not know their works. I do not know anybody who knows enough to do so, unless it is my friend RAINEY or my friend SLAYDEN, and if they know anything about it they do you wrong not to tell you what they know about it. [Laughter.]

Of course, if we are going to put in the names of any politicians, why, I would select three men who I think have done more useful work here since I have been a Member of Congress than any other three men in the House, barring the Speaker. You always want to take consideration of the men in power, of course. But BEN JOHNSON, of Kentucky, saved about \$2,000,000 to the Federal Government. CLYDE TAVENNER showed that the greedy hands of the men who would profit by it were behind the preparedness movement. The other gentleman's name will come to me in a moment. Oh, yes; Judge Witherspoon, now deceased, who proved that the American Navy was second in the world. [Applause.] Put their names in. Put in the names of men who stand here in an unpopular cause and who are the champions of what they conceive to be right. Do not wait until such a man gets elected to some big office to put in his name.

Now, with all due respect to Mr. Roosevelt and Mr. Wilson, it takes the very best that is in any man to read anything that either one of them ever wrote. Their works are tremendously profound, punctuated with erudition. They tell us of great makers of States and the destinies of nations, but a man has got to drink coffee every 15 minutes if he sits up at night to read them, I will tell you that. [Laughter.] Moreover, they are both young men, in their prime. They are seeing things differently now than they saw them when they wrote those books. I am afraid we ought to hesitate in writing them down as immortals, for they may retract the balance of what they have said before this bill finally passes. [Laughter.] Think of putting the stamp of the American Nation on men and calling them immortals while they are holding office and alive and kicking around. Why, they may disgrace themselves utterly before they die. We all have self-respect. We know that we do not

know scarcely anything about a majority of these men. We are offering here to put the stamp of our approval by our vote "aye" on men whom we know nothing about, who have written articles in uplift magazines that we have never read, or who have painted paintings that we never see, and whose meed, whose equipment for immortality is utterly and absolutely unknown to us, and I suspect is unknown to a great many other people; in fact, all other people. I am not making this speech for distribution. I am not making this speech to be funny. I am not making this speech in order to parade myself as a plebeian, as a Democrat, as an American. I make it because I get sick and tired of this spirit of toadyism that asks the American Congress to put the brand of immortality on men whom we know nothing about. You might as well select a committee of pork packers to pass on the works of art of ancient Greece and Rome. [Laughter.]

Mr. SLAYDEN. Mr. Speaker, I yield 20 minutes to the gentleman from Illinois [Mr. CANNON]. [Applause.]

Mr. CANNON. Mr. Speaker, I have been very much interested in the remarks of my friend the gentleman from Texas [Mr. DIES] and my other friend the gentleman from Nebraska [Mr. SLOAN]. I do not know but they have ridiculed this bill out of the House. I wish I had one-hundredth part of the power that either of the gentlemen has on that line, because perhaps I might be able at least to bruise their heels while they would bruise my head. But, all said and done, what is this bill? The names have been read. Here is one power that is given:

SEC. 2. That the purposes of this corporation are and shall be the furtherance of the interests of literature and the fine arts.

Then they have the power to receive bequests, if anybody is wise enough or foolish enough to make any bequests to them.

"There is no world but this in the vast universe. Men may talk about suns and planets and comets and all that kind of thing, but there is no world but this." "How do you know?" "I have never been on any of them." Gentlemen have ridiculed the names of men here. Well, there are many of them whom I never met. I have had much pleasure, however, in reading the productions of William Dean Howells. I have had much pleasure in reading the graphic and virile descriptions in the Winning of the West, by our late President. I have had much pleasure in reading the works of Mark Twain. Ah, the gentleman from Texas and the gentleman from Nebraska never heard tell of Mark Twain.

Mr. DIES. Is the name of Mark Twain or Samuel Clemens in that list?

Mr. CANNON. I thought he was a member of it.

Mr. DIES. He is dead.

Mr. CANNON. Yes; but was he not one of them?

Mr. SLAYDEN. He was a member of this organization.

Mr. CANNON. Yes.

Mr. SLOAN. If this organization was in full swing when Mark Twain was on earth, why do you want to give it a new lease of life? Let it go on the life that Mark gave it.

Mr. CANNON. You indorse Mark Twain, do you not?

Mr. SLOAN. Yes; I indorse any good man after he is dead. [Laughter.]

Mr. CANNON. Precisely. I indorsed the gentleman both times while he was living, and that is the difference. [Laughter and applause.]

Now, you go along further. Hamilton Mable, of New Jersey; Thomas Nelson Page, of the District of Columbia, now our diplomatic representative abroad. I like Thomas Nelson Page and I believe I have read everything he has ever written, to my entertainment. HENRY CABOT LODGE, Senator LODGE, one of the most virile writers of biography of great men and of history that has lived upon this continent. So, after all, there is here and there a grain of wheat. I might read further. Andrew Dickson White—Dr. White, of Cornell—eminent in diplomacy and scientific attainments, eminent from every standpoint.

Most of these people, if they do not trot in that class—and I can not say how many do have the right to trot in that class—shall they be ridiculed because, as I look through my gimlet hole at the universe, whether it be of literature or art, the size of it is according to the range of my vision. [Applause.]

Now, I have the highest respect for these gentlemen; but, gentlemen, take the National Academy of Science. Great Heavens! I can appreciate it, although what I do not know about science and literature would make a book. Let us be honest and square. My primary education was gotten before I was 13 in a little log schoolhouse. If I am educated at all, it is by virtue of my experience in reading since I arrived at the age of 21. I am not educated greatly. I can prove that by these reporters here when I revise my remarks, or, if not, by the typesetters at the Government Printing Office, for I can not correctly punctuate a

half a dozen sentences to save my life. Oh, yes; I know what a comma is, and I know what a period is, and I know what a dash is, and I know what an interrogation point is, and there it ceases. That interrogation point is very useful to me in punctuation, and I would like to put it in the brain of gentlemen in these two magnificent speeches, so full of wit and ridicule. Why? Oh, gentlemen, we have got to take something on trust; we have got to admit that somebody in the wide world is wise besides ourselves. We would not get along very well if we did not. Let me give you some of my experience with these men. Did gentlemen here ever know Prof. Langley, late head of the Smithsonian Institution, who was succeeded by Mr. Walcott? He was an old bachelor and college professor, although I do not know what college he was connected with. I had the honor at that time to be at the head of the Committee on Appropriations, and when the estimates would come up Prof. Langley would come in to explain them. Let me give you a little thing that happened in the appropriation room. He had gone through the estimates, and then I said, "Professor, is there anything else you want to say?" I had learned to have a very high respect for his scientific attainments, his industry, and his ability. He said, "Yes, Mr. CANNON; I would like \$10,000." I said, "What for?" He said, "To experiment in inventing a flying machine." "Great Heavens," I said, "a flying machine, to ride up in the air." He said, "Now, Mr. CANNON, look here. I don't wonder at that, because you have not given the subject any investigation. Is not a bird heavier than the air? Is not the eagle who soars above in the sunlight heavier than the air?" "Yes," I said. "Don't you think we could devise a machine by which the human animal can navigate the air?" He did not have to make any more speeches, but the subcommittee agreed to it and the full committee agreed to it. Then he said further, "I want \$5,000 to found an astrophysical laboratory." I said, "What is that?" He said, "You know what physical is?" I said, "Yes." "You know what astral is?" I said, "Somebody told me once it was something about the stars." He said, "Mr. CANNON, through all the ages we have had people who have studied the heavens, and we want to study the influence of the sun on the earth's atmosphere and upon the earth." I said, "Five thousand dollars isn't much. You want to make a little laboratory?" He said, "Yes." I said, "Is that all?" He said, "No; there is another very important thing, and that is the study of the rays of light beyond the red." I said, "Great Heavens." [Laughter.] "Are there any rays of light beyond the red?" I knew about orange and green and blue and the other colors of the spectrum. "Well," he said, "there are. I do not know how many, but in the future—I may not live to see it—but it may revolutionize the world."

Well, that went in, and you ought to have seen the magazines and the newspapers, and some of them had almost as much power as the gentleman from Nebraska and the gentleman from Texas: "An astrophysical laboratory." "Going to fly like a bird." Well it did not deter me. I had been ridiculed and cartooned, and I rather liked it, because it gave me a notoriety for profanity and wickedness. [Laughter and applause.]

Well, you know that man did construct a machine, put it on a scow, and went down the Potomac River. It did fly for a minute; it did fly, but the engine was imperfect. He was the discoverer; and then the Yankee Wrights caught on to it a little later and improved the engine, and you now have the aeroplane. It is the same plan exactly. But, gentlemen, after all, if we are to legislate upon what we know absolutely, each man giving advice—and there are 425 of us—if we have to get around and can not take anything from anyone but from each other, we would not have much legislation.

Now, you talk about art. I do not know much about art; and you talk about literature, and I do not know much about that; but I want to tell you that when we are dead and gone, most of us—and that especially applies to me—Indiana's favorite poet, James Whitcomb Riley, will live. [Applause.] Mr. Speaker, once when the Clover Club, during the days of the World's Fair, came to Chicago a man who is now dead, then the head of the Chicago Record-Herald, entertained the club, and I had the honor of being present. There was present also Oglesby, Henry Watterson, George F. Root, the man who composed the music for the songs during the war and since, and a great many others. We had a great time. While we were drinking water—it was colored a little bit—Mr. Sol Smith Russell, the actor, who was there, got up, with his swallow-tail coat on—and he looked just as he always did on the stage—and he gave just a little twist to his hair and then recited, "Good-by, Jim; take keer o' yourself." And when he had finished that recital Henry Watterson jumped up from his seat and ran to him and put his arms around his neck and, with tears streaming out of his eyes, said, "My God, say it again, say it again; say it all night!" [Applause and laughter.] They put every-

body down who was called on; but finally, just after the incident closed, I was called on, and I had sense enough not to try to talk long, but they let me talk long enough to say one sentence. I said, "I have paid many, many dollars to listen to you, Mr. Sol Smith Russell, and I never knew before how you were made up. God made you up." [Applause.]

Now, then, take art. I do not know how many of you gentlemen have gone out to the western end of this Capitol and seen on the wall that picture entitled "Westward the Star of Empire Takes its Way." A great artist, I do not now recall his name—I am like my friend, I can not call his name—painted that picture on the wall. There it is. It represents the pioneer from the Atlantic coast on his way westward. There are the steer and the mule hitched up together; there is the woman with the babe in her arms, sitting in the wagon; there is the little grave by the side of the road; and there is the pioneer with his coon-skin cap and the little boy with his coon-skin cap, the grandson or the son, carrying a rifle, followed by the faithful dog; another stands upon the mountain and looks to the westward. Ah, Mr. Speaker, I was a part of that picture in a way, and by that I mean that I experienced most that it represented in the pioneer days, and as I looked upon that picture the first time, though I am not given much to tears, I caught myself crying, and during all the years since I have never glanced toward it without saying to myself, "God bless the man who painted that picture." [Applause.]

Take the statue by French of the Minute Man at Concord. Who is French? Why, since Saint Gaudens, French is, in my judgment, the greatest living sculptor. He is a great man; Saint Gaudens was a great man. Take Saint Gaudens's statue of Lincoln as it stands in Lincoln Park at Chicago, in all its majesty. No American can look upon it without being a better man, a more patriotic man. Then, you have great architects. "Well," you say, "are not some of them fools?" Yes; but I will tell you what is a fact. These architects and "literorians," as a constituent of mine called them once, have not any monopoly on foolishness. [Applause and laughter.]

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

Mr. SLAYDEN. Mr. Speaker, I yield five minutes to the gentleman from Ohio [Mr. FESS].

Mr. FESS. Mr. Speaker, two great speeches—there have been more than that—but, at least, two great speeches were made to-day, both by one man. It has been really a great day for the individual membership of this House. Through the versatility of the Member from Illinois [Mr. CANNON] we have had a fresh view of the great Lincoln. Among the many fine things said by him in the address on this bill now before us I think the most significant was that reference to Sol Smith Russell. It reminded me of Mathew Arnold, the great English writer, the son of the great Dr. Thomas Arnold, when he visited this country, made a trip to Chicago and was there given a dinner. Among other things he said on that occasion was the following: "I have not come to see the great acres of the West, nor the skyscrapers of your great cities; I have come to see the author of 'Little Boy Blue.'" [Applause.] That is an expression of the estimate of a great mind upon the value of letters. It was the same Mathew Arnold who in that masterful essay, "Culture and anarchy," made the statement that the greatness of a nation is not a marketable quantity, that it can not be bought and sold, that it has no commercial value put upon it. The greatness of a nation must consist in a spiritual condition of that nation as expressed in art and letters. [Applause.] He also added that if a nation would prove that it is great it will show its appreciation of that element of greatness. It is now pertinent to ask what is our attitude as a Nation toward these higher qualities. I had hoped that the opposition that has developed here would not develop, not because there is any reason for me to say that men ought not to take a position as they have, but because it might classify the Nation before the world as not appreciating these things that are worth while.

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

Mr. FESS. I appreciate the situation of the opposition. I yield to the gentleman.

Mr. SHERLEY. Might not some of us so appreciate art and letters as not to be willing to undertake to incorporate the greatness of it?

Mr. FESS. The purpose of this bill is to give a legal entity to a group that can promulgate the interests of art and literature.

Mr. MONTAGUE. Mr. Speaker, will the gentleman yield to me in order to ask him a question?

Mr. FESS. Yes.

Mr. MONTAGUE. As suggested by the gentleman from Kentucky [Mr. SHERLEY], might not some of us appreciate educa-

tion so greatly as to refuse to incorporate an educational institution?

Mr. FESS. I think it is a very apt question and a complete answer. What I had in mind was this: That if we desire to promulgate letters and art we ought not to refuse to give this purpose a legal entity by which this sort of interest in our country can be furthered.

When you charge that it is trying to make 50 men immortal, certainly that is an unfair statement. You can not incorporate without having incorporators, and this is purely an arbitrary number, and it is not to be a fixed number except as to regular members. There is a provision here to increase the membership by adding associate members to any limit, and the question that we have to answer is, Do we, as a Nation, favor promulgating the interests in literature and in art? If we do, this is one way it must be done. A famous English writer sneeringly asked back in the twenties, "Who reads an American book?" He meant to make sport of American literature. The inference was that we were nothing but money grabbers. We have so been held by the old countries.

The SPEAKER. The time of the gentleman has expired.

Mr. FESS. May I have just a minute more?

Mr. SLAYDEN. I will extend the time of the gentleman two minutes more.

Mr. FESS. When the question was asked, "Who reads an American book?" that was a suggestion, as I just said, that we had no interest in letters, and it was an English criticism which from a literary standpoint was hurtful. That question was at last answered by Ralph Waldo Emerson in that famous address of his entitled "The American Scholar." And I wish that the friends of the opposition to this proposal would refresh their memories by reading that great treatise on the proper appreciation of what American letters and art should be in the country. Ralph Waldo Emerson's "American Scholar," which was our declaration of independence in the matter of literature compelled foreign recognition.

Mr. LONGWORTH. Will my colleague yield?

Mr. FESS. I will.

Mr. LONGWORTH. My colleague has been on the faculty of a college which has granted honorary degrees. Was the question of the geographical residence of a man upon whom those degrees were conferred ever considered?

Mr. FESS. I will answer my friend, that would be totally out of place, because honors are not granted in that way. They know neither geography nor sectionalism—only achievement in their particular field of activity.

Mr. SLOAN. Will the gentleman yield?

Mr. FESS. I will.

Mr. SLOAN. Was not your institution, referred to by the gentleman from Ohio, a coeducational institution?

Mr. FESS. It is a coeducational institution. The pioneer in eliminating all discrimination in education.

Mr. SLOAN. Why do you not make the society a coeducational one?

Mr. FESS. This is not to exclude any particular people. The gentleman spoke of Miss Willard, whose statue graces the hall out here. That was after she was gone. And the gentleman asks why certain other persons are not here. This group is not to exclude so much as to include. No particular person or persons are excluded. It is simply to meet necessary conditions to give a group of people interested in letters and art a legal entity.

The SPEAKER. The time of the gentleman has expired.

Mr. SLOAN. Mr. Speaker, I yield five minutes to the gentleman from Mississippi [Mr. QUIN].

[Mr. QUIN addressed the House. See Appendix.]

Mr. SLAYDEN. Mr. Speaker, I will ask the gentleman from Illinois [Mr. MANN] if he is ready to take advantage of the five minutes? I yield five minutes to the gentleman from Illinois.

The SPEAKER. The gentleman from Illinois [Mr. MANN] is recognized for five minutes.

Mr. MANN. Mr. Speaker, I had not expected to have time yielded to me, although I am in favor of the bill. I think gentlemen misapprehend a little bit what the bill is. This is not a selection by Congress of 50 gentlemen, celebrated in either art or literature, for the purpose of organizing them into a body corporate. The selection was made by the society growing up as a voluntary organization. They do not ask to have themselves called "immortals." They only ask to have this society incorporated under the name which they now have, and gentlemen on the floor and elsewhere have pointed ridicule at them as "immortals," because these gentlemen recognize the fact—not claimed by the persons themselves, but recognized by their critics—that this body does constitute the cream in America of art and literature of living men. [Applause.]

And, after all, we are a young country. We have not yet attained the heights either in art or literature; we have not yet developed as have the older countries; but we are due to make the development and reach the highest crest that the world has ever seen both in art and literature. [Applause.] And we ought to do everything within our power to excite the ambition of men to do well; to excite the ambition of those who seek to excel either in art or in writing. And we can do it probably no better, so far as the General Government is concerned, than in permitting the creation of an organization which every young writer, which every young artist, will see before him all the time in the determination that, if possible, he shall reach the goal of his ambition by being admitted to membership, not because of wealth, not because of influence, but because of deeds done, works well executed. [Applause.]

Mr. SLAYDEN. Mr. Speaker, how much time did the gentleman use?

The SPEAKER. Four minutes.

Mr. SLAYDEN. The gentleman yields back one minute?

Mr. MANN. Yes.

Mr. CALDWELL rose.

The SPEAKER. For what purpose does the gentleman rise?

Mr. CALDWELL. I would like to ask the gentleman from Texas [Mr. SLAYDEN] a question.

Mr. SLAYDEN. Very well.

Mr. CALDWELL. I would like to know what scheme was used in placing in order the names of these gentlemen?

Mr. SLAYDEN. I will say to the gentleman that there seems to be a misconception in regard to the bill. We are not passing upon the relative merits of any painter, sculptor, or literary man. This is already an organization of the most distinguished living artists and writers. All that they ask of the American Congress is that they be incorporated; that they be granted a charter coming from the National Government. The association has been in existence for a number of years, and it is one of many institutions of like nature which have asked for charters from the Government.

I have here a list of 21 learned and scientific associations chartered by Congress, some of them—three of them—chartered within the last three years. I never heard the question of membership raised in regard to it, or the question of its succession. And I want to say in this connection that there is not a man of any literary or artistic worth who would accept membership of this kind if he were forced upon that body by an act of Congress.

Mr. Speaker, how much time have I used?

The SPEAKER. The gentleman has used two minutes.

Mr. SLAYDEN. Will the gentleman from Nebraska [Mr. SLOAN] use some of his time?

Mr. SLOAN. Mr. Speaker, I yield five minutes to the gentleman from Arkansas [Mr. CARAWAY].

The SPEAKER. The gentleman from Arkansas [Mr. CARAWAY] is recognized for five minutes.

[Mr. CARAWAY addressed the House. See Appendix.]

Mr. SLAYDEN. Mr. Speaker, I yield three minutes to the gentleman from Virginia [Mr. MONTAGUE].

Mr. MONTAGUE. Mr. Speaker, I did not anticipate saying anything upon this bill. I regret that some arguments have been advanced and have received some applause in the House. The first argument advanced is of a sectional character—that some States have no incorporators and others have them in too great numbers. Talent and distinction can not be determined by State or geographical lines.

The next argument is rather arbitrary—that the incorporators and their successors are a body of "immortals." That is purely an arbitrary characterization. There are no facts to sustain any such argument or to support any such fanciful description. I shall support this bill for the reason that I believe the people of a Republic are entitled to all the agencies that make for art and literature that the subjects of an empire are entitled to. [Applause.] I believe that a democracy should have all the opportunities and benefits afforded by a monarchy; that no opportunities and facilities of culture are too good for the American people. [Applause.]

I may not know all of the incorporators, but this confession is rather a reflection upon my intelligence than upon the ability and fitness of the incorporators. [Applause.]

I should hope, gentlemen of the House, that our Republic in its development might stimulate art more than it has done. I would like much to see an appropriation made by Congress at some opportune time, not exceeding annually a certain sum, for the purchase of art for the benefit of all the people of this country who may visit this great Capital. All capitals of the

world are doing it for their people; why should not we do it for our people?

Mr. CLINE. Will the gentleman yield?

Mr. MONTAGUE. I have only three minutes.

Mr. CLINE. They do not limit it to 50, do they; it is an open contest for everybody?

Mr. MONTAGUE. Of course, and I will say to the gentleman that I do not think this is limited to 50 incorporators. The associate members are not limited. I will say further that if any worthy man is rejected, his name will survive nevertheless. Some gentleman has suggested a similar organization in France. Some who have been rejected by that organization have written themselves high on the scroll of fame, and this Congress can make no incorporation capable of limiting the achievements of genius. [Applause.]

Mr. SLOAN. Mr. Speaker, how many more speeches has the gentleman from Texas?

Mr. SLAYDEN. I have 10 minutes remaining, and I expect to yield 3 to the gentleman from Iowa [Mr. GREEN] and use 7 myself.

The SPEAKER. The gentleman from Texas has 9 minutes and the gentleman from Nebraska 7 minutes.

Mr. SLOAN. I have only one speech.

Mr. SLAYDEN. Then I yield 3 minutes to the gentleman from Iowa [Mr. GREEN].

Mr. GREEN of Iowa. Mr. Speaker, after what has been already said on this bill, and especially the remarkable speech made by the most distinguished and venerable gentleman from Illinois, who so long presided over this House, I feel as if I ought not to ask the indulgence of the House even for three minutes, and yet I can not forego it because I have considerable interest in this bill. I profess to no special knowledge in art, and certainly I do not set myself up as having special qualification in literature. At the same time, I think the bill ought to be considered on its merits in all seriousness. When I listened to what was said by the gentleman from Texas [Mr. DIES] and the gentleman from Arkansas [Mr. CARAWAY] I could not but feel that if I attributed to them the ignorance that they profess with reference to the merits of the gentlemen who are named in this bill, I would have their delegations down on me at once as offering an insult to their States. If the Members of this House do not know the most of the men named in this bill it is time that they retired and went back to school. I do not believe it; I do not think it for a moment. These gentlemen have not been selected by themselves and they will not be selected by this House, but they have been selected temporarily by the men who work along with them in this particular line.

Mr. SLOAN. Will the gentleman yield?

Mr. GREEN of Iowa. No; I can not yield, I have only three minutes. I do not wish to yield to my facetious friend from Nebraska, for I want to say something serious about this matter. We may or may not incorporate this association, but we can not stifle their existence entirely. We can hinder them in the progress of arts and letters by preventing their association and preventing their receiving the funds for the promotion of arts and literature, but we can not stamp out of existence entirely their organization. They have asked simply for the privilege of being recognized as an American institution, an American organization, and this small boon ought to be granted.

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

Mr. ADAMSON. Mr. Speaker, will the gentleman from Nebraska [Mr. SLOAN] yield half a minute to answer a question, so as to give me a little information?

Mr. SLOAN. Yes; I yield.

Mr. ADAMSON. I have heard objections to this bill upon the ground of limitation to the number of immortals, and I want to ask the gentleman from Nebraska if the terms of the bill will not permit these immortal incorporators to establish branch offices in different parts of the country and thus meet that objection?

Mr. SLOAN. Mr. Speaker, I regret to answer the gentleman by saying that the bill does not allow the establishment of any branch offices. It is exclusive; it applies to the northeastern section of the United States, to 50 members, and no more. I regret the fact that gentleman pleading for art and literature here have come before this body and said this bill does not confine the membership to 50. It plainly does.

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

Mr. SLOAN. Yes.

Mr. TILSON. Is there anything to hinder 50 other gentlemen celebrated in art and letters from forming themselves into an association and asking for incorporation? Is there anything to prevent them from doing that?

Mr. SLOAN. I want to read what the bill says about how many members shall be selected. Section 3 says:

That the American Academy of Arts and Letters shall consist of not more than 50 regular members.

Yet gentlemen come before you and have said that it is not limited to 50 members. True, it does say something about associate members, but I trust that the gentlemen who talked about associate members will not attempt to insult the intelligence of anybody in this House by saying that an associate member is a member who enters on full equality, with power to vote and power to aid in filling vacancies, such as regular members have.

Now, then, I want to answer the gentleman from Connecticut [Mr. TILSON]. There is no reason why any body of men throughout the United States; or of women, or of men and women, if arts and letters are concerned, would not have the right to associate themselves together and call themselves any name they see fit, and any State in this Union could permit them to become incorporated. But if this Congress gives to these 50 men the right to the name "American Academy of Arts and Letters," then no other body of men in the North, in the East, the South, or the West, or in the Northeast, can establish an academy under that name. It gives the exclusive right to these people in one-sixteenth part of the area of this great Nation, and less than one-third of the population, to the sole use and control of the designation "American." If opportunity presents, I shall submit an amendment to call this "An Academy of Northeastern Americans."

Mr. TILSON. Could not a new group call themselves the American Institute of Arts and Letters?

Mr. SLOAN. They might say that, but I think a great deal of that word "American," and I think I am broad enough to understand that it covers everything from the Atlantic to the Pacific, that it includes not only Nebraska and California, but the nutmeg State, but that it should not be confined to a nutmeg community.

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

Mr. SLOAN. Yes.

Mr. PLATT. Does the gentleman think this bill ought to be founded on the principle of the Federal reserve act, and the country divided into 12 districts?

Mr. SLOAN. I do not, but I want it to be American. I want it to be open to men and women from every State in this Union. I should regret if the gentleman from Ohio [Mr. Fess] saw fit to say that the only woman entitled to be an immortal is dead, in view of the many living splendid intellectual geniuses among the American womanhood of to-day, or that there is not one fit to associate herself with these 50.

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

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

Mr. SLOAN. I yield to the gentleman from Minnesota.

Mr. MILLER of Minnesota. Mr. Speaker, the gentleman will admit that it is necessary to specify the names of some individuals if you are going to incorporate the society at all.

Mr. SLOAN. Yes.

Mr. MILLER of Minnesota. The same as it is necessary in the incorporation of any company to name certain specific incorporators.

Mr. SLOAN. Oh, yes; that is elementary.

Mr. MILLER of Minnesota. That seems to be the only objection the gentleman has to this.

Mr. SLOAN. Oh, no; I have been giving my objections during the afternoon. The gentleman evidently was not present all the time. I object principally to the fact that here are 50 men named in one-sixteenth part of the United States, representing less than one-third of the population of the United States, who ask us to give our sanction to their exclusive appropriation and control for all time of the name "American Academy of Arts and Letters."

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

Mr. SLOAN. Yes.

Mr. SLAYDEN. The gentleman has just made a statement that they have never found a woman worthy to associate with this organization?

Mr. SLOAN. Oh, I made no such statement as that.

Mr. SLAYDEN. Well, that they had not associated one with it.

Mr. SLOAN. They have not associated any woman in the list embodied in this bill.

Mr. SLAYDEN. While living, Julia Ward Howe was a member.

Mr. SLOAN. She was, but is not now.

Mr. SLAYDEN. No; she is not. She is now in the choir of "Immortelles," as I have heard some one say,

Mr. SLOAN. And is it not a reflection upon the womanhood of America that Julia Ward Howe is left, so far as this list is concerned, without one successor in all the broad expanse of this country from the Atlantic to the Pacific?

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

Mr. SLAYDEN. Mr. Speaker, how much time have I remaining?

The SPEAKER. Six minutes.

Mr. SLAYDEN. Mr. Speaker, in six minutes it is quite impossible for me to say what I had hoped to say.

Mr. FESS. Will the gentleman permit me to suggest to him that we have an American Academy of Sciences?

Mr. SLAYDEN. I have a list of all such chartered bodies, and I am going to call attention to that list. Mr. Speaker, I will say now in reply to the suggestion of the gentleman from Ohio, and I wish the gentleman from Nebraska [Mr. SLOAN] would give his attention to it, that Congress has chartered a number of bodies of scientific and learned men upon whom it has conferred the privilege of writing themselves down as of this or that American Society. There is, for example, the American Academy of Rome, the American Cross of Honor, the American Historical Association, and the American Numismatic Association—

Mr. MANN. We just incorporated a few years ago a sister association to this.

Mr. SLAYDEN. Exactly so.

Mr. CANNON. Will the gentleman permit me right there? Would it be possible to incorporate a society and suit these gentlemen with a similar bill to this without putting a hundred million names in it?

Mr. SLAYDEN. I think not.

The sectional idea as advanced here is not only absurd but untrue. Many of these gentlemen named in this bill had their birthplaces and former residences in the South, and some were born in the West. They came from across the continent—California, clean across, embracing Louisiana and Missouri and other States. They were not rich. Few artists and authors are; and so, when they had to make their living in the trade for which they were best suited, in which they had shown skill, they naturally went to the market for their services. Now, we may inveigh against the conditions as much as we please, but we know, as a matter of fact, that the bulk of the population is in the Northeast, that the publishers are there, that the market for the work that these gentlemen have to sell is to be found there. And the charge that it is an aristocratic body is too ridiculous to endure for a moment.

I believe, Mr. Speaker, that in the county of your residence was born one of the most eminent literary men ever produced, one of the strongest and ablest and most robustly American, Mr. Samuel Clemens, better known as "Mark Twain." [Applause.] William Dean Howells, the dean of this corps of literary men, was born the son of a country editor, in humble circumstances, in the State of Ohio, and never had the privilege of a college, never, perhaps, had the money to go to college to get the advantages of a thorough and systematic training. And yet, having genius, he has worked his way to the head of the profession. Augustus Thomas, also of Missouri, born in rather humble circumstances, once a page in the Senate, is perhaps the most distinguished dramatist in this country. St. Gaudens, the great sculptor, was the son of an Irish shoemaker in the city of New York. Aristocracy? Have gentlemen reached the conclusion deliberately that our democracy is to be obscured and that to be a democrat is to be denied the right to achieve greatness and acquire eminence? If so, gentlemen, then your democracy is not what I thought it to be; it is not the opportunity of the people born in humble walks of life. That is not democratic. That would be exclusive. That is intended to exclude some people and is most undemocratic. If the arguments of gentlemen against this bill mean anything, it means that one may be a democrat while ignorant and obscure, but that he becomes an aristocrat the moment he does a great work and his genius is recognized.

Mr. Speaker, there is a curious misconception in the mind of the gentleman from Nebraska [Mr. SLOAN] and my colleague [Mr. DIES] as to what the purpose of the bill is. They speak as if we were passing upon the relative merits of the painters, sculptors, architects, and book writers who are members of the academy. We are doing nothing of the sort. The only question we are called upon to consider is whether we shall grant this association, already in existence, composed of distinguished citizens, the right to be incorporated in this way.

These members of the Academy of Arts and Letters are workmen. They are creative artists. They serve the people as well and more enduringly, no doubt, than any Member of this House.

They are put in this position because of their distinction. They are not distinguished because they belong to this association, but they are in it because they were previously distinguished. They are, I repeat, workmen, the very greatest in their lines, and membership in this association is an inspiration to greater effort. [Applause.]

St. Gaudens, the genius of obscure origin, wrought wonderfully, but did not live long enough to enjoy the fruits of his fame. Yet, Mr. Speaker, he had recognition, for men of genius are not controlled by mean jealousies. They are not ungrateful to their fellow workmen, who, in the language of Dr. Henry Van Dyke, now minister from the United States to the Netherlands, "enrich the world by giving an enduring life to thoughts, emotions, ideals, characters, which are in themselves strong and clear and beautiful enough to be immortalized by art's immortal praise."

When Van Dyke uttered these eloquent words he was acting as spokesman for the National Institute of Arts and Letters, an association of men like unto those who ask a charter for the American Academy of Arts and Letters, and who are in some cases the same men.

St. Gaudens was dead, but his memory lived, and these gentlemen, who have been sneered at as "aristocrats," were honoring the son of the shoemaker by handing to his son their great medal.

Nothing can be so absurd as the talk of aristocracy about a body which is not sectional or partisan and which has no classes except those of brains and capacity for work. They propose to serve the people and will go on serving them, whether you grant or withhold the charter they ask.

The SPEAKER. The time of the gentleman has expired.

Mr. MANN. Debate is exhausted. The only question is on agreeing to amendments. Of course, they have a right to offer amendments, but not discuss them.

Mr. HUDDLESTON. Mr. Speaker, I have an amendment.

Mr. MANN. I suppose there is no objection to formal committee amendments.

Mr. SLAYDEN. The motion was to substitute a former Senate bill.

Mr. MANN. That is right.

The SPEAKER. The gentleman from Alabama [Mr. HUDDLESTON] will send his amendment up, and the Clerk will report the same.

The Clerk read as follows:

Page 1, line 3—

The SPEAKER. The Clerk says that the amendment ought read "line 2."

Mr. SLAYDEN. What is the amendment proposed?

The SPEAKER. The Clerk will report the amendment. We shall then find out where it belongs.

The Clerk read as follows:

Page 1, line 3, after the word "assembled," strike out all the remainder of said paragraph down to and including the word "Letters," on line 3 of page 3, being all the remainder of section 1 of the bill, and insert in lieu thereof the following: "That the American Academy of Arts and Letters is hereby incorporated; that the governor of each of the States of the United States shall be authorized to appoint one member on a board of control of said corporation, and his successor and successors."

The SPEAKER. The trouble probably is that the gentleman has one print of this bill, while we have got another here. Does this come in where the gentleman from Alabama wants it?

Mr. HUDDLESTON. Yes; that is correct.

Mr. HARRISON. Mr. Speaker, I move to lay that amendment on the table.

Mr. MANN. Oh, no.

Mr. HARRISON. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HARRISON. If that amendment is laid on the table, that carries the bill with it?

The SPEAKER. Yes.

Mr. HUDDLESTON. Mr. Speaker, is the amendment not debatable?

Mr. MANN. The debate is exhausted on the bill.

The SPEAKER. The debate is exhausted, and the motion of the gentleman from Mississippi [Mr. HARRISON] is not debatable.

Mr. SLAYDEN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SLAYDEN. I was engaged in conversation here and did not catch the character of the amendment. What is the status if the amendment is laid on the table?

The SPEAKER. It kills the bill. The motion to table, if it carries, kills the bill. The question is on agreeing to the motion to lay on the table.

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

Mr. HUDDLESTON. I call for a division, Mr. Speaker.

The SPEAKER. A division is demanded.

The House divided; and there were—ayes 39, noes 78.

Mr. HUDDLESTON. Mr. Speaker, I make the point that a quorum is not present.

The SPEAKER. The gentleman will wait until the Chair has announced the result. The ayes are 39 on the motion to table and the noes are 78.

Mr. HUDDLESTON. I make the point, Mr. Speaker, that there is no quorum present.

The SPEAKER. The gentleman from Alabama [Mr. HUDDLESTON] makes the point that there is no quorum present. Evidently there is not. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll.

Mr. SLAYDEN. Mr. Speaker, does this vote now occur on the passage of the bill?

The SPEAKER. No; on the motion of the gentleman from Mississippi [Mr. HARRISON] to table the amendment offered by the gentleman from Alabama [Mr. HUDDLESTON], which is practically a vote on the bill—that is, it has the same effect if it carries.

Mr. MANN. It is a motion practically to put it to sleep forever.

The SPEAKER. The question is on agreeing to the motion made by the gentleman from Mississippi [Mr. HARRISON] to lay the amendment offered by the gentleman from Alabama [Mr. HUDDLESTON] on the table. The Clerk will call the roll.

The question was taken; and there were—ayes 82, nays 179, answered "present" 5, not voting 167, as follows:

YEAS—82.

Abercrombie	Finley	Jacoway	Rubey
Alken	Garner	Keating	Rucker
Almon	Garrett	Kincheloe	Russell, Mo.
Bailey	Glass	King	Shackelford
Bell	Godwin, N. C.	Lee	Shallenberger
Blackmon	Gordon	Lenroot	Sisson
Booher	Gray, Ala.	Lloyd	Sloan
Buchanan, Tex.	Gray, Ind.	McClintic	Stafford
Burke	Hardy	McLemore	Stegall
Callaway	Harrison	Mays	Steele, Iowa
Caraway	Hastings	Moon	Tayner
Cline	Hayden	Moss, Ind.	Taylor, Ark.
Connelly	Heflin	Nicholls, S. C.	Thomas
Cramton	Helgesen	Nolan	Thompson
Crisp	Helm	Park	Tribble
Curry	Hensley	Quin	Venable
Davis, Tex.	Holland	Ramseyer	Vinson
Dies	Howard	Rayburn	Wingo
Doughton	Howell	Reavis	Wise
Edwards	Huddleston	Reilly	
Ellsworth	Hull, Tenn.	Rouse	

NAYS—179.

Adair	Estopinal	Konop	Riordan
Adamson	Evans	Kreider	Rodenberg
Alexander	Farley	Lafean	Rogers
Austin	Ferris	La Pollette	Schall
Barkley	Fess	Leshner	Scott, Mich.
Barnhart	Focht	Lindbergh	Sherwood
Beakes	Fordney	Linthicum	Shouse
Britt	Foss	London	Siegel
Britten	Foster	Longworth	Sims
Browne	Fuller	Loud	Sinnott
Browning	Gallagher	McArthur	Slayden
Buchanan, Ill.	Gandy	McCulloch	Smith, Idaho
Burgess	Gard	McGillcuddy	Smith, Mich.
Caldwell	Glynn	McKellar	Smith, Minn.
Cannon	Graham	McKinley	Smith, Tex.
Capstick	Green, Iowa	McLaughlin	Steenerson
Carew	Greene, Mass.	Madden	Stephens, Cal.
Carlin	Greene, Vt.	Mann	Stephens, Nebr.
Cary	Gregg	Mapes	Sterling
Charles	Hadley	Martin	Stone
Church	Hamill	Matthews	Sulloway
Clark, Fla.	Haugen	Miller, Del.	Summers
Conry	Hawley	Miller, Minn.	Sutherland
Cooper, Ohio	Helvering	Mondell	Sweet
Cooper, Wis.	Hernandez	Montague	Switzer
Copley	Hicks	Moore, Ind.	Taggart
Costello	Hinds	Morgan, Okla.	Tague
Cox	Hollingsworth	Mott	Temple
Crosser	Hood	Neely	Tillman
Dale, Vt.	Hughes	Norton	Tilson
Dallinger	Hull, Iowa	Oldfield	Tinkham
Danforth	Humphreys, Miss.	Olney	Towner
Darrow	Hutchinson	Overmyer	Treadway
Davis, Minn.	Igoe	Padgett	Volstead
Dempsey	James	Paige, Mass.	Walsh
Denison	Johnson, Ky.	Peters	Wason
Dill	Johnson, S. Dak.	Phelan	Watson, Pa.
Dillon	Johnson, Wash.	Platt	Watson, Va.
Dixon	Kahn	Porter	Wheeler
Doolittle	Kearns	Pratt	Williams, T. S.
Doremus	Keister	Raney	Williams, Ohio
Dowell	Kennedy, Iowa	Raker	Winslow
Dyer	Kennedy, R. I.	Randall	Woods, Iowa
Elston	Kettner	Ricketts	Young, N. Dak.
Esch	Key, Ohio		



ANSWERED "PRESENT"—5.  
Humphrey, Wash. Mudd

Swift

NOT VOTING—167.

Fields  
Guernsey

- |                 |                 |                |                 |
|-----------------|-----------------|----------------|-----------------|
| Allen           | Dupré           | Kitchin        | Roberts, Mass.  |
| Anderson        | Eagan           | Langley        | Roberts, Nev.   |
| Anthony         | Eagle           | Lazaro         | Rowe            |
| Ashbrook        | Edmonds         | Lehbach        | Rowland         |
| Aswell          | Emerson         | Lever          | Russell, Ohio   |
| Ayres           | Fairchild       | Lewis          | Sabath          |
| Bacharach       | Farr            | Liebel         | Sanford         |
| Barchfeld       | Fitzgerald      | Littlepage     | Saunders        |
| Beales          | Flood           | Lobeck         | Scott, Pa.      |
| Bennet          | Flynn           | Loft           | Scully          |
| Black           | Frear           | McAndrews      | Sears           |
| Borland         | Freeman         | McCracken      | Sells           |
| Bruckner        | Gallivan        | McDermott      | Sherley         |
| Brumbaugh       | Gardner         | McFadden       | Slemp           |
| Burnett         | Garland         | McKenzie       | Small           |
| Butler          | Gillett         | Magee          | Smith, N. Y.    |
| Byrnes, S. C.   | Good            | Maher          | Snell           |
| Byrns, Tenn.    | Goodwin, Ark.   | Meeker         | Snyder          |
| Campbell        | Gould           | Miller, Pa.    | Sparkman        |
| Candler, Miss.  | Gray, N. J.     | Mooney         | Stedman         |
| Cantrill        | Griest          | Moore, Pa.     | Steele, Pa.     |
| Carter, Mass.   | Griffin         | Morgan, La.    | Stephens, Miss. |
| Carter, Okla.   | Hamilton, Mich. | Morin          | Stephens, Tex.  |
| Casey           | Hamilton, N. Y. | Morrison       | Stiness         |
| Chandler, N. Y. | Hamlin          | Moss, W. Va.   | Stout           |
| Chipferfield    | Hart            | Murray         | Talbott         |
| Coady           | Haskell         | Nelson         | Taylor, Colo.   |
| Coleman         | Hay             | Nichols, Mich. | Timberlake      |
| Collier         | Hayes           | North          | Van Dyke        |
| Cooper, W. Va.  | Heaton          | Oakey          | Vare            |
| Crago           | Henry           | Oglesby        | Walker          |
| Cullop          | Hill            | Oliver         | Ward            |
| Dale, N. Y.     | Hilliard        | O'Shaunessy    | Watkins         |
| Davenport       | Hopwood         | Page, N. C.    | Webb            |
| Decker          | Houston         | Parker, N. J.  | Whaley          |
| Dent            | Hulbert         | Parker, N. Y.  | Williams, W. E. |
| Dewalt          | Husted          | Patten         | Wilson, Fla.    |
| Dickinson       | Jones           | Peu            | Wilson, Ill.    |
| Doolling        | Kelley          | Powers         | Wilson, La.     |
| Driscoll        | Kent            | Price          | Wood, Ind.      |
| Drukker         | Kless, Pa.      | Ragsdale       | Young, Tex.     |
| Dunn            | Kinkaid         | Rauch          |                 |

So the motion to lay the amendment on the table was rejected.

The Clerk announced the following pairs:

For the session:

- Mr. LIEBEL with Mr. ROWLAND.
- Mr. DEWALT with Mr. MCFADDEN.
- Mr. FIELDS with Mr. LANGLEY.
- Until further notice:
- Mr. HAMLIN with Mr. SNYDER.
- Mr. O'SHAUNESSY with Mr. STINESS.
- Mr. CASEY with Mr. ROBERTS of Nevada.
- Mr. DALE of New York with Mr. MCKENZIE.
- Mr. HOUSTON with Mr. GUERNSEY.
- Mr. HENRY with Mr. HAYES.
- Mr. PATTEN with Mr. FAIRCHILD.
- Mr. MORRISON with Mr. HUMPHREY of Washington.
- Mr. WM. ELZA WILLIAMS with Mr. GRIEST.
- Mr. STEPHENS of Mississippi with Mr. SWIFT.
- Mr. HILLIARD with Mr. EMERSON.
- Mr. McANDREWS with Mr. HILL.
- Mr. BYRNS of Tennessee with Mr. KINKAID.
- Mr. YOUNG of Texas with Mr. FARR.
- Mr. WALKER with Mr. HASKELL.
- Mr. GALLIVAN with Mr. ROBERTS of Massachusetts.
- Mr. DENT with Mr. GOULD.
- Mr. DUPRÉ with Mr. BACHARACH.
- Mr. MAHER with Mr. MEEKER.
- Mr. LEWIS with Mr. MOSS of West Virginia.
- Mr. EAGAN with Mr. DUNN.
- Mr. SCULLY with Mr. HAMILTON of New York.
- Mr. McDERMOTT with Mr. NICHOLS of Michigan.
- Mr. ASWELL with Mr. POWERS.
- Mr. LAZARO with Mr. PARKER of New York.
- Mr. KITCHIN with Mr. SLEMP.
- Mr. HART with Mr. MORIN.
- Mr. WILSON of Florida with Mr. BENNET.
- Mr. FITZGERALD with Mr. GARLAND.
- Mr. GOODWIN of Arkansas with Mr. MOONEY.
- Mr. WILSON of Louisiana with Mr. FREEMAN.
- Mr. SMITH of New York with Mr. SCOTT of Pennsylvania.
- Mr. STEDMAN with Mr. SELLS.
- Mr. STEELE of Pennsylvania with Mr. SNELL.
- Mr. STOUT with Mr. TIMBERLAKE.
- Mr. TALBOTT with Mr. VARE.
- Mr. TAYLOR of Colorado with Mr. WARD.
- Mr. WATKINS with Mr. WILSON of Illinois.
- Mr. WEBB with Mr. WOOD of Indiana.
- Mr. SHERLEY with Mr. RUSSELL of Ohio.
- Mr. SEARS with Mr. ROWE.
- Mr. SAUNDERS with Mr. PARKER of New Jersey.
- Mr. RAUCH with Mr. OAKEY.

- Mr. RAGSDALE with Mr. NELSON.
- Mr. PRICE with Mr. MOORE of Pennsylvania.
- Mr. POU with Mr. MILLER of Pennsylvania.
- Mr. OLIVER with Mr. MAGEE.
- Mr. OGLESBY with Mr. MCCRACKEN.
- Mr. MURRAY with Mr. LEHLBACH.
- Mr. MORGAN of Louisiana with Mr. KIESS of Pennsylvania.
- Mr. LOBECK with Mr. KELLEY.
- Mr. LITTLEPAGE with Mr. HUSTED.
- Mr. LEVER with Mr. HOPWOOD.
- Mr. HAY with Mr. HEATON.
- Mr. FLOOD with Mr. HAMILTON of Michigan.
- Mr. EAGLE with Mr. GRAY of New Jersey.
- Mr. DRISCOLL with Mr. GOOD.
- Mr. DOOLING with Mr. GILLETT.
- Mr. DECKER with Mr. FREAR.
- Mr. DAVENPORT with Mr. FARR.
- Mr. CULLOP with Mr. EDMONDS.
- Mr. COLLIER with Mr. DRUKKER.
- Mr. COADY with Mr. CRAGO.
- Mr. CARTER of Oklahoma with Mr. COOPER of West Virginia.
- Mr. CANTRILL with Mr. CHIPERFIELD.
- Mr. CANDLER of Mississippi with Mr. CHANDLER of New York.
- Mr. BYRNES of South Carolina with Mr. CARTER of Massachusetts.
- Mr. BRUMBAUGH with Mr. CAMPBELL.
- Mr. BRUCKNER with Mr. BUTLER.
- Mr. BORLAND with Mr. BARCHFELD.
- Mr. AYRES with Mr. ANTHONY.
- Mr. ALLEN with Mr. ANDERSON.
- Mr. BURNETT with Mr. COLEMAN.
- Mr. SMALL with Mr. SANFORD.
- Mr. JONES with Mr. BEALES.
- Until April 15:
- Mr. VAN DYKE with Mr. MUDD.
- For two weeks:
- Mr. SABATH with Mr. NORTH.
- Mr. HUMPHREY of Washington. Mr. Speaker, I am paired with the gentleman from Indiana, Mr. MORRISON. I voted "nay," and I desire to change my vote to "present."
- Mr. FIELDS. Mr. Speaker, I voted "nay," but I am paired with my colleague Mr. LANGLEY. I therefore desire to withdraw my vote and to answer "present."
- The result of the vote was announced as above recorded.
- The SPEAKER. A quorum is present. The Doorkeeper will unlock the doors.
- Mr. SLAYDEN. Mr. Speaker, I move the previous question on the bill and amendments to the final passage.
- Mr. HARRISON. I move to lay the bill on the table, and pending that I move that the House do now adjourn.
- Mr. SLAYDEN. Mr. Speaker, was I not recognized in due form?
- The SPEAKER. The Chair will read the section of the rule that applies.
- Mr. HARRISON. The rule is section 765, on page 327, of the Manual.
- The SPEAKER. The rule is:
- When a question is under debate no motion shall be received but to adjourn, to lay on the table, for the previous question (which motions shall be decided without debate), to postpone to a day certain, to refer, or to amend, or postpone indefinitely, which several motions shall have precedence in the foregoing order.
- The gentleman from Mississippi moves to table the bill.
- Mr. HARRISON. And pending that I move that the House do now adjourn.
- The SPEAKER. And pending that he moves that the House do now adjourn. The question is on the latter motion.
- The question being taken, the Speaker announced that the yeas appeared to have it.
- Mr. HARRISON. Mr. Speaker, I ask for a division.
- The House divided, and there were 63 yeas and 133 noes.
- Mr. HARRISON. Mr. Speaker, I ask for tellers.
- Mr. SLAYDEN and Mr. CANNON demanded the yeas and nays.
- The yeas and nays were ordered.
- The question was taken; and there were—yeas 81, nays 174, answered "present" 3, not voting 175, as follows:

YEAS—81.

- |                |             |               |             |
|----------------|-------------|---------------|-------------|
| Aiken          | Caraway     | Ellsworth     | Hayden      |
| Almon          | Cline       | Finley        | Heflin      |
| Bailey         | Collier     | Garner        | Helm        |
| Bell           | Cramton     | Garrett       | Hensley     |
| Blackmon       | Crisp       | Godwin, N. C. | Hood        |
| Booher         | Crosser     | Gordon        | Howard      |
| Buchanan, Tex. | Curry       | Gray, Ala.    | Howell      |
| Burke          | Davis, Tex. | Gray, Ind.    | Huddleston  |
| Byrnes, S. C.  | Dies        | Harrison      | Hull, Tenn. |
| Callaway       | Edwards     | Hastings      | Jacoway     |

James Keating	Moss, Ind.	Shackleford	Thomas
King	Nicholls, S. C.	Shallenberger	Thompson
Lenroot	Park	Sisson	Tribble
Lloyd	Quin	Sloan	Venable
McClintic	Ramseyer	Stafford	Vinson
McLemore	Rayburn	Stegall	Wingo
Maher	Reavis	Steele, Iowa	Wise
Mays	Reilly	Summers	Woods, Iowa
Moon	Rouse	Tavener	
Morgan, Okla.	Rubey	Taylor, Ark.	
	Russell, Mo.	Taylor, Colo.	

NAYS—174.

Abercrombie	Esch	Kennedy, Iowa	Rodenberg
Adair	Estopinal	Kennedy, R. I.	Rogers
Adamson	Evans	Kettner	Schall
Alexander	Farley	Kreider	Scott, Mich.
Ashbrook	Ferris	La Follette	Sherwood
Austin	Fess	Leshner	Shouse
Barkley	Flood	Lieb	Siegel
Barnhart	Focht	Lindbergh	Sims
Britt	Fordney	Linthicum	Sinnott
Britten	Foss	London	Slayden
Browne	Foster	Longworth	Smith, Mich.
Browning	Fuller	McArthur	Smith, Minn.
Buchanan, Ill.	Gallagher	McCulloch	Smith, Tex.
Burgess	Gandy	McGillcuddy	Snyder
Caldwell	Gard	McKellar	Stephens, Cal.
Cannon	Glass	McKinley	Stephens, Nebr.
Capstick	Glynn	McLaughlin	Sterling
Carew	Graham	Madden	Stone
Carlin	Green, Iowa	Mann	Sulloway
Cary	Greene, Mass.	Mapes	Sutherland
Charles	Greene, Vt.	Martin	Sweet
Church	Gregg	Matthews	Switzer
Clark, Fla.	Hadley	Miller, Del.	Taggart
Conry	Hamill	Miller, Minn.	Tague
Cooper, Ohio	Haugen	Montague	Temple
Cooper, W. Va.	Helgesen	Moore, Ind.	Tillman
Cooper, Wis.	Helvering	Mott	Tilson
Copley	Hernandez	Neely	Timberlake
Costello	Hicks	Nolan	Tinkham
Cox	Hinds	Norton	Towner
Dale, Vt.	Holland	Oldfield	Treadway
Dallinger	Hollingsworth	Olney	Volstead
Danforth	Hughes	Overmyer	Walsh
Darrow	Hull, Iowa	Paige, Mass.	Wason
Decker	Humphrey, Wash.	Peters	Watson, Pa.
Denison	Humphreys, Miss.	Phelan	Watson, Va.
Dill	Hutchinson	Platt	Wheeler
Dillon	Igoe	Pratt	Williams, T. S.
Dixon	Johnson, Ky.	Rainey	Williams, Ohio
Doolittle	Johnson, S. Dak.	Raker	Winslow
Doremus	Johnson, Wash.	Randall	Wood, Ind.
Dowell	Kahn	Ricketts	Young, N. Dak.
Dyer	Kearns	Riordan	
Elston	Keister	Roberts, Nev.	

ANSWERED "PRESENT"—3.

Fields	Kinkaid	Swift
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NOT VOTING—175.

Allen	Eagle	Konop	Powers
Anderson	Edmonds	Lafean	Price
Anthony	Emerson	Langley	Ragsdale
Aswell	Fairchild	Lazaro	Rauch
Ayres	Farr	Lee	Roberts, Mass.
Bacharach	Fitzgerald	Lehbach	Rowe
Barchfeld	Flynn	Lever	Rowland
Beakes	Frear	Lewis	Rucker
Beales	Freeman	Liebel	Russell, Ohio
Bennet	Gallivan	Littlepage	Sabath
Black	Gardner	Lobeck	Sanford
Borland	Garland	Loft	Saunders
Bruckner	Gillett	Loud	Scott, Pa.
Brumbaugh	Good	McAndrews	Scully
Burnett	Goodwin, Ark.	McCracken	Sears
Butler	Gould	McDermott	Sells
Byrns, Tenn.	Gray, N. J.	McFadden	Sherley
Campbell	Griest	McKenzie	Slemper
Candler, Miss.	Griffin	Magee	Small
Cantrill	Guernsey	Meeker	Smith, Idaho
Carter, Mass.	Hamilton, Mich.	Miller, Pa.	Smith, N. Y.
Carter, Okla.	Hamilton, N. Y.	Mondell	Snell
Casey	Hamlin	Mooney	Sparkman
Chandler, N. Y.	Hardy	Moore, Pa.	Stedman
Chipperfield	Hart	Morgan, La.	Steele, Pa.
Coady	Haskell	Morin	Steenerson
Coleman	Hawley	Morrison	Stephens, Miss.
Connelly	Hay	Moss, W. Va.	Stephens, Tex.
Crago	Hayes	Mudd	Stiness
Cullop	Heaton	Murray	Stout
Dale, N. Y.	Henry	Nelson	Talbott
Davenport	Hill	Nichols, Mich.	Van Dyke
Davis, Minn.	Hilliard	North	Vare
Dempsey	Hopwood	Oakey	Walker
Dent	Houston	Oglesby	Ward
Dewalt	Hulbert	Oliver	Watkins
Dickinson	Husted	O'Shaunessy	Webb
Dooling	Jones	Padgett	Whaley
Doughton	Kelley	Page, N. C.	Williams, W. E.
Driscoll	Kent	Parker, N. J.	Wilson, Fla.
Drukker	Key, Ohio	Parker, N. Y.	Wilson, Ill.
Dunn	Kiess, Pa.	Patten	Wilson, La.
Dupré	Kincheleoe	Porter	Young, Tex.
Eagan	Kitchin	Pou	

So the motion to adjourn was lost.  
 The following additional pairs were announced:  
 Until further notice:  
 Mr. KONOP with Mr. DRUKKER.  
 Mr. CARTER of Oklahoma with Mr. FREAR.  
 Mr. CASEY with Mr. HAWLEY.

Mr. CONNELLY with Mr. LAFEAN.  
 Mr. HULBERT with Mr. LOUD.  
 Mr. KEY of Ohio with Mr. MONDELL.  
 Mr. LEE with Mr. MEEKER.  
 Mr. PADGETT with Mr. NORTON.  
 Mr. PAGE of North Carolina with Mr. PORTER.  
 Mr. RUCKER with Mr. SMITH of Idaho.  
 Mr. STOUT with Mr. STEENERSON.  
 Mr. WEBB with Mr. WARD.  
 Mr. BEAKES with Mr. CARTER of Massachusetts.  
 The result of the vote was then announced, as above recorded.

Mr. HARRISON. A parliamentary inquiry, Mr. Speaker. The SPEAKER. The gentleman will state it.  
 Mr. HARRISON. As I understood, the motion of the gentleman from Texas [Mr. SLAYDEN] was for the previous question on the bill and amendments to final passage.  
 The SPEAKER. Yes.

Mr. HARRISON. Is it permissible to ask for the previous question on the bill and all amendments thereto to final passage while an amendment is pending and when the amendment has not been separately considered?  
 The SPEAKER. The rule provides for it.

Mr. HARRISON. Mr. Speaker, I move to table the bill.  
 Mr. MANN. Mr. Speaker, I make the point of order that that motion is dilatory.

Mr. HARRISON. That point comes too late after a roll call.  
 The SPEAKER. We have not come to that yet, and we do not cross the bridge until we come to it.

Mr. MANN. Mr. Speaker, there has been no change whatever in the status of the bill since the House voted upon the question of laying the amendment on the table, which, under the parliamentary practice of the House, would have carried the bill with it, and precisely the same object would have been accomplished if the motion had prevailed as would be accomplished by the present motion. Hence the motion is dilatory.

The SPEAKER. Does the gentleman from Mississippi [Mr. HARRISON] desire to be heard?

Mr. HARRISON. I certainly do. This motion can not be construed as being dilatory. The motion just voted for is for adjournment, a separate and distinct proposition from the motion to table.

Mr. MANN. But I am not speaking of that motion to adjourn.

Mr. HARRISON. But I was getting to the other proposition, to answer the gentleman in a moment. There may be many gentlemen here who would vote for adjournment and vote against the motion to table. There may be other gentlemen who would vote against adjournment and yet vote to table the bill. They are clearly two distinct propositions.

The SPEAKER. The Chair will ask the gentleman from Mississippi a question. A few moments ago, an hour or so, the gentleman from Mississippi made the motion to table the amendment of the gentleman from Alabama [Mr. HUDDLESTON], and the parliamentary inquiry was made as to what would happen if that motion to table prevailed. The Chair answered, and answered correctly, that the tabling of the amendment carried with it the bill, and that it was the end of the whole matter. That motion was to table an amendment, but the effect of it was to kill the bill, if it carried. Now comes the gentleman from Mississippi [Mr. HARRISON] and moves to table the bill itself, which has precisely the same effect. There can not be any two opinions about that. Therefore the Chair holds this motion—

Mr. HARRISON. Mr. Speaker, before the Chair rules, while the effect of the two motions might be the same, because if the House had adjourned it is true the bill would be killed, and if the motion to table the amendment and the bill prevailed it would be killed—

The SPEAKER. It would not have killed the bill if the House had adjourned.

Mr. HARRISON. Oh, if the House had adjourned, this being the last day on which this committee could consider bills, the bill would have failed.

The SPEAKER. But the wheel goes around again, and this would be the unfinished business, if the House had adjourned before the previous question was ordered, when the call to the Committee on the Library came around again on Calendar Wednesday.

Mr. HARRISON. But that may not be, and probably will not be, during this session of Congress.

The SPEAKER. That is true.  
 Mr. MANN. But it may be in a very short time; next week, in fact.

The SPEAKER. The probabilities are that it will be this session the way we are going now.

Mr. HARRISON. If what the Speaker says is true, there may be gentlemen who would prefer to give this bill a decent burial in that way, who might not in the other way; that is, by a vote to table it.

Mr. MANN. But the gentleman is confusing the motion to adjourn with the motion to lay on the table.

The SPEAKER. The question the Chair has to decide is whether this motion the gentleman made to table the bill is practically the same motion he made a short time ago to table the amendment.

Mr. MANN. It is the same thing.

The SPEAKER. If the gentleman desires to be heard further, the Chair will hear him. If he does not, the Chair will rule.

Mr. HARRISON. If the Chair thinks the House would vote the same way on the two propositions, I have nothing further to say.

The SPEAKER. Then the Chair holds that the motion to table is dilatory. The question is on the motion for the previous question on the bill and amendments to final passage.

Mr. HARRISON. Mr. Speaker, is it permissible to get a separate vote on that amendment which is pending?

The SPEAKER. After the previous question is ordered, then the vote comes upon the amendment. The question is on ordering the previous question.

The question was taken; and on a division (demanded by Mr. HARRISON) there were—ayes 141, noes 61.

Mr. HARRISON. Mr. Speaker, I make the point of order that there is no quorum present. [Cries of "Yeas and nays!"] Very well, I will ask for the yeas and nays.

The SPEAKER. Does the gentleman withdraw his point of order of no quorum?

Mr. HARRISON. Yes, temporarily; and I ask for the yeas and nays.

The SPEAKER. Those in favor of ordering the yeas and nays will rise and stand until counted. [After counting.] Fifty-seven Members, a sufficient number; and the yeas and nays are ordered. The question is on ordering the previous question on the bill and amendments to final passage.

The question was taken; and there were—yeas 174, nays 75, answered "present" 5, not voting 179, as follows:

YEAS—174.

Abercrombie	Ferris	King	Rogers
Adair	Fess	Kreider	Saunders
Alexander	Flood	La Follette	Schall
Ashbrook	Focht	Lenroot	Scott, Mich.
Ayres	Fordney	Leshar	Shallenberger
Barkley	Foss	Lieb	Sherwood
Barnhart	Foster	Lindbergh	Shouse
Britt	Fuller	Linthicum	Siegel
Britten	Gallagher	London	Sims
Browne	Gandy	Longworth	Sinnott
Browning	Gard	McArthur	Slayden
Buchanan, Tex.	Glass	McCulloch	Smith, Mich.
Caldwell	Glynn	McGillcuddy	Smith, Minn.
Cannon	Graham	McKellar	Smith, Tex.
Capstick	Green, Iowa	McKinley	Snyder
Carew	Greene, Mass.	McLaughlin	Stephens, Cal.
Carlin	Greene, Vt.	Madden	Sterling
Cary	Gregg	Mann	Stone
Charles	Hadley	Mapes	Sulloway
Clark, Fla.	Hamill	Martin	Sutherland
Conry	Hamilton, Mich.	Matthews	Sweet
Cooper, Ohio	Haugen	Miller, Del.	Switzer
Cooper, Wis.	Hawley	Miller, Minn.	Tague
Copley	Helgesen	Montague	Temple
Costello	Helvering	Moores, Ind.	Tillman
Cox	Hernandez	Morgan, Okla.	Tilson
Dale, Vt.	Hicks	Mott	Timberlake
Dallinger	Hinds	Neely	Tinkham
Danforth	Holland	Norton	Towner
Darrow	Hollingsworth	Oldfield	Treadway
Demsey	Hood	Olney	Volstead
Dempson	Hughes	Overmyer	Walsh
Dill	Hull, Iowa	Paige, Mass.	Wason
Dillon	Humphreys, Miss.	Peters	Watson, Pa.
Dixon	Hutchinson	Phelan	Watson, Va.
Doolittle	Igoe	Platt	Wheeler
Dowell	Johnson, Ky.	Pratt	Williams, Ohio
Dyer	Johnson, S. Dak.	Ragsdale	Williams, T. S.
Edwards	Johnson, Wash.	Rainey	Winslow
Elston	Kearns	Raker	Wood, Ind.
Esch	Keister	Randall	Woods, Iowa
Estopinal	Kennedy, Iowa	Ricketts	Young, N. Dak.
Evans	Kennedy, R. I.	Roberts, Nev.	
Farley	Kettner	Rodenberg	

NAYS—75.

Aiken	Byrnes, S. C.	Curry	Garrett
Almon	Callaway	Davis, Tex.	Godwin, N. C.
Bailey	Caraway	Dies	Gordon
Bell	Cline	Doughton	Gray, Ala.
Blackmon	Collier	Eagle	Gray, Ind.
Buchanan, Ill.	Cramton	Ellsworth	Harrison
Burgess	Crisp	Finley	Hastings
Burke	Crosser	Garner	Hayden

Helm	Lloyd	Reavis	Taylor, Ark.
Hensley	McClintic	Reilly	Taylor, Colo.
Howard	McEmore	Rouse	Thomas
Howell	Moon	Rubey	Thompson
Huddleston	Moss, Ind.	Russell, Mo.	Tribble
Hull, Tenn.	Nicholls, S. C.	Sloan	Venable
Jacoway	Nolan	Stafford	Vinson
James	Park	Steagall	Whaley
Keating	Quin	Steele, Iowa	Wingo
Kincheloe	Ramseyer	Summers	Wise
Lever	Rayburn	Tavener	

ANSWERED "PRESENT"—5.

Church	Humphrey, Wash.	Kinkaid	Swift
Fields			

NOT VOTING—179.

Adamson	Dupré	Tafean	Price
Allen	Eagan	Langley	Rauch
Anderson	Edmonds	Lazaro	Riordan
Anthony	Emerson	Lee	Roberts, Mass.
Aswell	Fairchild	Lehlbach	Rowe
Austin	Farr	Lewis	Rowland
Bacharach	Fitzgerald	Leibel	Rucker
Barchfeld	Flynn	Littlepage	Russell, Ohio
Beakes	Frear	Lobeck	Sabath
Beales	Freeman	Loft	Sanford
Bennet	Gallivan	Loud	Scott, Pa.
Black	Gardner	McAndrews	Scully
Booher	Garland	McCracken	Sears
Borland	Gillett	McDermott	Sells
Bruckner	Good	McFadden	Shackelford
Brumbaugh	Goodwin, Ark.	McKenzie	Sherley
Burnett	Gould	Magee	Sisson
Butler	Gray, N. J.	Maher	Slemp
Byrns, Tenn.	Griest	Mays	Small
Campbell	Griffin	Meeker	Smith, Idaho
Candler, Miss.	Guernsey	Miller, Pa.	Smith, N. Y.
Cantrill	Hamilton, N. Y.	Mondell	Snell
Carter, Mass.	Hamlin	Mooney	Sparkman
Carter, Okla.	Hardy	Moore, Pa.	Stedman
Casey	Hart	Morgan, La.	Steele, Pa.
Chandler, N. Y.	Haskell	Morin	Steenerson
Chipfield	Hay	Morrison	Stephens, Miss.
Coady	Hayes	Moss, W. Va.	Stephens, Nebr.
Coleman	Heaton	Mudd	Stephens, Tex.
Connely	Hefflin	Murray	Stiness
Cooper, W. Va.	Henry	Nelson	Stout
Crago	Hill	Nichols, Mich.	Taggart
Cutlip	Hilliard	North	Talbott
Dale, N. Y.	Hopwood	Oakey	Van Dyke
Davenport	Houston	Oglesby	Vare
Davis, Minn.	Hulbert	Oliver	Walker
Decker	Husted	O'Shaunessy	Ward
Dent	Jones	Padgett	Watkins
Dewalt	Kahn	Page, N. C.	Webb
Dickinson	Kelley	Parker, N. J.	Williams, W. E.
Dooling	Kent	Parker, N. Y.	Wilson, Fla.
Doremus	Key, Ohio	Patten	Wilson, Ill.
Driscoll	Kless, Pa.	Porter	Wilson, La.
Drukker	Kitchin	Pou	Young, Tex.
Dunn	Konop	Powers	

So the previous question was ordered.

The Clerk announced the following additional pairs:

Until further notice:

Mr. TAGGART with Mr. KAHN.

Mr. SISSON with Mr. ADAMSON.

Mr. CHURCH with Mr. SHACKLEFORD.

Mr. BOOHER with Mr. AUSTIN.

Mr. HEFLIN with Mr. DAVIS of Minnesota.

Mr. STEPHENS of Nebraska with Mr. NELSON.

Mr. FLYNN with Mr. COOPER of West Virginia.

Mr. CASEY with Mr. ANTHONY.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED.

Mr. LAZARO, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolution of the following titles, when the Speaker signed the same:

H. R. 9923. An act granting the consent of Congress to the county of Mitchell, or to the county of Baker, both of the State of Georgia, acting jointly or separately, and their successors and assigns, to construct a bridge across the Flint River;

H. R. 10139. An act to authorize the city of Fairmont to construct and operate a bridge across the Monongahela River at or near the city of Fairmont, in the State of West Virginia; and

H. J. Res. 171. Joint resolution to continue in effect the provisions of the act of March 9, 1906.

LEAVE OF ABSENCE.

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

To Mr. SEARS, for 10 days, on account of important business.

To Mr. GOOD, for 10 days, on account of sickness of his father.

To Mr. DUPRÉ, for 10 days, on account of important business.

To Mr. KENT, for 5 days, on account of illness.

To Mr. MOONEY, for 1 week, on account of the death of his father.

ADJOURNMENT.

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

The motion was agreed to; accordingly (at 6 o'clock and 42 minutes p. m.) the House, under its previous order, adjourned until Thursday, April 13, 1916, at 11 o'clock a. m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, reports on preliminary examination and survey of Withlacoochee River, Fla., including channel from Port Inglis to the anchorage in the Gulf of Mexico, and between Stokes Ferry and Panasoffkee (H. Doc. No. 1020); to the Committee on Rivers and Harbors and ordered to be printed.

2. A letter from the chief clerk of the Court of Claims, transmitting a copy of the findings of the court in the case of Mary E. Cowell, daughter and sole heir of William Glenny, deceased, *v. The United States* (H. Doc. No. 1021); to the Committee on War Claims and ordered to be printed.

3. A letter from the chief clerk of the Court of Claims, transmitting a copy of the findings of the court in the case of Louisa Y. Rhea, widow (remarried) of Henry Yates, deceased, *v. The United States* (H. Doc. No. 1022); to the Committee on War Claims and ordered to be printed.

4. A letter from the chief clerk of the Court of Claims, transmitting a copy of the findings of the court in the case of John W. Taylor *v. The United States* (H. Doc. No. 1023); to the Committee on War Claims and ordered to be printed.

5. A letter from the chief clerk of the Court of Claims, transmitting a copy of the findings of the court in the case of Samuel H. Hanway *v. The United States* (H. Doc. No. 1024); to the Committee on War Claims and ordered to be printed.

6. A letter from the chief clerk of the Court of Claims, transmitting a copy of the findings of the court in the case of Jackson Elmer *v. The United States* (H. Doc. No. 1025); to the Committee on War Claims and ordered to be printed.

7. A letter from the chief clerk of the Court of Claims, transmitting a copy of the findings of the court in the case of John H. Davis *v. The United States* (H. Doc. No. 1026); to the Committee on War Claims and ordered to be printed.

8. A letter from the chief clerk of the Court of Claims, transmitting a copy of the findings of the court in the case of Celso Pierucci *v. The United States* (H. Doc. No. 1027); to the Committee on War Claims and ordered to be printed.

9. A letter from the chief clerk of the Court of Claims, transmitting a copy of the findings of the court in the case of Libble M. Nichols, widow of Horatio Nichols, deceased, *v. The United States* (H. Doc. No. 1028); to the Committee on War Claims and ordered to be printed.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. OGLESBY, from the Committee on Patents, to which was referred the bill (H. R. 13618) to amend section 4931 of the Revised Statutes of the United States, reported the same without amendment, accompanied by a report (No. 524), which said bill and report were referred to the House Calendar.

Mr. HERNANDEZ, from the Committee on Irrigation of Arid Lands, to which was referred the bill (S. 1843) to authorize the Secretary of the Interior to acquire certain right of way near Engle, N. Mex., reported the same with amendment, accompanied by a report (No. 525), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HAYDEN, from the Committee on Indian Affairs, to which was referred the bill (H. R. 12426) to authorize mining for metalliferous minerals on Indian reservations in the State of Arizona, reported the same with amendment, accompanied by a report (No. 533), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

#### REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. FOSTER, from the Committee on Claims, to which was referred the bill (H. R. 3238) for the relief of Sarah E. Elliott, reported the same without amendment, accompanied by a report

(No. 526), which said bill and report were referred to the Private Calendar.

Mr. RUSSELL of Ohio, from the Committee on Claims, to which was referred the bill (H. R. 11984) for the relief of William E. Heffner, reported the same with amendment, accompanied by a report (No. 527), which said bill and report were referred to the Private Calendar.

Mr. CAPSTICK, from the Committee on Claims, to which was referred the bill (H. R. 6406) granting the sum of \$450 to Clara Kane, dependent parent, by reason of the death of William A. Yenser, late civil employee, killed as a result of an accident at Philadelphia Navy Yard, reported the same with amendment, accompanied by a report (No. 528), which said bill and report were referred to the Private Calendar.

Mr. MILLER of Delaware, from the Committee on Claims, to which was referred the bill (H. R. 10858) for the relief of William A. Hutson, reported the same with amendment, accompanied by a report (No. 529), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 13027) authorizing and directing the Secretary of the Treasury to credit the stamp account of Isaac R. Strouse, collector for the seventh internal-revenue district, in the sum of \$14,570.42, reported the same without amendment, accompanied by a report (No. 530), which said bill and report were referred to the Private Calendar.

#### ADVERSE REPORTS.

Under clause 2 of Rule XIII, adverse reports were delivered to the Clerk and laid on the table, as follows:

Mr. CAPSTICK, from the Committee on Claims, to which was referred the bill (H. R. 7757) for the relief of Frederick J. Fadner, reported the same adversely, accompanied by a report (No. 531), which said bill and report were laid on the table.

He also, from the same committee, to which was referred the bill (H. R. 10426) for the relief of B. S. Pearsall, reported the same adversely, accompanied by a report (No. 532), which said bill and report were laid on the table.

#### 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. 14446) granting a pension to John L. Johnson; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 12877) granting an increase of pension to Jacob E. Keister; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

#### PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills were introduced and severally referred as follows:

By Mr. CAREW: A bill (H. R. 14529) to extend to certain publications the privileges of third-class mail matter; to the Committee on the Post Office and Post Roads.

By Mr. CARY: A bill (H. R. 14530) to amend section 2 of an act entitled "An act to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon," approved March 4, 1907; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 14531) permitting persons whose employment or business necessitates their absence from their respective States at presidential elections to vote for presidential electors in such other State as they may be on election day; to the Committee on Election of President, Vice President, and Representatives in Congress.

Also, a bill (H. R. 14532) to provide for the retirement of employees in the civil service; to the Committee on Reform in the Civil Service.

By Mr. STEENERSON: A bill (H. R. 14533) to authorize the Secretary of the Interior to issue a patent in fee simple to the District School Board, No. 112, of White Earth Village, Becker County, Minn., for a certain tract of land, upon payment therefor to the United States in trust for the Chippewa Indians of Minnesota; to the Committee on Indian Affairs.

By Mr. STOUT: A bill (H. R. 14534) permitting the Missouri River Transportation Co. to construct, maintain, and operate a bridge across the Missouri River, in the State of Montana; to the Committee on Interstate and Foreign Commerce.

By Mr. JAMES: A bill (H. R. 14535) requiring all public-building bills to be submitted to the Secretary of the Treasury

for investigation and report as to whether proposed buildings and sites are needed and the expenditure justified, and as to the lowest cost at which buildings found necessary may be erected with economy and efficiency; to the Committee on Public Buildings and Grounds.

By Mr. SCULLY: A bill (H. R. 14536) for the extension of the Army remount system by the purchase of pure-bred stallions of a type and breed adaptable to military uses; to the Committee on Military Affairs.

By Mr. FAIRCHILD: A bill (H. R. 14537) authorizing the Secretary of War to donate to the New York State Women's Relief Corps Home, Oxford, Chenango County, N. Y., two bronze or brass cannon or fieldpieces; to the Committee on Military Affairs.

Also, a bill (H. R. 14538) to amend paragraph 207 of the act approved October 3, 1913, entitled "An act to reduce tariff duties and to provide revenue for the Government, and for other purposes"; to the Committee on Ways and Means.

By Mr. DOWELL: A bill (H. R. 14539) requiring the custodian of all public buildings of the United States and all buildings in which post offices are located to raise the American flag on all secular days; to the Committee on Public Buildings and Grounds.

By Mr. MILLER of Minnesota: A bill (H. R. 14575) for the relief of the Pillager Bands of the Chippewa Indians of Minnesota, and for other purposes; to the Committee on Indian Affairs.

#### PRIVATE BILLS AND RESOLUTIONS.

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

By Mr. BARNHART: A bill (H. R. 14540) granting an increase of pension to Daniel W. Nye; to the Committee on Invalid Pensions.

By Mr. BEALES: A bill (H. R. 14541) granting a pension to Samuel M. Pitzer; to the Committee on Invalid Pensions.

By Mr. BROWNING: A bill (H. R. 14542) granting an increase of pension to Frederick M. Chamberlain; to the Committee on Invalid Pensions.

By Mr. COLLIER: A bill (H. R. 14543) for the relief of the estate of Jacob Ries; to the Committee on Claims.

By Mr. COOPER of Ohio: A bill (H. R. 14544) granting a pension to Mrs. Alice A. Ward; to the Committee on Invalid Pensions.

By Mr. COPLEY: A bill (H. R. 14545) granting an increase of pension to Emergene J. Mitchell; to the Committee on Invalid Pensions.

By Mr. CULLOP: A bill (H. R. 14546) granting a pension to Mary F. Buckles; to the Committee on Invalid Pensions.

Also, a bill (H. R. 14547) granting an increase of pension to William Norman; to the Committee on Invalid Pensions.

By Mr. DAVIS of Minnesota: A bill (H. R. 14548) granting an increase of pension to William J. Culp; to the Committee on Invalid Pensions.

By Mr. DAVIS of Texas: A bill (H. R. 14549) granting a pension to John I. Temple; to the Committee on Pensions.

By Mr. DOWELL: A bill (H. R. 14550) granting an increase of pension to Julia P. Miller; to the Committee on Invalid Pensions.

By Mr. FOCHT: A bill (H. R. 14551) granting an increase of pension to David H. Walker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 14552) granting a pension to Margaret Tyhurst McAlvey; to the Committee on Invalid Pensions.

By Mr. GRAHAM: A bill (H. R. 14553) for the relief of John S. Winslow; to the Committee on Naval Affairs.

By Mr. HASTINGS: A bill (H. R. 14554) granting a pension to Grover C. Montgomery; to the Committee on Pensions.

By Mr. HELM: A bill (H. R. 14555) granting an increase of pension to Eliza J. Minks; to the Committee on Invalid Pensions.

By Mr. HENSLEY: A bill (H. R. 14556) granting an increase of pension to Joseph Wigger; to the Committee on Invalid Pensions.

By Mr. JACOWAY: A bill (H. R. 14557) for the relief of the estate of Jeremiah Cockrell, late of White Oak, Fairfield County, S. C.; to the Committee on War Claims.

By Mr. LAFEAN: A bill (H. R. 14558) granting an increase of pension to Louisa J. Kottcamp; to the Committee on Invalid Pensions.

By Mr. LITTLEPAGE: A bill (H. R. 14559) granting an increase of pension to Pauline Williams; to the Committee on Invalid Pensions.

By Mr. PADGETT: A bill (H. R. 14560) granting an increase of pension to William H. Williams; to the Committee on Pensions.

By Mr. PORTER: A bill (H. R. 14561) granting an increase of pension to James Horton; to the Committee on Invalid Pensions.

By Mr. RANDALL: A bill (H. R. 14562) to remove the charge of desertion from the record of John D. Humphrey; to the Committee on Naval Affairs.

By Mr. SHOUSE: A bill (H. R. 14563) granting a pension to Eugene A. Gooden; to the Committee on Pensions.

Also, a bill (H. R. 14564) granting a pension to Herman R. Anthony; to the Committee on Pensions.

Also, a bill (H. R. 14565) granting a pension to Edward B. Williams; to the Committee on Pensions.

Also, a bill (H. R. 14566) granting an increase of pension to Joseph A. Hessler; to the Committee on Invalid Pensions.

Also, a bill (H. R. 14567) granting an increase of pension to Henry Startzell; to the Committee on Invalid Pensions.

By Mr. SLEMP: A bill (H. R. 14568) granting a pension to Benjamin Burkett, Rural Retreat, Va.; to the Committee on Invalid Pensions.

By Mr. SNELL: A bill (H. R. 14569) for the relief of William L. Best; to the Committee on Claims.

By Mr. STEENERSON: A bill (H. R. 14570) for the relief of Cathrine Grace; to the Committee on Claims.

By Mr. STAFFORD: A bill (H. R. 14571) for the relief of the Milwaukee Bridge Co.; to the Committee on Claims.

Also, a bill (H. R. 14572) for the relief of Gertie Foss; to the Committee on Claims.

By Mr. TOWNER: A bill (H. R. 14573) granting an increase of pension to James Wilkins; to the Committee on Invalid Pensions.

By Mr. VARE: A bill (H. R. 14574) granting an increase of pension to James J. Scally; to the Committee on Invalid Pensions.

#### PETITIONS, ETC.

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

By the SPEAKER (by request): Memorial of Japanese Association of Hawaii, against Burnett immigration bill; to the Committee on Immigration and Naturalization.

Also (by request), memorial of Military Order of the Loyal Legion of the United States, Commandery of the District of Columbia, against the power plant near center of the park system in the District of Columbia; to the Committee on the District of Columbia.

By Mr. BAILEY: Petition of citizens of Portage, Pa., favoring national prohibition; to the Committee on the Judiciary.

Also, petition of Altoona Real Estate Exchange, relative to location of Government power plant; to the Committee on the District of Columbia.

Also, protest of Roy Gaston, John E. S. Clinger, Harry Harbaugh, William Studebaker, Milton Himes, W. A. Netter, Walter E. Hampton, Lloyd Custer, Garfield Small, Milton H. Barley, O. C. Emerick, Moodey Paul, William E. Replogle, Humphrey F. Miller, and S. L. Gorden, all of Johnstown, Pa., against the passage of House bills 491 and 6468, denying the use of the mails to certain publications; to the Committee on the Post Office and Post Roads.

By Mr. BEAKES: Petition of A. F. Peters and 23 citizens of Pierson, Mich., protesting against the passage of House bills 491 and 6468; to the Committee on the Post Office and Post Roads.

Also, petition of 226 members of the Methodist Episcopal Church of Tecumseh; 200 members of the Congregational Church of Hudson; 80 members of the United Brethren Sunday school of Jasper; and 65 members of Hudson Center Grange, of Hudson, all of the State of Michigan, in favor of national prohibition; to the Committee on the Judiciary.

By Mr. BEALES: Memorial of Cigar Makers' Union No. 316, of McSherrystown, Pa., against preparedness, etc.; to the Committee on Military Affairs.

Also, evidence in support of House bill 13352, granting a pension to Charles C. Cooper; to the Committee on Invalid Pensions.

By Mr. CHARLES: Memorial of Women's Congressional Union of Schenectady, N. Y., favoring a report on the Anthony suffrage amendment; to the Committee on the Judiciary.

Also, petition of sundry citizens of Schenectady, N. Y., favoring national prohibition; to the Committee on the Judiciary.

By Mr. CURRY: Petition of 63 business firms of the third California district, favoring tax on mail-order houses; to the Committee on Ways and Means.

By Mr. DANFORTH: Petition of Mr. O. J. Kane and 15 others, of Rochester, N. Y., against House bills 491 and 6468, to

amend the postal laws; to the Committee on the Post Office and Post Roads.

By Mr. ELSTON: Memorial of California State Retail Hardware Association, in re certain measures; to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Alameda County, Cal., protesting against House bills 491 and 6468; to the Committee on the Post Office and Post Roads.

Also, petitions of citizens of Alameda County, Cal., protesting against House bill 652; to the Committee on the District of Columbia.

Also, petition of A. F. Baxter and other citizens of Alameda County, Cal., protesting against Senate bill 645, to provide for the closing of barber shops in the District of Columbia on Sunday; to the Committee on the District of Columbia.

By Mr. ESCH: Petition of New York Young Republican Club, against withdrawal of the United States from Philippine Islands; to the Committee on Insular Affairs.

Also, petition of New York Young Republican Club, against the Hay bill and favoring larger Army; to the Committee on Military Affairs.

Also, petition of Robert Crowley, T. D. Amidon, and 94 others, of Melrose, Wis., against bills to amend the postal laws; to the Committee on the Post Office and Post Roads.

By Mr. FOCHT: Evidence in support of House bill 7078, for the relief of John H. Martin; to the Committee on Invalid Pensions.

By Mr. GRAHAM: Petition of University of Pennsylvania Club of the District of Columbia, against placing power plant in Potomac Park; to the Committee on the District of Columbia.

By Mr. HADLEY: Petition of sundry citizens of the State of Washington, against bills to amend the postal laws; to the Committee on the Post Office and Post Roads.

Also, petition of sundry citizens of the State of Washington, against Sunday-observance bill in the District of Columbia; to the Committee on the District of Columbia.

By Mr. HAMILTON of New York: Papers to accompany House bill 13942, granting a pension to Josephus Gorton; to the Committee on Invalid Pensions.

Also, papers to accompany House bill 14098, granting a pension to Emma A. Ball; to the Committee on Invalid Pensions.

Also, papers to accompany House bill 13303, granting an increase of pension to Samuel Massey; to the Committee on Invalid Pensions.

By Mr. HENSLEY: Petition of Rev. Herman Hallerberg and others, of Farmington, Mo., against bills to amend the postal laws; to the Committee on the Post Office and Post Roads.

By Mr. HOOD: Petition of sundry citizens of Wallace, N. C., favoring national prohibition; to the Committee on the Judiciary.

Also, memorial of the North Carolina Soldiers' Home, favoring bill to return moneys levied and collected as tax on raw cotton; to the Committee on Claims.

Also, petition of sundry citizens of Kenansville Township, N. C., opposing House bills 491 and 6468; to the Committee on the Post Office and Post Roads.

By Mr. KEISTER: Petitions of sundry citizens and organizations of the State of Pennsylvania, favoring national prohibition; to the Committee on the Judiciary.

Also, petition of sundry citizens of Butler County, Pa., favoring a Christian amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. LOUD: Petitions of John McLean, Adolph Cataline, and 34 others, of Whittenore, and Jennie Mills and 28 others, of Hope, both in the State of Michigan, favoring national prohibition; to the Committee on the Judiciary.

By Mr. McFADDEN: Petition of sundry citizens of Thompson, Pa., favoring national prohibition; to the Committee on the Judiciary.

By Mr. MAGEE: Petition of the Good Will Congregational Church, of Syracuse, and the Woman's Christian Temperance Union of Onondaga, both in the State of New York, favoring national prohibition; to the Committee on the Judiciary.

By Mr. MAPES: Petition of Grand River Union of Christian Endeavor, of Grand Rapids, Mich., favoring censorship of motion pictures; to the Committee on Education.

Also, petition of 22 citizens of Pierson, Mich., urging the House of Representatives not to pass House bill 652, to provide for the closing of barber shops in the District of Columbia on Sunday, or any other like religious measure; to the Committee on the District of Columbia.

By Mr. MOTT: Memorial of New York Young Republican Club, against the proposed withdrawal of the United States

from the Philippine Islands; to the Committee on Insular Affairs.

Also, memorial of New York Republican Club, favoring adequate preparedness; to the Committee on Military Affairs.

By Mr. NOLAN: Petition of Alice Brown and sundry citizens of San Francisco, Cal., against bills to amend the postal laws; to the Committee on the Post Office and Post Roads.

By Mr. O'SHAUNESSY: Petition of L. H. Gage Lumber Co., of Providence, R. I., indorsing House bill 681; to the Committee on Interstate and Foreign Commerce.

Also, memorial of Rhode Island Antituberculosis Association, indorsing House bill 8552; to the Committee on Interstate and Foreign Commerce.

Also, memorial of Washington Park Yacht Club, of Providence, R. I., opposing House bills 5795, 6801, 9412, 11715, and 9411; to the Committee on the Merchant Marine and Fisheries.

Also, memorial of American Association of Woolen and Worsted Manufacturers, indorsing House bill 10496; to the Committee on Interstate and Foreign Commerce.

Also, memorial of United States Gutta Percha Paint Co., of Providence, R. I., in re the Kenyon bill; to the Committee on Interstate and Foreign Commerce.

Also, memorial of International Council for Patriotic Service, asking for amendment to the Constitution regulating polygamy; to the Committee on the Judiciary.

Also, memorial of governors of India House, New York, favoring preparedness; to the Committee on Military Affairs.

Also, memorial of American Woolen Co., of Boston, in re sheep raising; to the Committee on Agriculture.

Also, memorial of Providence Chamber of Commerce, in re increased appropriation; to the Committee on Appropriations.

Also, memorial of Branch 5, Amalgamated Lace Operatives of America, favoring inspection of dairies; to the Committee on Rules.

Also, memorial of sundry citizens and organizations of Rhode Island, favoring national prohibition; to the Committee on the Judiciary.

Also, petitions of sundry citizens of Rhode Island, favoring House bill 5757; to the Committee on Reform in the Civil Service.

By Mr. RANDALL: Petition of 400 people of Pasadena, 100 people of Downey, and citizens of Lawndale, all in the State of California, favoring national prohibition; to the Committee on the Judiciary.

By Mr. ROBERTS: Evidence in support of the bill granting an increase of pension to Charles E. Gerrold; to the Committee on Invalid Pensions.

By Mr. ROWE: Petition of Dr. R. S. Robertson, of Brooklyn, in re Ashbrook widows' pension bill; to the Committee on Invalid Pensions.

Also, petition of sundry citizens, indorsing the Stevens standard-price bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of Raymond W. Bristol, of New York, indorsing House bill 13838; to the Committee on Military Affairs.

Also, petition of Merritt & Chapman, of New York, opposing House bill 8036; to the Committee on the Merchant Marine and Fisheries.

Also, petition of Mr. and Mrs. Sheldon C. Raymond, of Brooklyn, N. Y., in re amendment to the Constitution relating to polygamy; to the Committee on the Judiciary.

By Mr. SINNOTT: Protest of 36 settlers on the Oregon & California Railroad Co. grant in Oregon against any additional legislation disposing of said lands, and petitioning that said lands be disposed of through the United States district court to actual settlers at \$2.50 per acre; to the Committee on the Public Lands.

Also, petition of 149 residents of the State of Oregon against any new legislation concerning the Oregon & California Railroad land grant, and for the enforcement of the original grant, under the present decree of the Supreme Court of the United States; to the Committee on the Public Lands.

By Mr. SNELL: Resolution of the Senate and Assembly of the State of New York, urging the passage of any bills looking toward national preparedness; to the Committee on Military Affairs.

Also, petition of Mrs. C. S. Mason, May C. Bidwell, Miss B. Stafford, and Mrs. O. K. Smith, of Peru, N. Y., in favor of the question of preserving peace through national preparedness; to the Committee on Military Affairs.

Also, resolution of Sarah Weaver in behalf of the Clio Club, of Plattsburgh, N. Y., favoring national preparedness; to the Committee on Military Affairs.

Also, petition of Ada H. Rogers, Winnie J. Stockwell, Irma B. Pine, and Mrs. Robert Caldwell, of Ausable Forks, N. Y., in favor of national preparedness; to the Committee on Military Affairs.

Also, resolution of Le Conseil St. Cecile, of Plattsburgh, N. Y., in favor of national preparedness; to the Committee on Military Affairs.

Also, resolution of Mrs. W. R. Stults in behalf of the Ladies' Aid Society of Trinity Church, Plattsburgh, N. Y., in favor of the question of preserving peace through national preparedness; to the Committee on Military Affairs.

Also, resolution of Woman's Christian Temperance Union of Plattsburgh, N. Y., in favor of national preparedness; to the Committee on Military Affairs.

Also, petition of John A. Cassidy, William Palmer, J. E. Seaker, Roscoe C. Davis, A. E. Mosher, E. C. Fortune, H. F. Payne, and L. A. Callahan, all of Gouverneur, N. Y., in favor of the Griffin bill, H. R. 6915; to the Committee on the Post Offices and Post Roads.

By Mr. STEENERSON: Petition of Shelly Lodge, International Order of Good Templars, of Shelly, and 25 citizens of Pennington County, Minn., favoring national prohibition; to the Committee on the Judiciary.

By Mr. STEPHENS of Texas: Memorial of Sunday school of Presbyterian Church of Canyon, Tex., favoring national prohibition; to the Committee on the Judiciary.

Also, petition of sundry citizens of Seymour, Tex., favoring the elimination of sections 11 and 11A from the Smith-Lever cotton futures act; to the Committee on Agriculture.

By Mr. STINESS: Petition of sundry citizens of Wakefield and Narragansett, R. I., favoring national prohibition; to the Committee on the Judiciary.

By Mr. TEMPLE: Petition of Mr. Raymond E. Whitfield in behalf of the Ginger Hill (Pa.) Grange, in support of Government ownership of the telephone and telegraph system; to the Committee on the Post Office and Post Roads.

Also, petition signed by J. A. Campbell in behalf of the members of the grange at New Sheffield, Pa., on postalizing the wires; to the Committee on the Post Office and Post Roads.

By Mr. TIMBERLAKE: Petitions of sundry citizens of Yuma, Boulder, Colo., against bills to amend the postal laws; to the Committee on the Post Office and Post Roads.

By Mr. TOWNER: Petition of N. R. Wood and other citizens of Creston, Iowa, against the passage of House bills 491 and 6468, being bills to amend the postal laws; to the Committee on the Post Office and Post Roads.

By Mr. VARE: Memorial of the Pennsylvania Commandery, Naval Order of the United States, favoring preparedness; to the Committee on Military Affairs.

## SENATE.

THURSDAY, April 13, 1916.

(Legislative day of Wednesday, April 12, 1916.)

The Senate reassembled at 12 o'clock meridian, on the expiration of the recess.

### REPORTS FROM COMMITTEE ON PUBLIC LANDS.

Mr. MYERS. Mr. President, I ask leave to submit two reports from the Committee on Public Lands.

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

Mr. MYERS, from the Committee on Public Lands, to which was referred the bill (H. R. 407) to provide for stock-raising homesteads, and for other purposes, reported it with amendments and submitted a report (No. 348) thereon.

He also, from the same committee, to which was referred the bill (S. 3646) to amend the act of February 11, 1915 (38 Stat. L., p. 807), providing for the opening of the Fort Assiniboine Military Reservation, reported it with amendments and submitted a report (No. 347) thereon.

### A WATERWAYS SYSTEM.

Mr. JAMES. Mr. President, I ask to have printed in the RECORD an open letter to Congress on the subject of a waterways system, by Charles C. Grassham, of Paducah, Ky., a very able lawyer and an expert on waterway problems.

The VICE PRESIDENT. Without objection, it is so ordered. The letter referred to is as follows:

#### WANTED—A WATERWAYS SYSTEM.

[By Charles C. Grassham, Paducah, Ky., Mar. 8, 1916.]  
(An open letter to the United States Congress.)

In the January Munsey, Hon. Theodore E. Burton, under "The truth about our waterways," made a most vigorous assault upon the indis-

criminate method of their improvement. It is apparent that his attitude not only is, but has for some time been, adverse to waterways improvement and development. Among other things he says:

"The other method of carriage is more convenient, more prompt, less dangerous, and is rapidly becoming more economical."

The main facts of his article are those depended upon and asserted by Hon. JAMES A. FREAR, of Wisconsin, in the House of Representatives Monday, January 10.

In order that it may be understood that I do not wholly disagree with the position taken by Mr. FREAR and ex-Senator Burton, I wish to say that I agree that we should have an impartial commission and a well-defined system marked out by Congress for its procedure.

#### THERE HAS BEEN EXTRAVAGANCE.

I am further satisfied from the evidence offered that there has been extravagance in appropriations and waste in expenditures unnecessary and inexcusable in the improvement of the rivers of this country for the last quarter of a century. I further agree, and think any reasonable-minded man would, that there is too much authority for the apportionment of these moneys reposed in the Chief Engineer. I also agree that the indications are that there has been much logrolling and too much "help for help" policy employed by some of the country's representatives in order to give them a strong pull "back home."

I will also agree that the tonnage shown by the statistics offered is not very encouraging to those who would favor any particular river in asking for its improvement, if the particular river alone is to be looked to for returns upon the money invested; but I do not agree with the able Representative from Wisconsin, Mr. FREAR, in some of his inferences set forth in his speech; and because of this, and for the sake of full discussion, I have concluded to express my views and make some suggestions in order that the public may read some reasons why river development should not be discontinued.

I have no doubt that Mr. FREAR would say that this is not his position or the position of Mr. Burton, for on page 1118 of the CONGRESSIONAL RECORD he says:

"It is needless to repeat what was stated last session—that I have no conscious prejudice against any individual nor against any waterway project other than may be justified by the official engineer's report."

Despite the fact that Mr. Burton used the language first above credited to him, I am of the opinion that he entertains less prejudice, conscious or unconscious, about the subject than Mr. FREAR, though his disavowals as to prejudice were not so explicitly stated as Mr. FREAR has set forth in the language last quoted above.

#### FREAR OPPOSES ALL WATERWAYS.

I can find nothing in the speech of the Congressman from Wisconsin that would indicate his favor or friendship in any way for any sort of an inland stream. I am inclined to believe that since he and Mr. Burton and Senator KENYON voted together for the defeat of the \$92,000,000 bill at the last session of Congress that he, too, really feels that "the reason for the recent decadence of waterway traffic is that the other method of carriage is more convenient, more prompt, less dangerous, and is rapidly becoming more economical."

However, Mr. Burton says:

"There are, moreover, two inland waterways in the United States that should have a thorough trial; one of these is the Ohio River, which is so situated that it ought to develop the commerce to enormous magnitude if conditions in this country warrant it; the other is the Barge Canal, now under construction by the State of New York, to connect the Great Lakes with the Hudson River and New York City."

This is the feature of waterways improvement to which I wish to call attention. I would not assume to enter this discussion were it not that I am of the earnest conviction that because a basket of eggs contains a few rotten ones, is no good reason for destroying all the eggs without trying them out. If money has been uselessly appropriated and wastefully spent, and it can be ascertained where, then this should be stopped. Find the portion of the limb that should be removed, and remove it; but this is no excuse for intentionally destroying the entire body.

#### MR. BURTON'S SUGGESTION SOUND.

Therefore, I think the suggestion of Mr. Burton should be emphasized, and if we should agree with Mr. FREAR that all other projects should stand still or be for the present abandoned, we should at least for the purpose of experiment and for the purpose of determining fully and finally whether the country should expend its money in this way, advocate the suggestion made by Mr. Burton and help the 13,000,000 of people in the great Ohio Valley demonstrate, if possible, that this great river and this great canal to be can be made, and will be, one of the greatest inland watercourses of the world.

It is not a sectional question; it is a national one. And while our friends, especially Mr. FREAR, endeavor to show that the Northern States, of the \$34,000,000 bill that passed the House in 1915, had appropriated to them \$997,120 less than the Southern States, and while he continually insists that the Northern States pay or contribute approximately 95 per cent of all taxes and Government revenues, compared with the Southern States, he nevertheless says, on page 1119 of CONGRESSIONAL RECORD:

"If any river or canal enjoys State or interstate traffic sufficient to make it a real artery of commerce instead of a shriveled useless vein, it surely is equally entitled to Government aid, whether situated among Southern or Northern States, because a broad policy of internal improvements is of national benefit when of national importance."

In spite of this admission, on the same page of the RECORD he quotes 13 Southern States by which he shows a total corporation and individual income tax collected of \$5,359,982.93 and 5 Northern States which pay a total of \$51,224,119.89. On page 1120 he further says—referring to the \$20,000,000 substitute amendment passed in place of the 1914 bill defeated in the Senate—as follows:

"It is also familiar history that most of that amount, according to statements on the floor by members of the Rivers and Harbors Committee, was given to Southern States that boasted little actual waterway commerce."

Thus keeping to the forefront all the while that southern Congressmen are seeking local benefits for useless projects at the expense and to the detriment of the Northern States and the Federal Treasury.

#### NORTH SHARES BENEFITS, TOO.

I should here call attention to the fact that in the 5 Northern States named as furnishing the excess of revenue over the 13 Southern States named, that Mr. FREAR includes the States of New York, Illinois, Pennsylvania, and Ohio. Now, if Mr. Burton is correct in his position that the two projects mentioned should be developed by the Government, then the argument of Mr. FREAR would not apply, for these four States and