By Mr. SWIFT: Resolution (H. Res. 302) authorizing the Committee on Expenditures in the Treasury Department to audit certain accounts and expenditures of the Treasury; to the Committee on Expenditures in the Treasury Department.

By Mr. GALLIVAN: Memorial of the General Court of the Commonwealth of Massachusetts, relative to the independence of Ireland; to the Committee on Foreign Affairs.

By Mr. TAGUE: Memorial of the Legislature of Massachusetts, relative to the independence of Ireland; to the Committee on Foreign Affairs.

By Mr. TINKHAM: Memorial of the Legislature of Massachusetts, relative to the independence of Ireland; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BLAND: A bill (H. R. 11235) granting an increase of pension to William H. R. Snyder; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11236) granting an increase of pension to B. L. Walker; to the Committee on Invalid Pensions.

By Mr. GOODALL: A bill (H. R. 11237) granting a pension to George Maybury; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11238) granting a pension to Nathan N. York; to the Committee on Invalid Pensions.

By Mr. DYER: A bill (H. R. 11239) granting an increase of pension to James R. Lewis; to the Committee on Invalid Pensions.

By Mr. KINKAID: A bill (H. R. 11240) granting an increase of pension to Lillis C. Keech; to the Committee on Pensions.

By Mr. LINTHICUM: A bill (H. R. 11241) granting a pension to Drucilla T. Collier; to the Committee on Invalid Pensions.

By Mr. OVERMYER: A bill (H. R. 11242) for the relief of Dr. R. B. Leister and Mercy Hospital, Tiffin, Ohio; to the Committee on Claims.

PETITIONS, ETC.

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

By Mr. BEAKES: Papers to accompany House bill 11220 to increase the pension of Alfred Dobbins; to the Committee on Invalid Pensions.

By Mr. CARY: Memorial of General War-Time Commission of the Churches, urging the passage of House bill 6320, to increase the number of chaplains in the Army; to the Committee on Military Affairs.

By Mr. DALE of New York: Petition of Phillips-Jones Co., New York City, urging the passage of the bill providing for partial payments of excess-profits taxes; to the Committee on Ways and Means.

By Mr. DOOLING: Petition of W. Benton Crisp, New York, N. Y., favoring the passage of House bill 9406; to the Committee on Irrigation of Arid Lands.

By Mr. ESCH: Papers in support of House bill 783, granting a pension to Marcia J. Dewey; also papers in support of House bill 784, granting a pension to Jennie M. Nichols; to the Committee on Pensions.

Also, resolution of the Trades and Labor Council of La Crosse, Wis., asking for an amendment to the Federal Constitution, providing for popular election of and short terms for the Federal judges; to the Committee on the Judiciary.

By Mr. GALLIVAN: Resolution of the executive committee of the Authors' League of America, in opposition to the zone system as applied to second-class mail matter; to the Committee on Ways and Means.

By Mr. LINTHICUM: Petition of Pauline W. Holme, president Baltimore Woman's Christian Temperance Union, urging war prohibition; to the Committee on the Judiciary.

By Mr. LUNDEEN: Evidence in support of House bill 10140, granting an increase of pension to Mathias Logelin; also papers in support of House bill 10138, granting a pension to Maggie Coss; also evidence to accompany House bill 10139, granting an increase of pension to Robert A. Robinson; to the Committee on Invalid Pensions.

Also, evidence in support of House bill 10141, granting an increase of pension to Conrad H. Rowe; also papers to accompany House bill 10137, granting a pension to Catherine Mahady; to the Committee on Pensions.

By Mr. NOLAN: Petitions of Countess Markievic Branch, Friends of Irish Freedom (Timothy O'Leary, president; Hugh O'Connor, secretary; and Mrs. Maude McGoldrick, recording secretary); Columbia Division, No. 2, Ladies' Auxiliary, Ancient Order of Hibernians; and Connaught Social and Benevolent Association (Bernard Boyle, secretary), all of San Francisco, Cal., favoring House joint resolution 204, by Jeanette Rankin; to the Committee on Foreign Affairs.

By Mr. TEMPLE: Papers to accompany House bill 10056; to the Committee on Invalid Pensions.

SENATE.

FRIDAY, *April 5, 1918.*

Rev. J. J. Muir, D. D., of the city of Washington, offered the following prayer:

Our Father, we thank Thee for the light of another day and for all its possibilities and opportunities. We thank Thee for the land in which we live and all that it represents, not only to us within its borders, but of liberty beyond the seas. Grant that in this great struggle of the nations there may be given unto those who represent truth and righteousness and freedom final and splendid achievement on the battle front and may peace soon crown their endeavors. We ask it in the name of our Lord and Savior, Jesus Christ. Amen.

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

Mr. SMITH of Maryland. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

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

Ashurst	Henderson	Overman	Sterling
Baird	Hollis	Page	Sutherland
Borah	Jones, Wash.	Penrose	Swanson
Calder	Kendrick	Pittman	Thomas
Chamberlain	Kirby	Poindexter	Thompson
Colt	Lewis	Pomerene	Tillman
Culberson	Lodge	Ransdell	Townsend
Curtis	McCumber	Saulsbury	Trammell
Dillingham	McKellar	Shafroth	Underwood
Fall	McLean	Sheppard	Vardaman
France	McNary	Sherman	Walsh
Frelinghuysen	Martin	Shields	Warren
Gallinger	Myers	Smith, Ga.	Williams
Gore	Nelson	Smith, Md.	Wolcott
Hale	New	Smith, S. C.	
Hardwick	Norris	Smoot	

Mr. CURTIS. I desire to announce the absence of the junior Senator from Pennsylvania [Mr. KNOX]. He is taking part in the liberty loan campaign.

I wish also to announce the absence of the Senator from Indiana [Mr. WATSON], who is also taking part in the campaign for the sale of liberty bonds.

Mr. JONES of Washington. I desire to state that the junior Senator from Iowa [Mr. KENYON] is absent and will be absent for some time in the liberty loan campaign.

Mr. SUTHERLAND. I announce that my colleague [Mr. GOFF] is detained on account of illness.

Mr. SHEPPARD. I wish to announce that the Senator from South Dakota [Mr. JOHNSON] is detained on important public business. I also wish to announce that the Senator from Arkansas [Mr. ROBINSON] and the Senator from California [Mr. PHELAN] are detained on official business.

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

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the bill (S. 3994) to amend an act entitled "An act to authorize condemnation proceedings of lands for military purposes," approved July 2, 1917, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 9352) to amend an act entitled "An act providing for an Assistant Secretary of War," approved March 5, 1890, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3400) to regulate the pay of retired chief warrant officers and warrant officers on active duty.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H. R. 9054) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1919, requests a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. LEVER, Mr. LEE of Georgia, Mr. CANDLER of Mississippi, Mr. HAUGEN, and Mr. MCLAUGHLIN of Michigan managers at the conference on the part of the House.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

The message further announced that the House had passed a bill (H. R. 10205) to provide for the consolidation of national banking associations, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. 9352) to amend an act entitled "An act providing for an Assistant Secretary of War," approved March 5, 1890, and for other purposes, and it was thereupon signed by the Vice President.

PETITIONS AND MEMORIALS.

Mr. MYERS. I present certain memorials from the Montana Legislature to the Congress of the United States. I ask that they be printed in the RECORD in the order in which they have been arranged. I will state that the first memorial is in favor of the antisedition legislation which is now pending before this body.

The memorials were ordered to be printed in the RECORD, as follows:

House joint memorial 1. Introduced by Holt, Griffin, Kemmis, Davis, Sand, Hawks, Sektnan, and White.

A resolution memorializing Congress to pass necessary legislation defining as a crime, and providing punishment therefor, all acts of individuals, associations, corporations, and partnerships, done or attempted to be done, that may be construed as sedition or sabotage.

To the honorable Senate and House of Representatives of the United States in Congress assembled:

Whereas under the present laws of the United States successful prosecution of persons has not been maintained in the Federal district of Montana for the making or circulating of false statements, arguments, and reports concerning the objects and purposes of executive officers of the United States and of legislative bodies thereof in declaring that a state of war exists between this Government of the United States and the Imperial German Government, criticizing, belittling, and ridiculing the armed forces of the United States to the detriment of the successful enlistment and procuring of men for service in the Army and Navy of the United States and interfering with the success of the sale of bonds of the United States for the purpose of raising money in carrying on the war with the Imperial German Government; and

Whereas the successful prosecution of individuals and organizations can not be maintained under the present laws of the United States for advocating and threatening the destruction of industrial and agricultural properties and interfering with the management and production thereof under the guise of bettering the conditions of workingmen, and such actions being detrimental to the industrial and agricultural institutions in the various communities in the State of Montana: Now, therefore, be it

Resolved by the House of Representatives of the Fifteenth Legislative Assembly of the State of Montana, the Senate concurring therein, now assembled in extraordinary session, That we do hereby petition the Congress of the United States for the passage of the necessary legislation defining as a crime, and providing punishment therefor, all acts of individuals, associations, corporations, and partnerships done or attempted to be done for the purposes aforesaid; and be it further

Resolved, That a copy of this memorial be transmitted by the secretary of state of the State of Montana to the honorable Members of the United States Senate and House of Representatives from the State of Montana, requesting them to exert every effort within their power to enact such legislation.

JAMES F. O'CONNOR,
Speaker of the House.
W. W. MCDOWELL,
President of the Senate.

Approved, February 20, 1918.

S. V. STEWART, *Governor.*

Filed February 21, 1918, at 10.20 o'clock a. m.

C. T. STEWART,
Secretary of State.

UNITED STATES OF AMERICA,
State of Montana, ss:

I, C. T. Stewart, secretary of state of the State of Montana, do hereby certify that the foregoing is a true and correct copy of house joint memorial 1, memorializing Congress to pass necessary legislation defining as a crime, and providing punishment therefor, all acts of individuals, associations, corporations, and partnerships, done or attempted to be done, that may be construed as sedition or sabotage, enacted by the extraordinary session of the Fifteenth Legislative Assembly of the State of Montana, and approved by S. V. Stewart, governor of said State, this 20th day of February, 1918.

In testimony whereof, I have hereunto set my hand and affixed the great seal of said State.

Done at the city of Helena, the capital of said State, this 15th day of March, A. D. 1918.

[SEAL.]

C. T. STEWART,
Secretary of State.

—

House joint memorial 2. Introduced by Kemmis.

Memorial to the Senate in Congress of the United States to pass an amendment to the Federal Constitution and submit the same to the several States for ratification, extending and giving throughout the United States the right of suffrage to women.

To the honorable Senate in Congress of the United States of America:

Your memorialists, the members of the Fifteenth Legislative Assembly of the State of Montana, the senate and house concurring, respectfully represent:

Whereas the State of Montana has granted the franchise for the ballot to the women of this State and accorded to them equal political rights; and

Whereas the woman's suffrage in this State has been conducive to good government, has purified our politics, made better homes, and the enobling influence of Montana's womanhood, exerted at the polls, has been for the best interests of this young and prosperous Commonwealth; and

Whereas there is now pending in the Senate in Congress of the United States a measure known as the "Susan B. Anthony amendment to the Constitution of the United States," the purpose of which measure is to propose an amendment to the Constitution of the United States extending and giving throughout the United States the right of suffrage to women, and which measure has been passed by the House of Representatives, and is now pending in the Senate: Now, therefore, be it

Resolved by the house of representatives (the senate concurring), That we, the members of the Fifteenth Legislative Assembly of the State of Montana, in extraordinary session assembled, do hereby petition and earnestly pray the Senate of the United States that such measure so proposing an amendment to the Constitution of the United States extending and giving throughout the United States the right of suffrage to women, be passed and submitted to the several States for ratification; and

Resolved further, That a copy of this memorial be forwarded by the secretary of the State of Montana to the Senate of the United States; and that copies hereof be transmitted to the Senators in Congress of the United States from the State of Montana.

JAMES F. O'CONNOR,
Speaker of the House.
W. W. MCDOWELL,
President of the Senate.

Approved February 23, 1918.

S. V. STEWART,
Governor.

Filed February 23, 1918, at 2.30 o'clock p. m.

C. T. STEWART,
Secretary of State.

UNITED STATES OF AMERICA,
State of Montana, ss:

I, C. T. Stewart, secretary of state of the State of Montana, do hereby certify that the foregoing is a true and correct copy of house joint memorial No. 2, petitioning the Senate in Congress of the United States to pass an amendment to the Federal Constitution and submit the same to the several States for ratification, extending, and giving throughout the United States the right of suffrage to women, enacted by the extraordinary session of the Fifteenth Legislative Assembly of the State of Montana, and approved by S. V. Stewart, governor of said State, this 23d day of February, 1918.

In testimony whereof, I have hereunto set my hand and affixed the great seal of said State. Done at the City of Helena, the capital of said State, this 12th day of March, A. D. 1918.

[SEAL.]

C. T. STEWART,
Secretary of State.

—

House joint memorial No. 6. Introduced by Henderson, Rainey, and Belden.

A resolution memorializing Congress for the passage of proper legislation enabling the President to order railroads to make additions and improvements necessary for war purposes and the public interest, and petitioning for an order directing the construction of the proposed line of the Great Northern Railway Co. from Richey, in Dawson County, to Winnett, in Fergus County.

To the honorable Senate and House of Representatives in the Congress of the United States assembled:

Whereas in the year 1909 the Dakota & Eastern Montana Railway Co., a subsidiary of the Great Northern Railway Co., made a survey for a railroad from Newlon Junction, Mont., to Lewistown, Mont., passing through the central portion of the counties of Dawson and Fergus from east to west, and being equidistant from the main lines of the Great Northern and Northern Pacific Railways; and

Whereas during the year 1910 the right of way for the construction of said railroad was procured, and that during the year 1916 the said railroad was constructed as far as Richey, in Dawson County, Mont., on the eastern end, and as far as Winnett, in Fergus County, Mont., in the year 1917, on the western end; and

Whereas there is approximately 175 miles of the said proposed railroad between the said towns of Richey and Winnett which has not been constructed; and

Whereas the territory through which the railroad is proposed to be constructed is very fertile and productive agricultural land, and there are approximately 30,000 people residing in the territory now wholly without railroad service which would be tributary to the proposed line, practically all of whom are engaged in agriculture, and there are about 7,000,000 acres of agricultural land which would be tributary to the said proposed railroad, a very large percentage of which would immediately upon the construction of said railroad be cultivated and used in the production of small grains; and

Whereas the said proposed railroad will, when completed, form the only direct connection between the smelters of Great Falls and Lewistown and the rich and highly developed farm lands of the Judith Basin, on the one hand, and the markets of the east, on the other; and

Whereas there is a great emergency justifying the use of money and steel necessary to be used in the construction of said railroad, and that the said proposed railroad would be of great benefit to the Government as a war measure in increasing the production of wheat and other small grains and the marketing of said products; and

Whereas, section 4 of Senate bill No. 3385, now pending before the Congress of the United States, provides: "The President may also on or in connection with the property of any carrier make or order any carrier to make any additions or improvements necessary or desirable for war purposes or in the public interest": Now, therefore, be it

Resolved, That the House of Representatives of the Fifteenth Legislative Assembly of the State of Montana, in extraordinary session assembled, the Senate concurring therein, petition the Congress of the United States for the passage of necessary legislation enabling the President to order the construction of necessary improvements to and extensions of railroads necessary or desirable for war purposes and in the public interest; and be it further

Resolved, That we respectfully petition the President of the United States, in case of the passage of such legislation, to order the construction of the said proposed extension of the Great Northern Railway Co.; and be it further

Resolved, That a copy of this resolution be transmitted by the secretary of state of the State of Montana to the presiding officer of each House of the National Congress and to the Senators and Representatives in Congress from the State of Montana and to the Director General of Railroads, and that every effort be used for the accomplishment of the purposes herein indicated.

JAMES F. O'CONNOR,
Speaker of the House.
W. W. MCDOWELL,
President of the Senate.

Approved February 22, 1918.

S. V. STEWART,
Governor.

Filed February 22, 1918, at 9.10 o'clock p. m.

C. T. STEWART,
Secretary of State.

UNITED STATES OF AMERICA,
State of Montana, ss:

I, C. T. Stewart, secretary of state of the State of Montana, do hereby certify that the foregoing is a true and correct copy of house joint memorial No. 6, memorializing Congress for the passage of proper legislation enabling the President to order railroads to make additions and improvements necessary for war purposes and the public interest, and petitioning for an order directing the construction of the proposed line of the Great Northern Railway Co. from Richey, in Dawson County, to Winnett, in Fergus County, enacted by the extraordinary session of the Fifteenth Legislative Assembly of the State of Montana, and approved by S. V. Stewart, governor of said State, this 22d day of February, 1918.

In testimony whereof, I have hereunto set my hand and affixed the great seal of said State.

Done at the city of Helena, the capital of said State, this 14th day of March, A. D. 1918.

[SEAL.]

C. T. STEWART,
Secretary of State.

—

House joint resolution 1. Introduced by Mason.

A joint resolution relating to the labor situation throughout the State of Montana and the Northwest and the urgent need for legislation providing for the location, registration, classification, and proper assignment thereof.

Be it resolved by the house (the senate concurring), That—

Whereas the principal industries of the State of Montana, to wit, lumber, sugar beet, mining, and farming industries, are at the present time confronted with a very grave situation owing to the fact that there now exists a serious shortage in the various classes of labor required to properly conduct those industries and to the further fact that this condition is largely due to a lack of sympathetic organization of the available men therefor; and

Whereas the same situation confronts the railroads in this State and the United States, and State public road building now under way, and also the efficiency of the Forestry Department; and

Whereas owing to the fact that a tremendous number of men of various classes have been called to the defense of their country, leaving these industries and work of all kinds in the State of Montana and throughout the Northwest with a great deficiency of labor and more especially experienced help; and

Whereas at the present time the Government is in great need of lumber, more especially for shipbuilding and aeroplane construction, and also of minerals of the various kinds that are being daily used in the manufacture of armor and munitions, these therefore being necessary supplies for the conduct of the war and to properly and efficiently supply our allies; and

Whereas this Government is undertaking to provide the world with foodstuffs, in addition to provisioning our own Army and Navy and feeding our people, and will require therefor great quantities of wheat, sugar, meat, potatoes, and other farm products; and

Whereas these industries of the season of 1918 will not be able to operate at their full capacity and greatest efficiency without the proper steps being taken to relieve this condition; and

Whereas there has been great congestion of railroad business in the country due to this shortage of labor and a shortage of help which makes it impossible to give proper protection to the forests from fires of incendiary and other origin; and

Whereas it is now the immediate and paramount duty of every man, regardless of his business or station in life, to make every sacrifice and to bend every energy to aid and assist in carrying on the business of production and the accumulation of the energy and resources of our State and country; and

Whereas, without the location, registration, and proper classification and assignment of every man available for the work in which he can do the most good for his country, it will be impossible to save the crops that will be grown in Montana this year, and impossible to conduct other industries at their full capacity: Now, therefore, be it

Resolved by the Legislature of the State of Montana, That the Congress of the United States be urged to enact such laws as may be necessary for the proper registration, classification, location, and assignment of the various classes of labor in this State and throughout the northwestern part of the United States in order that this situation may be relieved and the industries and business above mentioned may be operated at full capacity; and be it further

Resolved, That a copy of these resolutions be forwarded to the Senators and Representatives of the State of Montana in the Congress of the United States with the urgent request of this assembly that they use their utmost efforts to immediately secure the enactment, if possible, of legislation which will relieve this condition and thereby greatly aid our Government in prosecuting this great world war to an early and a successful conclusion.

JAMES F. O'CONNOR,
Speaker of the House.
W. W. MCDOWELL,
President of the Senate.

Approved February 20, 1918.

S. V. STEWART, *Governor.*

Filed February 21, 1918, at 10.20 o'clock a. m.

C. T. STEWART,
Secretary of State.

UNITED STATES OF AMERICA,
State of Montana, ss:

I, C. T. Stewart, secretary of state of the State of Montana, do hereby certify that the foregoing is a true and correct copy of House joint resolution No. 1, relating to the labor situation throughout the State of Montana and the Northwest, and the urgent need for legislation providing for the location, registration, classification and proper assignment thereof, enacted by the extraordinary session of the Fifteenth Legislative Assembly of the State of Montana, and approved by S. V. Stewart, governor of said State, this 20th day of February, 1918.

In testimony whereof, I have hereunto set my hand and affixed the great seal of said State.

Done at the city of Helena, the capital of said State, this 16th day of March, A. D. 1918.

[SEAL.]

C. T. STEWART,
Secretary of State.

—

House joint resolution 2. Introduced by Kemmis.

A joint resolution ratifying an amendment to the Constitution of the United States, prohibiting the manufacture, sale, and transportation of intoxicating liquors.

Whereas both Houses of the Sixty-fifth Congress of the United States of America, at its second session, by a constitutional majority of two-thirds thereof, made the following proposition to amend the Constitution of the United States of America in the following words, to wit:

"Joint resolution proposing an amendment 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 each House concurring therein), That the following amendment to the Constitution be, and hereby is, proposed to the States, to become valid as a part of the Constitution when ratified by the legislatures of the several States as provided by the Constitution:

"ARTICLE —.

"SECTION 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

"SEC. 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

"SEC. 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress." Therefore be it

Resolved by the Senate and House of Representatives of the State of Montana, That the said proposed amendment to the Constitution of the United States of America be, and the same is hereby, ratified by the Legislative Assembly of the State of Montana; and, further, be it

Resolved, That certified copies of this joint resolution be forwarded by the governor of this State to the Secretary of State at Washington and to the presiding officers of each House of the National Congress.

JAMES F. O'CONNOR.
Speaker of the House.
W. W. MCDOWELL,
President of the Senate.

Approved February 20, 1918.

S. V. STEWART,
Governor.

Filed February 21, 1918, at 10.20 o'clock a. m.

C. T. STEWART,
Secretary of State.

UNITED STATES OF AMERICA,
State of Montana, ss:

I, C. T. Stewart, secretary of state of the State of Montana, do hereby certify that the foregoing is a true and correct copy of house joint resolution No. 2, ratifying an amendment to the Constitution of the United States, prohibiting the manufacture, sale, and transportation of intoxicating liquors, enacted by the extraordinary session of the Fifteenth Legislative Assembly of the State of Montana, and approved by S. V. Stewart, governor of said State, this 20th day of February, 1918.

In testimony whereof I have hereunto set my hand and affixed the great seal of said State.

Done at the city of Helena, the capital of said State, this 15th day of March, A. D. 1918.

[SEAL.]

C. T. STEWART,
Secretary of State.

—

Substitute joint house resolution 3. Introduced by Harbert, Mason, and Larse.

A resolution memorializing Congress for an appropriation of $750,000 for the Flathead irrigation project for the ensuing year.

To the honorable Senate and House of Representatives in the Congress of the United States assembled:

Whereas the Fifteenth Legislative Assembly of the State of Montana meeting in extraordinary session in response to a proclamation of the governor calling this body together for the consideration of measures necessary to a successful prosecution of the war, among which of primary importance is a bill providing for loans at low rates of interest to needy farmers for the enhancement of agricultural production in the State: Now, therefore, be it

Resolved, That the Fifteenth Legislative Assembly of the State of Montana hears with grave concern reports from Washington of the intention of Congress to reduce a contemplated appropriation of $750,000 toward the completion of the Flathead Reservation irrigation project in western Montana to $250,000, and does hereby go on record as in favor of and registers its wish for an appropriation of $750,000 for said project; and it is further

Resolved, That a failure of the Congress of the United States to make such appropriation of $750,000 would be violative of the best interests of this Nation, a great discouragement to the farmers and to the farming interests of Montana, thereby resulting in decreased farm production in one of the most fertile sections of the State of Montana, and being prompted by a consideration for the best interests of this Nation and the State of Montana demands favorable action by the United States Congress of an appropriation of $750,000 toward the completion of the Flathead Reservation project, and it is hereby ordered that a

copy of this resolution be telegraphed to the Speaker of the House of Representatives, the President of the United States Senate, with the recommendation that it be read before both bodies and referred to the proper committee.

JAMES F. O'CONNOR,
Speaker of the House.
W. W. MCDOWELL,
President of the Senate.

Approved February 19, 1918.

S. V. STEWART, *Governor.*

Filed February 19, 1918, at 3.20 o'clock p. m.

C. T. STEWART,
Secretary of State.

UNITED STATES OF AMERICA,
State of Montana, ss:

I, C. T. Stewart, secretary of state of the State of Montana, do hereby certify that the foregoing is a true and correct copy of substitute joint house resolution No. 3, memorializing Congress for an appropriation of $750,000 for the Flathead irrigation project for the ensuing year, enacted by the extraordinary session of the Fifteenth Legislative Assembly of the State of Montana, and approved by S. V. Stewart, governor of said State, this 19th day of February, 1918.

In testimony whereof, I have hereunto set my hand and affixed the great seal of said State.

Done at the city of Helena, the capital of said State, this 15th day of March, A. D. 1918.

[SEAL.]

C. T. STEWART,
Secretary of State.

—

House joint resolution 4. Introduced by C. F. Holt.

A resolution memorializing Congress to vest in the President such authority as may be necessary to regulate the production, distribution, and price of commodities necessary for the production of the cereal crops of the Nation.

To the honorable Senate and House of Representatives in the Congress of the United States assembled:

Whereas farm implements, grain sacks, binding twine, and other commodities necessary to the production of wheat and other cereals have increased in price from 50 to 400 per cent; and

Whereas there is either an actual or artificial shortage of some of these commodities; and

Whereas this condition threatens to lessen the food production of the Nation: Now, therefore be it

Resolved, That we petition the Congress of the United States to vest in the President such authority as may be necessary to regulate the production, distribution, and price of such commodities, and that such action be taken in time to guarantee an abundant supply and reasonable price of such commodities for the production of the 1918 crop: And, further, be it

Resolved, That a copy hereof be transmitted by the secretary of State of Montana to the Senators and Representatives in Congress of the State of Montana with the request that they use every effort within their power to bring about speedy action for the accomplishment of the ends and purposes herein indicated.

JAMES F. O'CONNOR,
Speaker of the House.
W. W. MCDOWELL,
President of the Senate.

Approved February 22, 1918:

S. V. STEWART,
Governor.

Filed February 22, 1918, at 9.10 o'clock p. m.

C. T. STEWART,
Secretary of State.

UNITED STATES OF AMERICA,
State of Montana, ss:

I, C. T. Stewart, secretary of state of the State of Montana, do hereby certify that the foregoing is a true and correct copy of house joint resolution 4, memorializing Congress to vest in the President such authority as may be necessary to regulate the production, distribution, and price of commodities necessary for the production of the cereal crops of the Nation, enacted by the extraordinary session of the Fifteenth Legislative Assembly of the State of Montana and approved by S. V. Stewart, governor of said State, this 22d day of February, 1918.

In testimony whereof I have hereunto set my hand and affixed the great seal of said State.

Done at the city of Helena, the capital of said State, this 15th day of March, A. D. 1918.

[SEAL.]

C. T. STEWART,
Secretary of State.

—

House joint resolution 10. Introduced by Holt.

A resolution petitioning Congress to take steps and measures to investigate the feasibility of constructing a spur track from the main line of the Great Northern Railroad running through the city of Belt, State of Montana, to the coal fields lying on the east edge of said city.

To the honorable Senate and House of Representatives in the Congress of the United States assembled.

Whereas at the present time the demand for coal throughout the United States greatly exceeds the output now available; and

Whereas on the east side of the city of Belt, Mont., lies an immense coal field, containing millions of tons of coal with several mines already producing jointly from 250 to 300 tons of coal daily, but, owing to the fact that there is no railroad spur constructed to the said coal field, the output of said mines is limited, and the cost of producing coal under present conditions is almost prohibitive; and

Whereas should a spur track be built from the main line of the Great Northern Railroad, a distance of approximately 1½ miles to said coal fields, the production thereof could very easily be increased from the present tonnage to approximately 3,500 tons daily: Now, therefore, be it

Resolved, That the House of Representatives of the Fifteenth Legislative Assembly of the State of Montana, in extraordinary session assembled (the Senate concurring herein), that we petition the Congress of the United States to take steps and measures to investigate the same and if feasible to construct such a spur at the earliest possible time so that the increased tonnage from said coal field will be available for use within the near future; be it further

Resolved, That a copy of this memorial be forwarded by the secretary of state of Montana to the Senate of the United States; and that a copy of this memorial be forwarded by the secretary of the state of Montana to the House of Representatives of the United States; and be it further

Resolved, That a copy hereof be transmitted by the secretary of state of the State of Montana to the Senators and Representatives in Congress of the State of Montana, with the request that they use every effort within their power to bring about a speedy action for the accomplishment of the ends and purposes herein indicated.

JAMES F. O'CONNOR,
Speaker of the House.
W. W. MCDOWELL,
President of the Senate.

Approved February 22, 1918.

S. V. STEWART,
Governor.

Filed February 22, 1918, at 9.10 o'clock p. m.

C. T. STEWART,
Secretary of State.

UNITED STATES OF AMERICA,
State of Montana, ss:

I, C. T. Stewart, secretary of state of the State of Montana, do hereby certify that the foregoing is a true and correct copy of House joint resolution No. 10, petitioning Congress to take steps and measures to investigate the feasibility of constructing a spur track from the main line of the Great Northern Railroad running through the city of Belt, State of Montana, to the coal fields lying on the east edge of said city, enacted by the extraordinary session of the Fifteenth Legislative Assembly of the State of Montana, and approved by S. V. Stewart, governor of said State, this 22d day of February, 1918.

In testimony whereof I have hereunto set my hand and affixed the great seal of said State.

Done at the city of Helena, the capital of said State, this 16th day of March, A. D. 1918.

[SEAL.]

C. T. STEWART,
Secretary of State.

Mr. RANSDELL. I present a communication from the Teachers' Association of Porto Rico, expressing appreciation and gratitude to the President and Congress of the United States for conferring a larger measure of self-government and full citizenship upon that island, and pledging loyalty and support of the Government in the world war. I move that it be referred to the Committee on Pacific Islands and Porto Rico.

The motion was agreed to.

Mr. RANSDELL. I also present a telegram transmitting resolutions unanimously adopted at a mass meeting of citizens of Monroe, La., one of the largest towns in the northern part of my State, urging me to use my best efforts to secure amendments to the espionage law so as to make the punishments thereunder more severe, and to include women, and so forth, in order that they may be prosecuted. I move that the telegram be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. BORAH. I desire to present a large number of petitions, signed by a number of people in my State, asking for the enactment of a law to punish those who impede or interfere with the operations or success of the United States in the war or in recruiting or enlistment, and so forth. I move that they be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. SHERMAN. I present resolutions from the Interstate Association of Building Contractors and also a memorial from the Chamber of Commerce of the city of East St. Louis, Ill., which I ask be printed in the RECORD without reading.

There being no objection, the resolutions and memorial were ordered to be printed in the RECORD, as follows:

INTERSTATE ASSOCIATION OF BUILDING CONTRACTORS.

Whereas it is essential to the welfare of our entire country that each and every part of the country participate to the greatest possible extent in all activities leading to a successful and honorable prosecution and termination of the war; and

Whereas the experience of the past year has demonstrated the necessity of avoiding an unbalanced condition of business caused by concentrating an undue proportion of war activities along one edge of the country, with the resultant evils of traffic congestion, coal and food shortages, labor difficulties, and lack of housing, all of which reacts on the entire country and leads to profiteering and unwarranted increase in the cost of living; and

Whereas the States of Iowa, Nebraska, Missouri, Kansas, Minnesota, South Dakota, North Dakota, Indiana, Illinois, and Wisconsin have enormous resources, available to the Government but not yet made full use of, in the lines of finance, manufacture, production of raw material, rail and water shipping facilities, housing, labor supply, and construction facilities, which can be made use of most effectively in their several home localities, thereby restoring the country to its normal balance and relieving it from the evils due to unbalanced conditions: Be it

Resolved, That we, as loyal citizens and business men of the loyal States above mentioned, do hereby tender to the Government of the United States the immense uncontracted resources of these great States, and do most strongly urge the utmost possible use of these resources toward the attainment of an honorable and lasting peace.

Resolved, That we urge concerted action by the building organization and all other business and labor organizations in these States to place before the authorities at Washington complete and up-to-date data regarding such of our resources and output as are not yet contracted for or susceptible to increase and, if desirable, to maintain a permanent bureau at Washington for prompt cooperation by these States with the Government in war and other activities.

Resolved, That we, the representatives of the building industry of the States of Iowa, Nebraska, Missouri, Kansas, Minnesota, South Dakota, North Dakota, Indiana, Illinois, and Wisconsin, assembled here at the city of Des Moines, Iowa, this 20th day of March, 1918, do hereby unanimously request that a representative from the States mentioned above be appointed to serve upon the war emergency construction board; and be it further

Resolved, That our Representatives in Congress be requested to present this request to the proper authorities for their immediate and favorable consideration.

—

CHAMBER OF COMMERCE,
East St. Louis, Ill., April 2, 1918.

To the Illinois delegation in Congress:

The cities comprising the East St. Louis district are lacking in postal service; it might be said that they have no service at all. East St. Louis has 93,000 inhabitants, and the whole district, which includes Granite City, National City, and Dupo, besides other towns, has a combined population of nearly 200,000. This district forms practically one community.

The joint congressional committee has just recommended an extension of the pneumatic-tube system in St. Louis, Mo., but has ignored the imperative requirements of this district in Illinois, which is now approximately one-fourth as large as St. Louis.

We feel that this disregard of interests of East St. Louis justifies us in calling on the whole Illinois delegation in Congress to cooperate with Senators LEWIS and SHERMAN and Congressman RODENBERG in securing justice for us.

You will notice in the report of the hearings conducted by the committee that we showed that this city and district are grossly neglected, and that improvements, including a tube extension, are necessary. All the mail from all parts of the United States, as report shows, is handled at the round table of the St. Louis post office.

We respectfully request you to urge the committee to recommend extensions to East St. Louis, and that due pressure be brought to bear also on the Post Office Department. We have asked the First Assistant Postmaster General to assign an expert to investigate conditions here, with the object of improving the postal service generally. We would be glad to have you join in this request.

As you know, St. Louis is using the war as a subterfuge to get unfair advantages over the neighboring Illinois cities. You are familiar, no doubt, with the recent fight which we have had over our coal differential. St. Louis is employing every means and artifice against this district, and therefore we ask you to support our cause at every opportunity with Senators LEWIS and SHERMAN and Congressman RODENBERG. We need your support and cooperation.

Truly, yours,

J. N. FINING, *Secretary-Manager.*

Mr. SHEPPARD presented a petition of the congregation of the Boulevard Baptist Church, of Fort Worth, Tex., praying for national prohibition as a war measure, which was ordered to lie on the table.

Mr. TOWNSEND presented a petition of sundry citizens of Oakland County, Mich., praying for national prohibition as a war measure, which was ordered to lie on the table.

He also presented a petition of sundry members of the Academy of Medicine, of Kalamazoo, Mich., praying for advanced rank for officers of the Medical Corps in the Army, which was referred to the Committee on Military Affairs.

Mr. WARREN presented petitions of sundry citizens of Fort Laramie, Guernsey, Lingo, Thermopolis, and Gebo, all in the State of Wyoming, praying for national prohibition as a war measure, which were ordered to lie on the table.

Mr. CHAMBERLAIN presented petitions of sundry citizens of Newport, Corvallis, and Portland, all in the State of Oregon, praying for national prohibition as a war measure, which were ordered to lie on the table.

He also presented a petition of sundry citizens of Peak, Oreg., praying for a repeal of the present zone system of postage rate on second-class mail matter, which was referred to the Committee on Post Offices and Post Roads.

Mr. PHELAN presented a resolution adopted by the Symposium Society of Los Angeles, Cal., favoring the enactment of legislation providing for advanced rank for officers of the Medical Corps in the Army, which was referred to the Committee on Military Affairs.

Mr. WALSH. I send to the desk various memorials and resolutions passed by the Legislature of the State of Montana, and ask that they be incorporated in the RECORD and appropriately referred. I shall ask that the Secretary read from the desk one which relates to a piece of legislation now pending before the Senate.

The Secretary read as follows:

House joint memorial 1. Introduced by Holt, Griffin, Kemmis, Davis, Sand, Hawks, Sektnan, and White.

A resolution memorializing Congress to pass necessary legislation defining as a crime and providing punishment therefor all acts of individuals, associations, corporations, and partnerships, done or attempted to be done, that may be construed as sedition or sabotage.

To the honorable Senate and House of Representatives of the United States in Congress assembled:

Whereas under the present laws of the United States, successful prosecution of persons has not been maintained in the Federal district of Montana for the making or circulating of false statements, arguments, and reports concerning the objects and purposes of executive officers of the United States and of legislative bodies thereof in declaring that a state of war exists between this Government of the United States and the Imperial German Government, criticizing, belittling, and ridiculing the armed forces of the United States to the detriment of the successful enlistment and procuring of men for service in the Army and Navy of the United States and interfering with the success of the sale of bonds of the United States for the purpose of raising money in carrying on the war with the Imperial German Government; and

Whereas the successful prosecution of individuals and organizations can not be maintained under the present laws of the United States for advocating and threatening the destruction of industrial and agricultural properties, and interfering with the management and production thereof under the guise of bettering the conditions of workingmen and such actions being detrimental to the industrial and agricultural institutions in the various communities in the State of Montana: Now, therefore, be it

Resolved by the House of Representatives of the Fifteenth Legislative Assembly of the State of Montana (the Senate concurring therein), now assembled in extraordinary session, That we do hereby petition the Congress of the United States for the passage of the necessary legislation defining as a crime and providing punishment therefor, all acts of individuals, associations, corporations, and partnerships done or attempted to be done for the purposes aforesaid; and be it further

Resolved, That a copy of this memorial be transmitted by the secretary of state of the State of Montana to the honorable Members of the United States Senate and House of Representatives from the State of Montana, requesting them to exert every effort within their power to enact such legislation.

JAMES F. O'CONNOR,
Speaker of the House.
W. W. MCDOWELL,
President of the Senate.

Approved February 20, 1918.

S. V. STEWART,
Governor.

Filed February 21, 1918, at 10.20 o'clock a. m.

C. T. STEWART,
Secretary of State.

UNITED STATES OF AMERICA,
State of Montana, ss:

I, C. T. Stewart, secretary of state of the State of Montana, do hereby certify that the foregoing is a true and correct copy of house joint memorial 1, memorializing Congress to pass necessary legislation defining as a crime and providing punishment therefor all acts of individuals, associations, corporations, and partnerships, done or attempted to be done, that may be construed as sedition or sabotage, enacted by the extraordinary session of the Fifteenth Legislative Assembly of the State of Montana, and approved by S. V. Stewart, governor of said State, this 20th day of February, 1918.

In testimony whereof, I have hereunto set my hand and affixed the great seal of said State. Done at the city of Helena, the capital of said State, this 15th day of March, A. D. 1918.

[SEAL.]

C. T. STEWART,
Secretary of State.

Mr. WALSH presented a joint resolution passed by the Legislature of Montana, which was read and ordered to be filed, as follows:

House joint resolution 2. Introduced by Kemmis.

A joint resolution ratifying an amendment to the Constitution of the United States prohibiting the manufacture, sale, and transportation of intoxicating liquors.

Whereas both Houses of the Sixty-fifth Congress of the United States of America at its second session, by a constitutional majority of two-thirds thereof, made the following proposition to amend the Constitution of the United States of America in the following words, to wit:

"Joint resolution proposing an amendment 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 each House concurring therein), That the following amendment to the Constitution be, and hereby is, proposed to the States, to become valid as a part of the Constitution when ratified by the legislatures of the several States as provided by the Constitution:

"'ARTICLE —.

"'SECTION 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

"'SEC. 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

"'SEC. 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress'";

Therefore be it

Resolved by the Senate and House of Representatives of the State of Montana, That the said proposed amendment to the Constitution of the United States of America be, and the same is hereby, ratified by the Legislative Assembly of the State of Montana; and further be it

Resolved, That certified copies of this joint resolution be forwarded by the governor of this State to the Secretary of State at Washington and to the Presiding Officers of each House of the National Congress.

JAMES F. O'CONNOR,
Speaker of the House.
W. W. MCDOWELL,
President of the Senate.

Approved February 20, 1918.

S. V. STEWART, *Governor.*

Filed February 21, 1918, at 10.20 o'clock a. m.

C. T. STEWART,
Secretary of State.

UNITED STATES OF AMERICA,
State of Montana, ss:

I, C. T. Stewart, secretary of state of the State of Montana, do hereby certify that the foregoing is a true and correct copy of house joint resolution 2, ratifying an amendment to the Constitution of the United States prohibiting the manufacture, sale, and transportation of intoxicating liquors, enacted by the extraordinary session of the Fifteenth Legislative Assembly of the State of Montana and approved by S. V. Stewart, governor of said State, this 20th day of February, 1918.

In testimony whereof I have hereunto set my hand and affixed the great seal of said State.

Done at the city of Helena, the capital of said State, this 15th day of March, A. D. 1918.

[SEAL.]

C. T. STEWART,
Secretary of State.

Mr. WALSH presented a joint resolution adopted by the Legislature of the State of Montana, relating to the labor situation throughout the State of Montana and the Northwest and the urgent need for legislation providing for the location, registration, classification, and proper assignment thereof, which was referred to the Committee on Education and Labor.

He also presented a resolution adopted by the Legislature of the State of Montana, memorializing Congress for the passage of proper legislation enabling the President to order railroads to make additions and improvements necessary for war purposes and the public interest, and petitioning for an order directing the construction of the proposed line of the Great Northern Railway Co. from Richey, in Dawson County, to Winnett, in Fergus County, which was referred to the Committee on Interstate Commerce.

He also presented a resolution adopted by the Legislature of the State of Montana, petitioning Congress to take steps and measures to investigate the feasibility of constructing a spur track from the main line of the Great Northern Railroad running through the city of Belt, State of Montana, to the coal fields lying on the east edge of that city, which was referred to the Committee on Interstate Commerce.

He also presented a petition adopted by the Legislature of the State of Montana, memorializing Congress to vest in the President such authority as may be necessary to regulate the production, distribution, and price of commodities necessary for the production of the cereal crops of the Nation, which was referred to the Committee on Agriculture and Forestry.

He also presented a resolution adopted by the Legislature of the State of Montana, memorializing Congress to pass an amendment to the Federal Constitution and submit the same to the several States for ratification, extending and giving throughout the United States the right of suffrage to women, which was ordered to lie on the table.

COST OF OFFICERS' UNIFORMS.

Mr. JONES of Washington. Mr. President, some time ago the Senate passed a bill requiring the Government to furnish uniforms to officers at cost. That bill was referred to the proper committee in the House, and the chairman of that committee sends me a report from the office of the Quartermaster General that I think it is appropriate to call attention to, especially in view of many letters I am receiving from persons interested. I quote a paragraph from this report:

> At the present time the Quartermaster Corps will sell to all officers all quartermaster supplies that are in stock for issue to troops, with the exception of the wool coat and breeches, which are only furnished to officers overseas or on priority lists. This slight restriction will be entirely removed when there is an availability of wool garments. The Quartermaster Corps can easily comply with the act and keep in stock the equipment referred to, provided a uniform specification for each item is furnished, so that the same shall be similar in quality and design.

That is one of the important provisions in the bill the Senate passed. It gave to the Secretary of War the authority to fix the quality and design of these uniforms. In view of the report of the Quartermaster Department, it seems to me there ought to be no objection anywhere to the passage of the bill. It is very important that it should be passed so as to prevent the recurrence of a situation which has existed heretofore, where the Government has refused to furnish these supplies, and which led to the passage of this bill by the Senate. It is very important that the department should be given the authority to determine the quality and the design, and then, as the department says here, it can very easily comply with the act. There seems to be no objection from any source that should be given any weight.

So I hope the House committee will act very promptly and that the House will act promptly. I am glad I can make that reference without violating the parliamentary rules of this body.

I ask that the letter be printed in full in the RECORD.

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

WAR DEPARTMENT,
OFFICE OF THE QUARTERMASTER GENERAL OF THE ARMY,
Washington, March 25, 1918.

(Memorandum for Secretary of War.)

With reference to Senate 3433, an act requiring the Government to furnish uniforms to officers of the Army and Navy, sent to this office for report by the chairman of the Committee on Military Affairs, House of Representatives, the following is submitted:

At the present time the Quartermaster Corps will sell to all officers all quartermaster supplies that are in stock for issue to troops, with the exception of the wool coat and breeches, which are only furnished to officers overseas or on priority lists. This slight restriction will be entirely removed when there is an availability of wool garments. The Quartermaster Corps can easily comply with the act and keep in stock the equipment referred to, provided a uniform specification for each item is furnished, so that the same shall be similar in quality and design.

At present officers are required to purchase all their own clothing and quartermaster equipment for personal use, except as noted below:

Special articles of clothing for aviation purposes issued to all officers on duty in the Aviation Section.

Pins, tent shelter, issued to officers below the rank of major.

Poles, tent shelter, issued to officers below the rank of major.

Tent, shelter, half, issued to officers below the rank of major.

Whistle and chain issued to company, battalion, and regimental officers, except chaplains and medical officers.

GEO. W. GOETHALS,
Acting Quartermaster General.

REPORTS OF COMMITTEES.

Mr. MYERS, from the Committee on Public Lands, to which was referred the bill (S. 3943) to provide for the disposition of public lands withdrawn and improved under the provisions of the reclamation laws, and which are no longer needed in connection with said laws, reported it without amendment and submitted a report (No. 357) thereon.

Mr. KENDRICK, from the Committee on Indian Affairs, to which was referred the bill (S. 3923) authorizing the Indian tribes and individual Indians, or any of them, residing in the State of Washington and west of the summit of the Cascade Mountains, to submit to the Court of Claims certain claims growing out of treaties and otherwise, reported it with an amendment and submitted a report (No. 358) thereon.

Mr. McNARY, from the Committee on Indian Affairs, to which was referred the bill (S. 3572) authorizing the Coos Bay, Umpqua, and Siuslaw Tribes of Indians in the State of Oregon to submit claims to the Court of Claims, reported it with amendments and submitted a report (No. 359) thereon.

BILLS AND JOINT RESOLUTIONS INTRODUCED.

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

By Mr. MYERS:

A bill (S. 4273) canceling Indian trust patents Nos. 307319 and 366449; to the Committee on Indian Affairs.

By Mr. RANSDELL:

A bill (S. 4274) providing for the establishment of the Port of San Juan, customs district of Porto Rico, as a port of entry for immediate transportation without appraisement of dutiable merchandise; to the Committee on Finance.

A bill (S. 4275) to relieve Congress from the adjudication of private claims against the Government; to the Committee on the Judiciary.

By Mr. JONES of Washington:

A bill (S. 4276) to provide for the care and relief of destitute Indians in the State of Washington, and for other purposes; to the Committee on Indian Affairs.

By Mr. CHAMBERLAIN:

A bill (S. 4277) providing for the protection of the uniform of friendly nations, and for other purposes; to the Committee on Military Affairs.

By Mr. NELSON:

A bill (S. 4278) granting an increase of pension to Charles A. Nimocks (with accompanying papers); to the Committee on Pensions.

By Mr. STONE:

A bill (S. 4279) for the relief of Francis L. Flanders (with accompanying papers); to the Committee on Claims.

By Mr. CALDER:

A bill (S. 4280) to amend the act of October 3, 1917, entitled "An act to provide revenue to defray war expenses, and for other purposes"; to the Committee on Finance.

By Mr. SHEPPARD:

A bill (S. 4281) referring claim of Fred Hartel et al. to the Court of Claims; to the Committee on Claims.

By Mr. KING:

A bill (S. 4282) to prevent in time of war departure from or entry into the United States contrary to the public safety; to the Committee on the Judiciary.

By Mr. RANSDELL:

A joint resolution (S. J. Res. 146) extending to Porto Rico the same rights and privileges as is accorded the several States under the act of February 23, 1917, providing for the promotion of vocational education; to the Committee on Education and Labor.

By Mr. MYERS:

A joint resolution (S. J. Res. 147) proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

AMENDMENT TO POST OFFICE APPROPRIATION BILL.

Mr. SHIELDS submitted an amendment proposing to increase the compensation of postal employees, etc., intended to be pro-

posed by him to the Post Office appropriation bill, which was ordered to lie on the table and be printed.

PUNISHMENT OF SEDITIOUS ACTS AND UTTERANCES.

Mr. McKELLAR submitted an amendment intended to be proposed by him to the bill (H. R. 8753) to amend section 3, title 1, of the act entitled "An act to punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes," approved June 15, 1917, which was ordered to lie on the table and be printed.

WITHDRAWAL OF PAPERS—ELIZABETH CROCKETT.

On motion of Mr. CURTIS, it was

Ordered, That the papers accompanying the bill S. 5481, Sixty-fourth Congress, second session, granting a pension to Elizabeth Crockett, be withdrawn from the files of the Senate, no adverse report having been made thereon.

PAY OF RETIRED CHIEF WARRANT OFFICERS—CONFERENCE REPORT.

Mr. SWANSON. Mr. President, on yesterday I submitted to the Senate a conference report on the bill (S. 3400) to regulate the pay of retired chief warrant officers and warrant officers on active duty, and it was received and ordered to lie on the table, as it had to be acted upon first by the other House. I understand a message from the House has been received, announcing that the report of the committee of conference had been adopted, and I ask that the conference report submitted by me be taken from the table and considered at this time.

The VICE PRESIDENT. The conference report will be read.

The Secretary read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3400) to regulate the pay of retired chief warrant officers on active duty having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House amending the title, and agree to the same.

That the Senate recede from its disagreement to the amendment of the House inserting section 2, and agree to the same with an amendment as follows: In lines 1 and 2 of the engrossed amendments strike out the words "performed or" and in lieu *thereof insert* the following: "been on active duty since August 29, 1916, or who"; and the House agree to the same.

B. R. TILLMAN,
CLAUDE A. SWANSON,
H. C. LODGE,
Managers on the part of the Senate.

L. P. PADGETT,
J. FRED. C. TALBOTT,
THOMAS S. BUTLER,
Managers on the part of the House.

The VICE PRESIDENT. The report is agreed to.

PROMOTION OF EXPORT TRADE—CONFERENCE REPORT.

Mr. POMERENE. I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 2316) to promote export trade, and for other purposes. I ask that the report lie on the table for the present and await action thereon by the other House.

The report was read and ordered to lie on the table, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 2316) to promote export trade, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 8.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, and 4, and agree to the same.

That the House recede from its disagreement to the amendments of the Senate numbered 5 and 6, and agree to the same with amendments as follows: In lieu of the matter stricken out and the matter inserted by said amendments strike out in lines 1, 2, and 3, page 3, all of section 2 after the word "or," in line 1, page 3, the matter stricken out being "intentionally and unduly enhances prices within the United States of commodities of the class exported by such association," and insert in lieu thereof the following: "intentionally enhances or depresses prices within the United States of commodities of the class exported by such association, or which substantially lessens competition within the United States or otherwise restrains trade therein"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment as follows: In line 18, page 5, in addition to the matter stricken out by the Senate amendment, strike out the words "and unduly," and in addition to the words added by the Senate amendment add in line 20, page 5, after the word "association," and before the word "it," the following: "or which substantially lessens competition within the United States or otherwise restrains trade therein"; and the Senate agree to the same.

ATLEE POMERENE,
JOE T. ROBINSON,
ALBERT B. CUMMINS,
Managers on the part of the Senate.

E. Y. WEBB,
C. C. CARLIN,
A. J. VOLSTEAD,
Managers on the part of the House.

AGRICULTURAL APPROPRIATIONS.

The VICE PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 9054) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1919, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

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

The motion was agreed to; and the Vice President appointed Mr. GORE, Mr. SMITH of South Carolina, Mr. SMITH of Georgia, Mr. GRONNA, and Mr. NORRIS conferees on the part of the Senate.

HOUSE BILL REFERRED.

H. R. 10205. An act to provide for the consolidation of national banking associations, was read twice by its title and referred to the Committee on Banking and Currency.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Sharkey, one of his secretaries, announced that the President had approved and signed the following acts:

On April 4, 1918:

S. 2469. An act to authorize the change of name of the steamship *Caldera* to *A. T. Kinney*.

On April 5, 1918:

S. 3714. An act to provide further for the national security and defense, and, for the purpose of assisting in the prosecution of the war, to provide credits for industries and enterprises in the United States necessary or contributory to the prosecution of the war, and to supervise the issuance of securities, and for other purposes.

PUNISHMENT OF SEDITIOUS ACTS AND UTTERANCES.

The VICE PRESIDENT. Is there further morning business? [A pause.] The morning business is closed.

Mr. OVERMAN. I move that the Senate proceed to the consideration of House bill 8753.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 8753) to amend section 3, title 1, of the act entitled "An act to punish acts of interference with the foreign relations, the neurality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes," approved June 15, 1917.

Mr. BORAH obtained the floor.

Mr. LODGE. Mr. President——

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from Massachusetts?

Mr. BORAH. I do.

Mr. LODGE. I merely desire at this time to offer an amendment, which I propose later to move to the bill now pending. I ask that the amendment be read. It is very brief.

The VICE PRESIDENT. The Secretary will read as requested.

The Secretary read as follows:

The use of the mails shall not be permitted to any newspaper, magazine or periodical, circular, or pamphlet, which is printed in whole or in part in the German language.

Mr. WALSH. Mr. President——

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

Mr. BORAH. I do.

Mr. WALSH. I desire to inquire if the amendment which has just been read is intended to be proposed to the bill now under consideration?

Mr. LODGE. Yes; it is to be proposed to the bill now under consideration.

Mr. WALSH. I rose to say to the Senator from Massachusetts that the Judiciary Committee has under consideration another bill, the purpose of which is to exclude from the mails matter that is regarded as not properly mailable, and that, in my judgment, the amendment would be more germane to that bill than to the bill now under consideration. Possibly the Senator being so advised, he might choose for the present to withhold the amendment.

Mr. LODGE. I am glad the Committee on the Judiciary is considering the subject, but I can see no objection to adding the amendment to this bill. This is simply exclusion by act of Congress, and does not leave the matter to the discretion of the Postmaster General.

Mr. BORAH. Mr. President, I suggested yesterday that I should like to see the word "calculated," in line 24, page 2, stricken out, and the word "intended" or the word "designed" inserted in its place. I desire to ask the chairman——

Mr. HARDWICK. The word "intended" is better than "designed," for "designed" might mean "calculated."

Mr. OVERMAN. I can not agree to substitute the word "intended," because it is very hard to prove an intent. I think "designed" is a better word.

Mr. BORAH. I think the word "intended" there would be perfectly safe. A man is presumed to intend the natural consequence of his act, but I think as it now exists the intent would have to be proved, because the authorities——

Mr. OVERMAN. I merely suggested that I thought "designed" was the better word. I am not objecting to the Senator's amendment.

Mr. BORAH. Then, Mr. President, I move to strike out the word "calculated" and to insert the word "intended," in line 24——

Mr. POINDEXTER. Mr. President, will the Senator from Idaho permit me to interrupt him?

Mr. BORAH. Certainly.

Mr. POINDEXTER. I hope the Senator from Idaho will not assume from the statement of the Senator from North Carolina [Mr. OVERMAN] accepting his amendment that it is an immaterial amendment, or that the entire committee is willing to accept the amendment.

Mr. OVERMAN. No, Mr. President. The Senator from Washington misunderstood me. I only speak for myself always and from my own personal standpoint. I do not intend to bind the committee. I said I would not fight the amendment. That is all I said.

Mr. POINDEXTER. My opinion is that it is a very important amendment, and I wish the Senator from Idaho would reserve it for a while, in order that we may confer a little further about it.

Mr. BORAH. I am perfectly willing to reserve the amendment for the present.

Now, Mr. President, I want to make some general remarks in regard to this bill before we proceed to its further consideration. The amendment which the Committee on the Judiciary have reported to the bill as it came from the other House begins upon page 2, line 18, and reads as follows:

> And whoever, when the United States is at war, shall utter, print, write, or publish any disloyal, profane, scurrilous, contemptuous, or abusive language about the form of government of the United States, or the Constitution of the United States, or the soldiers or sailors of the United States, or the flag of the United States, or the uniform of the Army or Navy of the United States—

Leaving the remainder of the amendment out for the present, and discussing the portion which I have just read, the first provision provides for the protection of the form of government, the Constitution, the soldiers and sailors, and the uniform of the Army and the Navy. Any scurrilous, abusive, profane, or contemptuous language used against these several objects or subjects is made punishable under this proposed act. I take it that up to that point there would be very little difference of opinion; I rather suppose that no one would object to that portion of the amendment. I assume that in these times it will not be deemed improper to punish those who profane those things for which our people are making such great sacrifices and for which many of our countrymen are offering their lives.

Mr. LODGE. If the Senator from Idaho will allow me to ask him a question in regard to the phrase "the form of government"; as it reads it is all right, but is that supposed to cover the persons engaged at the moment in the Senate or in the House of Representatives or elsewhere who are carrying on the Government?

Mr. BORAH. I do not so understand at all; in other words, I understand that a person would be perfectly free, under this bill should it become a law, to discuss, for instance, the incompetency of any officer, or the policy of any office or officer, or the policy of the administration, or the inefficiency of any department. That is my understanding of it; I believe that to be a fair interpretation of it. I do not believe the courts could place any other construction upon the language here used.

Mr. POINDEXTER. Mr. President, I understand that the words "form of government" as used there principally have reference to language that is used in the Constitution and in oaths administered to certain officials, to immigrants arriving in the United States, and not to laws already on the statute books—namely, a republican form of government.

Mr. BORAH. Yes.

Mr. POINDEXTER. That is the principal significance of that language, in my judgment.

Mr. JONES of Washington. Mr. President——

Mr. BORAH. I yield to the Senator from Washington.

Mr. JONES of Washington. I have just received a resolution as to which I should like to ask the Senator's judgment whether or not it would come within the prohibition of this proposed law? The resolution reads as follows:

> Whereas the courts of the United States are the most serious menace to the constitutional rights of the American people;
> Whereas the power now exercised by the courts to declare laws passed by a legislative body unconstitutional was expressly denied the judiciary by the convention that framed our Federal Constitution;
> Whereas the constitutional rights of the American people are not secure while an irresponsible oligarchy are permitted to exercise the powers above enumerated. Democracy does not and can not exist while such unlimited powers are wielded by judges responsible to nobody. The American people have permitted the judiciary to assume all of the governmental functions;
> Whereas there are problems in modern industrial life that must be solved by the ordinary machinery of popular government. If the courts continue to hamper the people in the exercise of that sovereign power, then the courts must be controlled by the people: Therefore be it
> *Resolved by the Spokane Central Labor Council in regular meeting assembled*, That we demand that Congress shall immediately prepare and submit to the American people, through the proper channels, an amendment to the United States Constitution providing for the election of all Federal judges, with short terms of office, and placing the power to recall Federal judges in the people, the only place that power should exist.

Mr. BORAH. From simply hearing the matter read I understand that it is the advocacy of an elective instead of an appointive judiciary. I do not believe that would come under this proposed law. I am sure it would not. Our Constitution itself provides for amendments.

Mr. JONES of Washington. It struck me that it would; but I have not given the measure very much consideration. I merely wanted to get the Senator's judgment about it.

Mr. BORAH. I do not understand that that resolution has any other import or purpose than that of asking for a change in the Constitution so as to provide for the election of judges instead of appointing them.

Mr. JONES of Washington. It denounces the present form of government, as they construe it.

Mr. GORE. Mr. President——

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from Oklahoma?

Mr. BORAH. I yield.

Mr. GORE. I was wondering whether the Senator thinks that one who advocates by argument and by peaceful means State socialism or the substitution of social democracy for our present form of government would be liable to punishment under this act?

Mr. BORAH. I do not think so. This law punishes the denunciation of our Government through profane and scurrilous language.

Mr. GORE. I wanted to get the Senator's opinion in that regard, because it might be serviceable in the future.

Mr. HARDWICK. Mr. President, if the Senator from Idaho will yield to me, I was wondering how he could have condemned Mr. George Creel's editorial if he thinks that the resolution just read does not come within the prohibition of this bill?

Mr. BORAH. The Senator seems to have confused the Senator from Idaho with the Senator from Indiana [Mr. WATSON].

Mr. HARDWICK. But the Senator said that Mr. Creel could, in his judgment, be indicted for the editorial in the Rocky Mountain News, which is about the same thing.

Mr. BORAH. I think that was an entirely different proposition. That, as I was impressed from hearing it read, was a denunciation of our entire scheme of government.

Mr. HARDWICK. If the Senator will examine he will find it is not any different, I think. I listened to it very carefully.

Mr. BORAH. Then I would change my view with reference to the editorial; but, as I remember the editorial, it was an attack in abusive language upon our entire system of govern-

ment; that the writer was opposed to republican representative form of government.

Mr. HARDWICK. The editorial I had in mind—the Senator may not have based his opinion on that editorial—was almost entirely on this identical subject.

Mr. BORAH. I do not understand, Mr. President, that this bill goes that far. If I thought the bill covered the right to present a demand to change our Constitution by amendment, or anything of that kind, I certainly would be opposed to it; but the resolution to which reference has been made does not propose to change the form of government, but simply amplifies some particular power covered by the fundamental law and already preserved by it.

Mr. NORRIS. Mr. President——

Mr. BORAH. I yield.

Mr. NORRIS. I wonder if I am correct in drawing the conclusion from what the Senator has just stated, that he thinks anyone who favors a complete change of our form of government would come within the prohibition of the pending measure?

Mr. BORAH. I do, if the change is advocated by methods other than provided in the Constitution and by the use of profane and disloyal language.

Mr. NORRIS. Then, if that be true, the man who believes that a monarchical form of government, for instance, is the best—assume that he honestly believes it and is conscientious in his belief—would be liable to be sent to jail if he dared advocate it.

Mr. BORAH. Well, not if he simply dared to advocate it; but if he advocated it in disloyal, profane, scurrilous, or abusive language I think he would. For instance, I received a paper from a Western State this morning that gave an account of an incident one day last week, when the German Army seemed to be winning its cause, where a number of persons congregated and made eulogistic speeches upon the German form of government, eulogized the Kaiser and the Hohenzollern dynasty, and said it was a much better and more efficient and more effective form of government than this Republic for which we are fighting now. I want to say that I am perfectly aware that it is very difficult to enact a law to cover that kind of a situation without seeming to cover cases which ought not, of course, to be covered by the law, and to cover acts which ought not to be punishable; but there was just one thing that saved those gentlemen from mob law, and that was the fact that there happened to be at hand just at that time sufficient authority to protect them.

Mr. NORRIS. Mr. President, if the Senator will permit me, I do not want him to get the idea by any question I ask or by anything I may say that I am defending any conduct of that kind. Those men were disloyal, and I would be glad to see that kind of men sent to the penitentiary; but they were disloyal because they were opposed to our Government; they would have been opposed to it no matter what the form might have been; they were loyal to Germany rather than to the United States. I take it that in their disloyalty the probabilities were the form of government did not enter as a moving feature; but it seems to me it does not quite answer the question I put. I do not advocate it, and of course do not believe in it at all, but I can conceive of men—and I know there are a good many such men, loyal men; I have talked often with them—who think our form of government is not the best, who think that a monarchial form of government would be better. While I do not agree with them, I can see how that kind of a man might be just as loyal as though he believed our form of government was the best in the present emergency, for instance.

Mr. BORAH. I should like to say to the Senator that it is impossible for me to conceive of that man being as loyal as the man who thinks our form of government is the best.

Mr. NORRIS. It seems to me that he might be just as loyal.

Mr. BORAH. He might; but I can not grasp it.

Mr. NORRIS. In other words, if the Senator's statement is entirely correct, then the man who favored an amendment to the Constitution giving suffrage to women, for instance, would not be quite as loyal as the man who is absolutely satisfied with the Constitution as it now exists.

Mr. BORAH. No; the advocacy of suffrage does not change the form of government at all; it does not affect the form of government in any way, shape, or form; if anything it accentuates and strengthens the form of government from the standpoint of a wider basis for the electorate.

Mr. NORRIS. A more liberal basis?

Mr. BORAH. Yes.

Mr. NORRIS. Well, suppose we take the man who is opposed to the appointment, for instance, of members of the Supreme Court, or who adopts the idea Col. Roosevelt expressed before the Ohio convention and advocated publicly, and that a great many good men believe in, that there ought to be some sort of appeal from the decisions of the Supreme Court to the people. I know there are men who think that would be absolutely disastrous to our form of government, although it is supported by those who want to make the form of government more liberal than it is now. I should like to go just as far as I possibly can to punish any man who in any way is disloyal, but I would not want to punish a man because he advocated a different form of government if he honestly believed in it.

Mr. BORAH. Mr. President, I will ask the Senator a practical question. Suppose that a person held the view that the Senator has just expressed with reference to the election of judges, instead of the appointment of judges, or with reference to the recall of judicial decisions instead of the present system, and suppose that some district attorney should bring that man into court and undertake to prosecute him for presenting such a proposition in a reasonable and in a proper way, how far does the Senator think they would get toward punishing that man under this bill?

Mr. NORRIS. If I were on the jury I am satisfied that I would not agree to a conviction, no matter what the bill might say. My own idea is that he could not be convicted. But even though that would be true in every case, that they could not be convicted, if there were prosecutions even that we knew would result in the release of the defendant, that is a very serious proposition.

Mr. BORAH. Precisely so; but the Senator will understand that right now, if a district attorney is corrupt enough and crooked enough, he can bring into court any citizen of the country, however innocent he may be, and undertake to give him a trial, and put him through the form of a trial, regardless of whether he hopes to convict him or not.

Mr. NORRIS. I think that is true; and we ought to be careful, in passing laws, that we do not encourage that kind of conduct.

Now, on the recall of decisions——

Mr. BORAH. Let me ask the Senator another question in that connection. I have asked the Senator one question, and now I ask him this question: How would the Senator deal, under any present law upon the statute books, with the case which I cited to his attention a few moments ago? What law is there on the statute books now to punish the man who simply eulogizes the advances of the German Army and the superior worth of the Hohenzollern dynasty? What law is there by which we can punish him?

Mr. NORRIS. I do not know that there is any; and I will go just as far as the Senator will in enacting a law that will inflict any kind of severe punishment on anybody that will do that.

Mr. BORAH. What law will suffice to meet that situation other than the measure which we now have before Congress?

Mr. POINDEXTER. Mr. President, I beg leave to interject, if the Senator will permit me, that if we had juries and judges that responded to the needs of the situation, so as to give a construction to the existing law in harmony with the purposes for which it was enacted—a law which provides a penalty for the man who does an act which obstructs the enforcement of the draft act or the sale of liberty bonds—they would find that such conduct as the Senator has described had that effect and was a violation of that law.

Mr. BORAH. It may be true that the law as at present upon the statute books would cover that situation if it were properly construed; but we do know that it has been so construed as to relieve that kind of conduct from punishment, and that is the very object of this bill, as I understand.

Mr. GORE and Mr. STERLING addressed the Chair.

The VICE PRESIDENT. Does the Senator from Idaho yield; and if so, to whom?

Mr. BORAH. I yield to the Senator from South Dakota, and then I will yield to the Senator from Oklahoma.

Mr. STERLING. Mr. President, let me call the attention of the Senator from Idaho to the very language of the bill now. In order that the party may be amenable under the bill, the language must be disloyal, profane, scurrilous, contemptuous, or abusive language about the form of government.

Mr. BORAH. Exactly.

Mr. STERLING. Does the Senator from Idaho think that a mere academic discussion of the forms of government, and an assertion by one that he believes a monarchial form of government superior to a republican form of government, would render a party liable under this law?

Mr. BORAH. No. I stated, as I thought, in answer to the Senator from Nebraska, that if it was simply a presentation of a man's view in a proper way, as to his difference of opinion as to the worth of different forms of government, or as to a change in the Constitution, or something of that kind, it would not come within the purview of the law at all.

I now yield to the Senator from Oklahoma, if he desires to interrupt me.

Mr. GORE. Mr. President, I first want to suggest that there is another provision in the pending bill which would meet that exact situation. It is found in the provision contained in line 17, page 3:

Whoever shall by word or act support or favor the cause of the German Empire.

But I wanted to ask the Senator this question: The Declaration of Independence, after reciting certain inalienable rights of life, liberty, and the pursuit of happiness, and averring that to secure these ends governments are instituted among men, adds that whenever any form of government becomes destructive of these ends it is the right of the people to alter or to abolish it, to organize its powers in such form, and so forth. Does the Senator think that that declared right would collide with the provision in the bill?

Mr. BORAH. No; I do not.

Mr. GORE. Then, I will ask the Senator one other question. If anybody outside of Congress should insist that the Constitution of the United States is suspended or should be suspended pending war, and that we should substitute an autocracy during war, that a democracy is unfitted for war, would that subject him to prosecution under this bill?

Mr. BORAH. I do not so understand, if a man should make that kind of a statement; but if a man should speak of the Constitution and the Government of the United States in an abusive or profane way, I think he would come within the purview of the proposed law.

Mr. GORE. Then, Mr. President, there is a provision that anyone using any language calculated to subject the Constitution to contempt is liable to prosecution.

Mr. BORAH. We will come to that in a minute.

Mr. GORE. I am anxious, the Senator will see, to protect some of our associates and others. I want to know exactly the boundaries of this provision.

Mr. BORAH. I do not understand that the Senator from Oklahoma is uneasy about himself.

Mr. GORE. No. I cherish some lingering respect for the charter of our liberties.

Mr. POINDEXTER and Mr. COLT addressed the Chair.

Mr. BORAH. I yield to the Senator from Washington; then I will yield to the Senator from Rhode Island.

Mr. POINDEXTER. I wish to ask just a very brief question of the Senator from Oklahoma, in view of the question that he has just asked.

Of course, this legislation is a product of the times. Many of the things that are proposed to be punished by this bill might very well go unnoticed and be of trivial public importance in times of peace; but the bill ought to be judged by its application to the emergency that confronts the country. It is a great emergency. Everything that the country stands for is in the balance as the result of the efforts of our people, acting under our Government, under the laws as they exist to-day. Now, does the Senator think that it is consonant with good public policy in that situation to speak contemptuously of the Government or of the Constitution or of the Army and Navy of the United States?

Mr. GORE. Not at all; not at all. I think perhaps that has been done in some high places, and I wanted to know just the boundary of the rights and privileges the people would be permitted to enjoy hereafter and the words and acts that would be subjected to punishment.

I think that one of the chief objects of our free institutions—in fact, the object recited in the first amendment to the Constitution, and the assurance that that amendment would be adopted procured the ratification of the Constitution—was the guaranteed right of freedom of thought and freedom of speech. Now, if our institutions stand for anything at all, freedom of thought and freedom of speech are among the cardinal and inalienable rights of American citizens, and those rights are baptized with the blood of our ancestors. I think the Senator put his finger on the point when he said there were trivial things in times of peace, and I think there may be trivial things in times of war that ought not to be magnified into serious breaches of the law or the Constitution.

I think Lloyd-George was right when he said that the Government which could not hear the truth about itself, which was not virile enough to hear the truth about itself, had not reached the status of a first-class power. It is an ancient and it is a correct principle of law that the law takes no account of trifles. All I desire is to differentiate between trifles and matters of serious moment.

Of course, everything done and everything said, intended, and calculated to inspire sedition ought to be punished. This bill undertakes to penalize a man who merely favors certain things, unaccompanied by word or act. It undertakes to turn an X ray into hearts and minds of men. As I remember, Monus, one of the Greek gods, had a window in his breast, so that you could read his feelings and his thoughts. If we had any intellectual X ray of that sort, I should not hesitate to vote even for the word "favor"; but I know of no means of scrutinizing the inner thoughts of men as disembodied from word or deed. I think we ought to be careful not to go too far or too fast and not to become too intolerant. I am afraid that some acts of intolerance in this country have contributed more or less to the social dissolution prevailing in Russia.

The guaranties in favor of freedom of thought and freedom of speech are the fruits of immemorial centuries of experience. They were embodied in our Constitution because experience had demonstrated that freedom of thought and freedom of speech did not work as much mischief as the intolerance and the despotism which undertook to cut the tongues out of the throats of men who sought to give utterances to honest convictions.

Mr. POINDEXTER. Mr. President, that is very beautiful rhetoric that the Senator from Oklahoma has entertained the Senate with, but it is not very practical in the solution of the problems of this war.

Mr. GORE. Mr. President——

Mr. POINDEXTER. Just a minute. Let me ask the Senator——

Mr. GORE. It will not be necessary, if the Senator will permit me to interrupt long enough, to say that I will join the Senator in all practical and well-advised measures.

Mr. POINDEXTER. I do not think it is necessary myself, but it is appropriate. The Senator says there is no way provided in this bill for determining whether or not a man favors the German cause. I assume from his argument that he thinks that a citizen of the United States should be allowed to favor the German cause.

Mr. GORE. Mr. President, I do not think so.

Mr. POINDEXTER. Then, if the Senator does not think so, he ought to vote for this bill.

Mr. GORE. The Senator misunderstands my criticism. I did not refer to the word "favor" where it appears in connection with the German Government. In that connection the bill expressly requires, as it should, that such fact shall be proved by words spoken or acts done. I approve of that. I referred to the word "favor," in line 15, where it is merely defined as a state of mind, unaccompanied by word or deed. I think that any American citizen who favors the German cause, if that fact can be proved by competent evidence, ought to be subjected to swift and merited punishment. He is entitled to no immunity in the courts of this country. He has no right to live in this country under our flag and enjoy its protection, and favor any other country or any other government which is at war with our own, if that fact can be established by competent evidence. We want no double allegiance, no divided loyalty in this country. In their nature these things are indivisible. They must be one or they must be none, if I may say so.

Mr. BORAH. Mr. President, permit me to say that if that is the attitude of the Senator this bill is not strong enough. This bill does not go to any such length as that. This bill does give the man who favors the German Government the benefit of the institutions of America, its representative form of government, its courts, and its juries, to determine whether he is guilty or innocent.

Mr. GORE. That ought to be so. Perhaps I did not finish the statement. I intended to say that the fact that he favors the enemy ought to be proven in a court by admissible evidence, and by evidence that accords with the established principles of law and civilized jurisprudence. Now, I will point out to the Senator from Idaho and the Senator from Washington the distinction which I make.

The word "favor," as it occurs in line 15, page 3, provides no rule of evidence and suggests no principle of law by which that fact shall be ascertained. In line 17, page 3, it provides that whoever shall by word or act favor the German cause shall be subject to punishment. Unquestionably such a person should be subject to punishment, but that prescribes a method of proof or a character of proof that is sanctioned by time and approved by experience. Men's motives and men's intentions can be ascertained only by acts done and by words spoken. That prescribes a method of proceeding which comports with the spirit of free institutions, but the word "favor" as used in the other sentence does not. That was the distinction which I had in mind.

Mr. BORAH. Mr. President, this bill does not purport to deal at all with the question of rules of evidence. The same mode of procedure, the same rules of evidence, the same method

of establishing a fact, the same presumption of innocence, would accompany a party through the trial from the beginning to the end under this law just as it would under any other statute of the United States.

Mr. GORE. Mr. President, in line 17 the bill provides for the punishment of any person who by word or act favors the German cause.

Mr. BORAH. Any person who supports or favors it.

Mr. GORE. Yes. In the other line it does not say "by word or act." A court would construe the omission of the phrase "by word or act" in the first instance as meaning that Congress had left out those words deliberately and by intention.

Mr. POINDEXTER. Which are the lines?

Mr. GORE. Line 15 in the first instance, line 17 in the second. The point I was making is that we ought to insert "by word or act" in line 15 as well as in line 17; and if that be done, certainly that objection is removed.

Mr. POINDEXTER. I do not think anyone could reasonably object to that suggestion. That is a very practical suggestion. There is no objection to that, I am sure, on the part of the chairman of the committee or anyone else.

Mr. GORE. That is the point which I had in my mind.

Mr. POINDEXTER. I should like to add just this word as to the criticism which the Senator has made that there is no rule of evidence provided. That being the case, the rule of evidence as it is now established in our courts remains. It is not changed in any way, as the Senator says.

Mr. GORE. Well, here was the point: Perhaps I did not make it plain. In one instance we use the expression, "Whoever shall, by word or act, favor." In the other instance we do not use the phrase, "By word or act," and yet we make the favoring of certain things a crime. Now, the omission of those words in the one instance would be construed by a court to be deliberate and intentional.

Mr. BORAH. Mr. President, it would be interesting to know how you could possibly prove that a man favored a thing except by some word or act.

Mr. GORE. That is the point; and I thought the safeguards ought to be erected in both instances as they are in one. The committee thought it advisable, if not necessary, to state how you would prove it in line 17, "by word or act." They did not conceive it to be necessary or advisable to state the way in which it should be determined in the other instance. I do not know why the difference was made. I assumed that there was some reason for making it. If the clauses are exactly identical, notwithstanding the omission of those words, of course, that is satisfactory. I do not know how we can determine in advance that they are; and they might be differently construed.

Mr. NELSON and Mr. COLT addressed the Chair.

Mr. POINDEXTER. I should like to suggest to the Senator from Oklahoma that part of the section of the bill he has quoted is a copy of an act of the Legislature of Montana, and a part of it was framed here in the Committee on the Judiciary, without any reference to the act of Montana; and that accounts for the difference in the language.

I agree with the Senator from Idaho that, so far as the protection of the party accused is concerned, the insertion of the words "by word or act" adds nothing whatever, because it is obvious that you never could show a man's guilt except by some word or act. My impression is that the insertion of the words "by word or act" tends to strengthen the statute from the standpoint of the Government, because without the insertion of those words it might well be argued, and certainly would be argued if lawyers in the courts are as technical as lawyers are in the Senate in the debates on this bill in defining its terms, that a mere act could not be construed as favoring the cause of Germany. The reason why "by word or act" is inserted in the bill is in order to enable a court to punish a man for taking an attitude, even though it is shown only by his act and not by his word.

Mr. NELSON. Will the Senator yield?

Mr. BORAH. I yield.

Mr. NELSON. I think the controversy here arises over a misapprehension of the two paragraphs. They relate to different subjects. The part which the Senator from Oklahoma refers to in line 16 is as follows:

> Whoever shall advocate, favor, teach, defend, or suggest the doing of any of the acts or things in this section enumerated.

That paragraph relates only to the acts enumerated in the law. Then the next paragraph is of general character and is more comprehensive. I will read it:

> And whoever shall by word or act support or favor the cause of the German Empire—

And so forth.

One is of a general character and the other is confined to the matters referred to in the bill. We have those words of a general character.

If the Senator will allow me, some criticism of that paragraph was indulged in on yesterday. There are some offenses that are committed that we have to define by general terms. Take the crime of usury. Take the crime of fraud and deception. You never can get into any statute a specific definition as to what acts shall constitute usury or what acts shall constitute fraud or deceit. The courts are unwilling to lay down any definition in those cases.

So in this case it is impossible, any more than you can define in the case of fraud or usury or deceit, to define specifically what acts or what words will be in favor of the Germans and will be against our Government. You have got to lay down a general term; it is unavoidable; and it is for the court and jury to determine whether the act committed by the defendant is hostile to the United States and in favor of the German Government, just as it is for the jury and the court in a case of usury to determine whether the roundabout acts committed in a usurious case are acts that constitute usury, and just as in the case of fraud whether the acts resorted to taken collectively as a whole constitute an act of fraud.

Mr. BORAH. I quite agree with the construction of the Senator with reference to this general clause. Let me call attention, while it is upon my mind, to the fact that there has been upon the statute books of the United States for 40 years, at least, a general provision punishing those who conspire to injure the United States. There could scarcely be a broader definition of a crime than a conspiracy to injure the United States; but, as the Senator has just said, when the matter comes to be dealt with in the courts before a jury all the acts and deeds of the parties charged are taken into consideration, and the court and the jury come to the conclusion whether or not combined as a whole it constitutes an injury to the United States. You can not define every crime that you mean to punish by specific or limited terms or definitions so as to prevent the possibility of unwise construction.

Mr. HARDWICK and Mr. GORE addressed the Chair.

The VICE PRESIDENT. Does the Senator from Idaho yield; and if so, to whom?

Mr. BORAH. I yield to the Senator from Georgia first.

Mr. HARDWICK. The Senator, I understand, offers an amendment to strike out the word "calculated," in line 24, page 2, and substitute the word "intended."

Mr. BORAH. I suggested that amendment.

Mr. HARDWICK. Does the Senator also intend to suggest an amendment to strike out the word "calculated," in line 5, page 3, and substitute the word "intended"?

Mr. BORAH. If I should succeed in inserting the word "intended" for "calculated" in the first instance, I think the second would follow.

Mr. HARDWICK. That would make the intent apply to every one of these sentences?

Mr. BORAH. I think so, but I desire to say that I am not at all sure that that is necessary, because, with the single exception of one decision, I have found no authority that holds that the word "calculated" involves the intent of the party, and, with the single exception of a Federal case, that has been the definition which has been given. The purpose of the party, the intent of the party, the design of the party, is synonymous with "calculated," and it was only for clarity that I suggested it.

Mr. HARDWICK. Are there not two decisions exactly the reverse of that?

Mr. BORAH. I would be glad to see them. I have found that one.

Mr. HARDWICK. A decision of the United States Supreme Court?

Mr. BORAH. No; a decision of a lower court.

Mr. COLT. If the Senator from Idaho will allow me a question, I would like to ask him if he does not think the word "disloyal," which precedes the word "profane," is the most significant word in that paragraph?

Mr. BORAH. I think it characterizes the whole statute.

Mr. COLT. It characterizes the whole statute. I think in the construction of a statute we should always fall back upon the great principle of reasonableness, or what is a reasonable and fair construction under all the circumstances. I should like to ask the Senator if he does not construe the word "disloyal" to mean that the utterance, or writing, looking at all the circumstances, must be, by reason of its very nature, disloyal; and, further, that no academic discussion of the question of the form of government was intended to come within the statute.

I do not think this act was intended to include the discussion of the question whether under the Constitution the court has the power to declare a law unconstitutional, or the discussion of true democracy as distinguished from a republican form of government, or the discussion of a constitutional monarchy as distinguished from a republican form of government—all those questions when discussed in an abstract way, I think the Senator will admit, do not come within this act.

The question, then, is not whether a man may express his belief in one form of government rather than another, but whether he expresses his belief in such a way and under such circumstances as to show a disloyal intent.

Mr. BORAH. I thank the Senator from Rhode Island for his suggestion.

Mr. GORE. Mr. President——

Mr. BORAH. I yield to the Senator from Oklahoma.

Mr. GORE. I presume I did not quite make my point clear. To advocate or defend or conspire are, of course, affirmative acts. In the nature of things they involve either the utterance of words or the performance of deeds. Favor may be a mere state of mind, never taking form either in act or word.

Mr. BORAH. You can not prove favor except by some fact, however.

Mr. GORE. That is true. It seemed to me that the phrase "by word or act" ought to be inserted in both instances or ought to be omitted in both instances. I did not know the history of this bill, but I am familiar with the high abilities of the Judiciary Committee, and when they inserted the phrase "by word or act" in one instance preceding the word "favor" and omitted it in another sentence containing the word "favor," of course I was compelled to presume that they had done so for some reason, and that the use of different language was to impart a different sense and significance. It was to call attention to that disparity that I injected myself into this debate.

Mr. BORAH. The Senator from Rhode Island refers to the word "disloyal" as characterizing this section, and I think it does; but all the adjectives used—disloyal, profane, contemptuous or abusive language, in speaking of the Government and the Constitution—imply a willful, a criminal, or a disloyal mind or spirit on the part of the party who is using the language. Of course, there would have to be, in my judgment, a clear proof of that state of mind or that condition of mind in order to satisfy any court or jury that the party was guilty under the law.

Now, Mr. President, may I say in reference to some remarks made by the Senator from Oklahoma [Mr. GORE] and others since I have risen that if our soldiers are not in France for the purpose of maintaining and protecting against assault our form of government, our Constitution, and our flag, the things which are here protected, I should be glad to know why they are there at all. If they are there for that purpose, I ask in all sincerity is it too much to ask complete devotion upon the part of those who remain at home to the things for which our boys are fighting and dying upon the western front?

It may be that this will interfere to some extent with the mental processes of some of those who remain behind and are out of sympathy with the purpose for which those boys have been called into foreign lands; but I submit when you consider the ten thousand ways in which a disloyal man may pour his subtle poison into a community to embarrass the cause in which those boys are engaged, it is not too much to place upon the statute books that which will turn upon him the calcium light of investigation by a court and by a jury. I know this is a drastic law, and I would not support it except in times like these and unless I believed it necessary to prevent things far worse.

I am just as well satisfied as that I stand here that unless the Senate of the United States provides an orderly method by which to deal with this class of cases, unless it provides a means by which it can be taken into court and determined by the court and by the jury, just so surely as matters proceed as they are we will either come to military trial or to mob rule or vigilance committees.

Mr. OVERMAN. Will the Senator let me introduce a telegram just received?

Mr. BORAH. Certainly.

Mr. OVERMAN. I send to the desk a memorandum, including a telegram handed me by a distinguished Senator from the West along this same line. I ask that it may be read.

The VICE PRESIDENT. The Secretary will read.

The Secretary read as follows:

Senator CURTIS received the following telegram recently from an assistant attorney general of the State of Kansas:

"Good men from central Kansas complain that American citizens of German birth frequently and publicly express desire for German success in the war and their own wish to help Kaiser; also complain that Department of Justice declares it has no power to act. They fear serious trouble. Can you advise me definitely as to power of Federal authorities under present law; and if new legislation is needed, can you secure such legislation soon?

Mr. OVERMAN. I want to say that we have no law at all to cover it.

Mr. BORAH. Now, we come to the second clause, to which most objection has been made:

Or any language calculated—

Or, I will say, "intended"—

to bring the form of government of the United States, or the Constitution of the United States, or the soldiers or sailors of the United States, or the flag of the United States, or the uniform of the Army or Navy of the United States into contempt, scorn, contumely, or disrepute.

Mr. President, is it too much to ask that those who are not making the supreme sacrifice, but are here enjoying the protection of our form of government and the protection of our Constitution and the protection of the flag, to refrain from the use of such language as is profane or abusive or calculated to bring these different objects into contempt? Is it too much to ask that they conform their words, their language, and their conduct so as to harmonize with the feelings and sentiments of those who have sent their boys to the front?

I might myself individually be willing, treating him with the contempt which I should feel for him, to listen to one who would advocate the success of the German cause, or I might be willing to content myself while some would express doubt as to our form of government and as to whether it were better for the human race that it should survive or not, but I venture to say, Mr. President, that the countless hundreds of thousands of homes in this country whose own kith and kin and blood are in Europe fighting for the preservation of these things will not be tolerant about it. The true friend of representative government and of order and of law is the man who undertakes to deal with these classes in the courts and in a method established from time immemorial by Anglo-Saxon procedure rather than to leave it to the movement of those whose passions are aroused by this constant carrying on in their community. It is too much to ask, too much to expect of human nature that those who are giving up those who are near and dear to them, who are making the supreme sacrifice to preserve our Government and maintain our flag to stand unmoved while disloyal individual denounces and profanes the one and insults the other. If we do not do our duty here, the impulses of loyal men and women will seek justice in rougher ways. Senators may hesitate and draw back, but already the news comes over the wire that patriotic citizens are taking the law in their own hands. I abhor military trials. I shudder at the thought that this proud Republic is about to resort to the law of riot and disorder. I would rather trust the courts and the jury with a drastic law, believing that in that way we can still protect the innocent and punish the guilty. We live in days of sad hearts and agonizing minds, and such days involve hazard and some new experiments. We would not pass this law in peace, but I believe it is demanded now.

I know, Mr. President, that there have been letters pouring into my office, as I have no doubt there have been in other offices in this city, for the last six months calling attention to just this situation, and already movements have been started locally to deal with the matter. I heard a very able Senator say upon the floor a few days ago that his people dealt with such a situation with the shotgun. I do not believe that it is necessary for us to resort to mob law or to the vigilance committee or to the shotgun, used indiscriminately by those whose passions have been aroused, if we will properly appeal to our courts and our juries to enforce a drastic law in the ordinary method. It is for this reason that we are driven to the adoption of such a law. It is for this reason that we must appeal to it in time of war, whereas, as the Senator from Washington [Mr. POINDEXTER] said, that might not be thought of at all in time of peace. Indeed this law itself expires when peace comes.

Mr. FRANCE. Mr. President——

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

Mr. BORAH. I yield.

Mr. FRANCE. I am very sorry to say that I do not agree with all the Senator is saying.

Mr. BORAH. That is discouraging to the Senator from Idaho.

Mr. FRANCE. Personally I believe that this country is essentially sound. I believe we have here a country of patriots devoted to our cause. I refuse absolutely to believe that we have in this great Republic any substantial number of people who under these circumstances favor the cause of the German Empire.

I interrupt the Senator to ask him a question——

Mr. BORAH. Just a moment. Before the Senator proceeds further I will pay the Senator the courtesy to say I agree with the Senator entirely. I approve all that the Senator says, that this country as a whole is essentially sound. I further say that the great mass of the German citizens are patriotic. But the Senator will not contend that there are not in this country those who are conspiring to embarrass the Government in the prosecution of the war. Fortunately the percentage is very small.

Mr. FRANCE. I entertain the highest regard for the Senator from Idaho. I believe that he is a statesman whose reputation is fully established, and I like to follow him when I can. I rose to ask the Senator a question, and that question is this: Upon what theory can he explain the alleged fact that there is in this country a large body of American citizens who favor the cause of the enemy? I can myself find no ground for such an allegation. I am very happy to say that, so far as Maryland is concerned, there is no evidence which compels me to adopt any such theory, because we have a loyal people. I do not know of a single man in Maryland who favors the cause of the enemy.

Mr. BORAH. Mr. President, I am very frank to say that I have no theory upon which I can explain it at all. I am simply dealing with concrete facts.

Mr. FRANCE. I can not understand how such a condition could possibly arise, and I do not believe that it exists. So far as I am concerned, I voted against the espionage bill, and I shall vote against this measure, because I believe in the soundness of the American people, and I believe that when a man complains he is complaining against conditions which need correction, and there are conditions which need correction, and I believe that we should correct them. I believe that we have a patriotic country, and that these men who are, perhaps in a tone of petulance or irritation, uttering sentiments which might seem to be disloyal are not in heart disloyal. I believe our country is sound, and I do not believe that such legislation as this is necessary.

Mr. BORAH. I am very frank to say that I have no theory upon which I can explain the disloyalty of a man to this Government. I can not conceive, and I have never been able to conceive, how a man could flee from the environments of the Old World, to get away from conditions which he there believed to be unfriendly to his interests, and come to this country and enjoy the freedom of this Republic, avail himself of the western opportunities, and then turn, whenever the crisis arises, to aid the power from which he had fled.

I have no theory, Mr. President, whatever by which I can explain why it is that a few days ago when the Germans seemed to be conquering there were bodies of men congregated in different parts of this country who shouted for the success of the German cause. I have no theory by which I can explain it. I simply state that it is a fact; that is all I know; and with the fact I deal.

I call the Senator's attention to the fact that a man was a candidate for the Senate in one of the great States of this Union a few days ago who advocated the withdrawing of our soldiers from Europe, who advocated, according to the papers, the abandoning of the cause of America in this fight, and who got a hundred thousand votes. I deal with facts and not with theories.

Mr. FRANCE. I am glad he ran——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Maryland?

Mr. BORAH. I yield.

Mr. FRANCE. I wish to say with reference to the candidate that some people would have withdrawn him from the field from fear that he might be elected; but I am glad that he ran, and I rejoice that he was defeated in a fair and square election. I know that many thousands of the men who voted for him were not disloyal citizens, but they voted for him because they hold a theory of government which they think, if adopted, would mitigate some of the unnecessary evils which we have allowed to exist in this Government. Many of the men who voted for him I believe were not disloyal.

Mr. BORAH. Mr. President, I do not want to discuss that question with the Senator from Maryland; and I trust, when the Senator from Maryland comes to reflect upon his language that, out of respect to the Senate of the United States, he will strike that part of it out.

Mr. HARDWICK. Mr. President, will the Senator from Idaho yield to me?

Mr. FRANCE. Mr. President, I will appreciate it if the Senator from Idaho will tell me what portion of my remarks he would like to have stricken out as indicating a lack of respect for the Senate?

Mr. BORAH. When the Senator says that he is glad a man who ran for the Senate on the platform upon which Mr. Berger ran, a platform, if correctly reported, of disloyalty in every sense of the word and received 100,000 votes, he is uttering sentiments not creditable to this body.

Mr. FRANCE. I did not say that. I said I was glad that he was defeated, instead of being withdrawn, because that is the proper method of dealing with such a man under our system.

Mr. BORAH. I leave the Senator to review his language when he comes to read it.

Mr. HARDWICK. Mr. President——

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

Mr. BORAH. I yield.

Mr. HARDWICK. I thoroughly disagree with all I have read which was published about Mr. Berger's platform, but I rise to ask, Does the Senator from Idaho contend that a man is disloyal to this Government if he advocates the conclusion of peace with Germany now or later?

Mr. BORAH. That would depend upon the terms on which he advocates it. If he advocates it upon the terms that Mr. Berger does, I contend that he is disloyal.

Mr. HARDWICK. I do not know what those terms are.

Mr. BORAH. They mean the triumph of the Hohenzollern dynasty and the domination of that Empire over this Republic. They mean the ruin of all which we as Americans hold dear and all for which our fathers and our forebears fought.

Mr. HARDWICK. What I want to ask the Senator is, Can it be true in a free country that it is perfectly loyal to advocate one policy and absolutely disloyal, no matter what the circumstances are, to advocate another?

Mr. BORAH. No; that is not the proposition.

Mr. HARDWICK. Who is to judge of the circumstances?

Mr. BORAH. The Senator from Georgia did not understand me to state any such proposition.

Mr. HARDWICK. That is exactly the proposition. This man, you say, advocated the conclusion of peace, and you say that, in your judgment, he favors a peace now which would mean the triumph of the Hohenzollern dynasty. Probably Mr. Berger does not agree to that; but can it be contended under this proposed law that any man who either now or later advocates a conclusion of peace by this country, either on the terms suggested by Mr. Berger or on other terms, or any man who contends that the time has come to begin peace negotiations, is disloyal to his country, and is subject to indictment under this bill, should it become a law?

Mr. BORAH. Mr. President, I repeat that it depends upon the conditions of peace which such a man advocates. If the conditions are such as to involve the ruin of my country, he is a traitor.

Mr. HARDWICK. But who is to be the judge of that?

Mr. BORAH. He is to be judged in that matter by the institution set up in this country to pass judgment. It is perfectly easy to determine whether a proposition for peace is in conformity with loyalty to this Government; there would be no difficulty about that at all. We had that same situation to deal with from 1861 to 1865. The copperheads of the North advocated peace from the first hour of the fight, and they advocated it upon the proposition of permitting the South to go out from the Union and to destroy the Republic. It was disloyalty; and Mr. Berger's scheme is just as disloyal. Both mean ruin—absolute ruin—to the Republic.

Mr. HARDWICK. I do not know anything about Mr. Berger's scheme; but the Senator from Idaho can not maintain here, or in any other forum of reason, at least—and I do not think the Senator from Idaho would undertake to do it—that loyalty to this country necessarily always means that this country shall continue at war. Otherwise how would we ever end the war?

Mr. BORAH. The Senator from Idaho has not advanced any such doctrine at all.

Mr. HARDWICK. I was wondering if the Senator's argument did not lead to that.

Mr. BORAH. I have said that whether advocacy of peace is loyal or disloyal depends upon the conditions upon which the peace is advocated.

Mr. LODGE. Mr. President——

Mr. BORAH. I yield to the Senator from Massachusetts.

Mr. LODGE. Is it not true that Mr. Berger favored withdrawing our troops?

Mr. BORAH. I so stated.

Mr. LODGE. That is what I understood; and I think in the present situation that is an absolutely disloyal proposition.

Mr. BORAH. It is not only disloyal, but, in my judgment, if it is not, it ought to be brought within the purview of the criminal law. The advocates of peace of this kind encourage the enemy and nerve them on to kill a few more American

boys. They are just as truly the aids and friends of that blood-soaked dynasty as if they stood on the other side of that fearful battle line and hurled their poisonous gas at our soldiers.

Mr. LODGE. One other thing. Is it not true that Mr. Berger is now under indictment?

Mr. BORAH. Yes; that is true.

Mr. HARDWICK. What I wanted to ask the Senator was this: Of course, I do not know anything about what Mr. Berger contended in Wisconsin——

Mr. BORAH. That is all we are discussing.

Mr. HARDWICK. I know, but I am merely discussing the general proposition of how in the world a nation would ever arrive at peace.

Mr. BORAH. That proposition has not been adverted to by the Senator from Idaho.

Mr. HARDWICK. But you have referred to one man who, you say, is guilty of treason because he did want to conclude peace.

Mr. BORAH. I referred to that man because he was the party under discussion and stood on a disloyal platform.

Mr. HARDWICK. I know that.

Mr. BORAH. I say, now, generally, that a man may advocate peace, even with the Germans, under conditions which are in conformity with the preservation of free institutions and the honor of the American Government and the future safety of the American people and be perfectly loyal.

Mr. HARDWICK. Who is to be the judge—each man for himself?

Mr. FALL. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from New Mexico?

Mr. BORAH. I do.

Mr. FALL. I merely want to suggest that if this bill becomes a law the courts and the juries will be the judges, and that is exactly what those of us who are advocating this bill want to bring about.

Mr. HARDWICK. In other words, you want to have it—and if this bill becomes a law you will have it—so that if the time has come when what a man regards as perfectly honorable terms of peace could be concluded he could not advocate it without being guilty of treason.

Mr. BORAH. Neither the Senator from Idaho nor the Senator from New Mexico has made any such suggestion.

Mr. HARDWICK. I merely wanted to see how far it is going.

Mr. POINDEXTER. If the Senator will allow me just a word, I would suggest that Mr. Berger did not propose honorable terms, or what he regarded as honorable terms of peace; he did not propose any terms at all, but he proposed an unconditional surrender.

Mr. BORAH. He proposed precisely what Trotsky and Lenine gave Russia—a surrender to the German Government. That is disloyalty; it is treason in every conceivable sense of the word.

Mr. LODGE. It is.

Mr. HARDWICK. The Senator from Idaho will not, of course, understand that I favor any such policy as that.

Mr. BORAH. No; I did not so understand.

Mr. HARDWICK. The very reverse is true about that; but I want to get this plainly before the Senate. The time may come when we may be able to conclude peace, and will be able to conclude peace, I hope, on terms that are perfectly honorable to this country.

Mr. BORAH. Then all of us will be for it.

Mr. HARDWICK. When that time does come, is not the humblest citizen in this land to have just as much right to advocate it as the President of the United States or anybody else in authority, without being guilty of violating the criminal laws of this country?

Mr. BORAH. I am perfectly satisfied with the Senator's proposition now. Nothing in this proposed law would interfere with the humblest citizen advocating peace upon that kind of a basis; and there will never be any law passed by the Congress of the United States which will do so, in my judgment.

Mr. HARDWICK. I was just wondering whether it would or not.

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

The PRESIDING OFFICER. Does the Senator from Idaho yield further to the Senator from Maryland?

Mr. BORAH. I yield.

Mr. FRANCE. The Senator from Idaho has apparently misunderstood me, and evidently I did not make myself clear. I desire to say that the Socialist candidate in Wisconsin in no way represents my views; in fact, all of his views, all of his theories of government, and all of his doctrines concerning this war are utterly repugnant to me; but believing, as I do, in the essential soundness of our people, and believing, as I do, in the reliability of the judgment of our citizens, inasmuch as Mr. Berger had declared himself as a candidate, I much preferred to have him defeated fairly at the polls to having him withdrawn as a result of threats or violence against him. I think that the results of the election in Wisconsin have proved conclusively the soundness of the American people and the soundness of the judgment of the people of Wisconsin.

Mr. BORAH. Yes; Mr. President, Mr. Berger enjoyed all the privileges and blessings of a representative Republic; he was permitted to run for office without hindrance and without disturbance; he was given all the rights of a free citizen to acquire position and place in a Government which he stood ready to surrender to the domination of the Hohenzollern dynasty, and I can not conceive of a more despicable and contemptible creature under the protection of the American flag than the man who would seek to avail himself of the privileges and the honors of this Republic at a time when he stands ready to surrender it to a foreign power. His plan to withdraw our Army and our support would place bleeding and heroic France where torn and dismembered Russia is to-night. It would probably bring ruin to England, whose soldiers are fighting our cause in this very hour; and it would ultimately bring additional misery and suffering to our own land, if not complete ruin to our whole form of government, and annihilation to our entire conception of civilization. I do not know Mr. Berger, but his platform, if properly reported, was moral if not technical treason.

Mr. FRANCE. Mr. President, will the Senator from Idaho, in order that my record may be perfectly clear, allow me to indorse all that he has said in that very eloquent paragraph? He has expressed himself far more eloquently and forcefully than I could have done.

Mr. BORAH. I am glad to have the Senator's conversion.

Mr. FRANCE. I will say, in order to correct the Senator again, that there has been no conversion.

Mr. BORAH. Then I express my keen regret.

Mr. FRANCE. My attitude toward this war has never changed since last April. My policies have not changed. I would unite this whole country to a man and organize it for the prosecution of the war, and I believe that the country would respond.

Mr. BORAH. If the Senator ever assumes that task, I assign to him first the duty of converting Mr. Berger himself and bringing him into the cause. [Laughter in the galleries.]

The PRESIDING OFFICER. Before the Senator from Idaho proceeds, the Chair will say to the occupants of the galleries that, under the rules applying in this body, no evidence of approval or disapproval is permitted. The statement is made merely for the sake of order and that the debaters may not be disturbed. The Senator from Idaho will proceed.

Mr. BORAH. Now, Mr. President, I go to the other clause, which reads:

> Or shall utter, print, write, or publish any language calculated to incite or inflame resistance to any duly constituted Federal or State authority in connection with the prosecution of the war.

Mr. KING. Before the Senator proceeds to a discussion of that clause——

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

Mr. BORAH. I yield.

Mr. KING. May I venture to inquire of the Senator whether it would weaken the general purpose, indeed the specific purpose, of the measure if the words last discussed by the Senator were eliminated, the words being—

> Or any language calculated to bring the form of government of the United States, or the Constitution of the United States, or the soldiers or sailors of the United States, or the flag of the United States, or the uniform of the Army or Navy of the United States into contempt, scorn, contumely, or disrepute.

Do not the preceding words in the section characterize the things that are offending, the acts and words which are criminal, so that the words which I have just read really are meaningless, and will lead to controversy, misunderstanding, and honest, legitimate criticism? If the Senator will further pardon me, if we say:

> And whoever, when the United States is at war, shall utter, print, write, or publish any disloyal, profane, scurrilous, contemptuous, or abusive language about the form of government of the United States, or the Constitution of the United States, or the soldiers or sailors of the United States, or the flag of the United States, or the uniform of the Army or Navy of the United States.

Does not the very fact of saying or writing or publishing these things tend, directly or indirectly, to bring into contempt

the Government of the United States, the Constitution, the flag, and the uniform; so that we might, without weakening the purposes of this measure, eliminate from it the words to which I have alluded?

Mr. BORAH. I am rather inclined to think that would be a better expression.

Mr. NELSON. Mr. President, will the Senator allow me to interrupt him?

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

Mr. BORAH. I yield.

Mr. NELSON. I call the attention of the Senator from Utah to the clause following that to which he alluded. It constitutes an entirely different offense from that provided in the preceding clause. It reads:

> Or shall utter, print, write, or publish anything calculated to incite or inflame resistance to any duly constituted Federal or State authority.

Mr. KING. Mr. President, if the Senator will pardon me, I did not allude to those words. I would leave those words in.

Mr. NELSON. I thought the Senator referred to that language.

Mr. KING. No; I was not asking for the excision of those words from the measure. While fully concurring in all that the able Senator from Idaho has said and indorsing every word he has uttered, my judgment is that the elimination of the words to which I have referred would perhaps relieve this bill of some objections and criticism, relieve it from the criticism which has been urged that some persons, not using wisdom or discretion, might employ the act oppressively, and thus insure a more hearty response upon the part of the Members of the Senate.

Mr. STERLING. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from South Dakota?

Mr. BORAH. I yield.

Mr. STERLING. I did not quite understand what language the Senator from Utah would eliminate.

Mr. KING. I was merely suggesting it; I am not quite clear in my own mind, but it occurred to me, in listening to the discussion and in reading the bill, that the words I alluded to were not necessary and did not add to the strength of the section itself.

Mr. OVERMAN. What are the words?

Mr. KING. The words are found in lines 24 and 25, on page 2, and lines 1, 2, and 3, on page 3, and a part of line 4, as follows:

> Or any language calculated to bring the form of government of the United States, or the Constitution of the United States, or the soldiers or sailors of the United States, or the flag of the United States, or the uniform of the Army or Navy of the United States into contempt, scorn, contumely, or disrepute.

The very acts charged in the preceding language of the bill necessarily would bring or have for their object bringing into scorn, contempt, and contumely the Constitution, Government, and the uniform of the sailors and soldiers; and if we state that the uttering of certain words shall constitute a crime, why go on and attempt to define what the effect would be? Necessarily the effect of language of the character referred to would be calculated to bring the Government into disrepute.

I am not moving that as an amendment, because the Senator from Montana [Mr. WALSH], who more than anybody else is responsible for this provision, is not here, and I would not offer the amendment in his absence, but I suggest it to the able Senator from Idaho, because he has been discussing so ably the provisions of this bill.

Mr. HARDWICK. Mr. President——

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

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

Mr. HARDWICK. I want to call the attention of the Senator from Idaho to the concluding section of this bill, which contains seven substantive proposals, if he will allow me to do so—and I dislike to trespass so much on the time of the Senator——

Mr. BORAH. The Senator from Georgia knows that the Senator from Idaho is always glad to have his suggestions.

Mr. HARDWICK. I read the following from the last paragraph of the bill:

> And whoever shall by word or act support or favor the cause of the German Empire or its allies in the present war or by word or act oppose the cause of the United States therein—

The Senator from Idaho will recall that some time ago, when the President of the United States presented to both Houses of Congress what he termed the war aims of this country and made what might have been regarded, and was regarded, throughout the world as a proposal which presented a substantive basis upon which peace could be concluded, in his judgment, even then so high an official as the President of the United States did not escape criticism, and severe criticism, from some people in this country on the ground that he was injuring the cause in this country in the war and was really aiding the German cause by doing that.

Now, having laid that much premise for the question I am about to ask, let me say that I did not intend—as, of course, the Senator from Idaho and, I take it, every Senator understands—to convey the impression by the question I asked just now that I approved in any way, shape, form, or fashion of Mr. Berger or his campaign for the Senate or his platform. As a matter of fact, the very reverse of each one of those propositions is true. But it was stated baldly here on the floor of the Senate that this man was disloyal to the country because—as I understood it, at least, it was stated in that way—he had proposed peace with Germany.

I believe it is fundamental, if this is to remain a free country, and even the remnants of free speech are to be left to its people, that people should have just as much right to advocate peace as to advocate war. The advocacy of peace, on conditions that are honorable to this country and on terms that are fair to its opponents, at some proper time must come.

Mr. POINDEXTER. Mr. President——

Mr. HARDWICK. Just a moment.

Mr. BORAH. Mr. President, if the Senator will permit me, I was going to say that I should be glad to yield the floor, and then the Senator can go ahead with his statement. I dislike to hold the floor quite so long, and I am really through.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. HARDWICK. All right. Then I will yield to the Senator from Washington in just a moment.

Mr. President, what I had in mind was not to have anything enacted into law, based on which the contention could be made in any moment of hysteria, from which any possible construction could come from any court, that the humblest citizen of this land, in private station though he be, should not have just as much right to advocate a peace as the mightiest official in all the Republic should have a right to advocate a continuance of war; and I am afraid that some of the language in this bill is capable of a construction that makes it doubtful whether that right—one of the inherent and fundamental rights of freemen in a free land through all time—will remain unimpaired if this bill is enacted.

At a later period during this discussion I propose to address the Senate at length on this question, and I propose to show how certain provisions in this law may quite probably be construed to deny a great many of the fundamental rights of free speech to people who are in no sense disloyal, who have a right to differ with anybody on earth they please about what policy this Government shall adopt, or what plan it shall pursue, or what methods it may take, either in the prosecution of this war or in the conclusion of a peace.

Now, I yield to my friend, the Senator from Washington [Mr. POINDEXTER].

Mr. POINDEXTER. Mr. President, I was just going to inquire of the Senator if he thought that Mr. Berger's program, or the program of the people advocating peace whose rights he is defending, tends toward the maintenance of liberty of speech and free government?

Mr. HARDWICK. I must confess that while I believe myself that this is no time to talk peace—we have not done enough in the war yet to give us the right to force a peace, and while I would be anxious to see one concluded if it could be done with honor to this country, I do not think that time has yet come—but I hope, in the providence of an Almighty and Merciful God, it may come to this country before too much blood is shed and before too much misery is undergone; and when the time does arrive when we can in honor compose our quarrels with our foe, I do not want to see any statute on the law books of this country that will make it possible for men who venture to assert their belief that the time has arrived to be treated as criminals.

Mr. POINDEXTER. The great mistake which I think is made by men who are so jealous of the liberty of speech being preserved, regardless of its effect upon the conduct of the war, is the assumption that under German rule we would have all sorts of these beautiful privileges. Another thing that seems strange—and I am not applying this to the Senator from Georgia but to the general class of people who do contend that none of their privileges must be interfered with—is why they attach so much more importance to and value so much more preciously the right to talk as they choose and express all sorts of opinions than they do the right of life and the right of property and the right of trade, all of which were involved in our cause against Germany when they opposed any action

on the part of the United States to protect those rights. Ships were being sunk with American citizens, who, under every guaranty of government and of law that the human race knew anything about up to that time, were within their rights. They were engaged on business as important to them as business can be to anybody. Their property was just as essential to life, liberty, and the pursuit of happiness as the Senator's property is or his business or anybody else's. We went to war, among other things, for the purpose of giving to those people, in the enjoyment of those privileges, the protection of the Government of which they formed a part. That was opposed by a great many people who did not think that those rights and privileges were important or precious enough to involve the United States in a war. Why is it that, regardless of its effect upon the war, they attach so much more importance to the right of free speech, while at the same time we take men's bodies, conscript them into the Army, and subject them to the dangers of the firing line? We pass laws here without very much objection as war measures, to commandeer manufacturing plants, to take the property of the citizens of the country and subject it to the purposes of the war. Now, I should like to know what distinction there is, if in the judgment of men it is necessary to the successful prosecution of the war, while we are taking their bodies and their property if we also take away from them somewhat of this license of speech which is so much defended.

Mr. HARDWICK. If the Senator has finished his interruption, which I welcome, my reply to him, of course, is that I fully agree with him in his last statement. Liberty of speech, freedom of speech, does not mean license. No man ever did have in this country, in time of war or in time of peace, the right to speak freely his own opinion except subject to the laws of the land; and if he spoke falsely or injured or maligned or abused or slandered his neighbor, he must answer to the law. Liberty of speech in a free land has never meant license of speech. People who are guilty of licenses of the kind and character to which the Senator refers are now, and have always been, amenable to law.

I fully agree also with the statement of the Senator that we went to war with Germany because Germany fired upon our flag and sank peaceful and innocent American citizens on the high seas, and I believe that we went to war with Germany for that reason alone. If Germany had not sunk our ships and murdered our citizens and fired on our flag, I do not believe either House of Congress would have voted a declaration of war with Germany.

What boots it, however, to discuss those matters? The water that is past turns no wheel. We are in this war with Germany. I voted for it for the reason, and the sole reason, stated by the Senator from Washington, but that reason was all-sufficient with me and for me. When a Government which professed to be at peace with us deliberately ordered its navy to fire on our flag and kill our people I wanted no further or other reason than that to embark upon a war with that Government.

We are in this war. We ought to prosecute it vigorously, effectively, with every power of mind and body and heart and soul. I agree to that. But it is by no means necessary, I say to the Senator from Washington and to this body, in the proper prosecution of that war to either sacrifice or abridge American rights or American liberties. On the contrary, the very reverse of that proposition is true.

If we are fighting freedom's battles, let us fight in a cause worthy of freemen. Let us preserve the ancient and immemorial rights of freemen as they come down to us not only from the Constitution which this bill protects—and that part of it I agree with heartily—but from Magna Charta and from days that were before Magna Charta, from our Anglo-Saxon ancestry for generations back unnumbered. Let us preserve those rights in their entirety and integrity and we will do better for this country, we will make more for the efficient prosecution of this war, we will serve this country and its cause more loyally and more patriotically than if we continue to surrender those rights on every occasion, if we continue to hedge about those rights on every occasion, if we continue to deal with the American people as if they were a race of disloyal people who are plotting against this Government and disloyal to its cause simply because some of them do not approve every plan that may be suggested or every method that may be devised.

Senators, in times of war people grow hysterical, and when people grow hysterical even executives, even legislative bodies, are not exempt from the contagion of hysteria. It is better to move along slowly; it is better to be deliberate about these things; it is better not to confer powers that are so broad that they are not only capable of abuse but liable to abuse; that are so broad that not only the miserable German that you are striking at may be reached, but honest, loyal American citizens may be persecuted.

That is what happened once before. It is not a new proposition in the history of this country for a bill of this kind and character to be suggested to an American Congress. One came to this body—yea, originated in this body—120 years ago, when the alien act and a sedition act, one approved June 24, 1798, and the other July 14, 1798, were passed by these two Houses of Congress.

Mr. OVERMAN. Mr. President, that was not during war.

Mr. HARDWICK. Well, Mr. President, we were in the situation then which led up to the War of 1812. We were then fighting a war that never was officially declared with the French Government, during which we had, if my recollection is not inaccurate, five naval engagements with the navy of France, fights between battleships flying the flag of the Union and the flag of the French Republic. It is the one unofficial and undeclared war of our history; and one of the very sections of those two bills, although it was stricken out, proposed to declare every citizen of France, every alien who came from France, a public enemy of this country; so that we faced then practically the situation that we face now. We were in an actual state of war with France. We were in complications growing out of our right to the freedom of the seas to our commerce, both with France and with England, that finally resulted in the War of 1812.

What happened? We passed that bill. Before this debate is concluded, I expect to lay its terms before the Senate. I expect to submit it, word for word and paragraph for paragraph, to this great body; and I tell you now that this act is twice as drastic as the sedition act of 1798.

Mr. President, that act changed the course of American history. It murdered a great and powerful party. It sent to its political doom and to its early and unwept grave a party that at that period of our political history was puissant in American councils. Take care that we repeat not the performance now. Too much unnecessary and unjustified and unjustifiable meddling with fundamental rights and the fundamental liberties of freedom will not help win this war, and there will be a heavy reckoning to pay some time on this earth when accounts are settled about it all.

What is the necessity for this legislation? The department is urging it. The Senator from North Carolina says he must press it because the department wants it pressed, and of course he concurs in the idea that it is necessary to have some such legislation as this. But as this legislation passed the House it did not contain anything that was seriously offensive or that could be used to either mistreat or abuse some of our people if they happened to have honest differences of opinion with people who are no more loyal than themselves, but who happen to hold public office at the moment.

Mr. KING. Mr. President, will the Senator yield?

Mr. HARDWICK. Yes.

Mr. KING. I did not hear the statement of the Senator from North Carolina, who has this bill in charge.

Mr. HARDWICK. I do not know that I ought to have referred to it. He told me that——

Mr. OVERMAN. Mr. President, I will state to the Senate what I said privately to the Senator from Georgia—that I have just had a special message from the Department of Justice begging that I proceed with this bill to its conclusion, calling my attention to the forthcoming sale of bonds, etc., and I will say to the Senator from Georgia, to do the Attorney General justice, that the Attorney General did not suggest these amendments.

Mr. HARDWICK. I am glad he did not, and I hope the Senate will strike them out. I am glad to hear the Senator make that statement.

Mr. OVERMAN. I will do him the justice to say—and I am saying this now to do the Attorney General justice—that the amendments he suggested to the committee are not contained in the language we are discussing, but those amendments were made by the committee. I say that because I think I ought to do it for the Department of Justice. The Department of Justice is anxious to get this bill through, and sent me a special message on the subject; and I expect—with the consent of the Senate, of course—to ask the Senate to lay aside temporarily what is known as the Overman bill and continue the consideration of this bill, realizing myself the importance of it. If the Senate wishes to amend it, all right; but the bill ought to pass, and it ought to pass to-day. It ought to be the law next Monday.

Mr. KING. If the Senator will pardon me, I merely rose for the purpose of making the observation the Senator from

North Carolina has just made, namely, that the Attorney General was not responsible for the latter part of this bill and did not urge it.

Mr. HARDWICK. I am very glad indeed to hear both Senators avow that.

Mr. KING. But, if the Senator will pardon me, the members of the Judiciary Committee——

The PRESIDING OFFICER. Will Senators pardon the Chair? Under the rule the Chair must remind Senators that the hour of 2 o'clock having arrived the regular order of business proceeds, and the Senator from North Carolina [Mr. OVERMAN] is recognized. The unfinished business will be stated.

The SECRETARY. A bill (S. 3771) authorizing the President to coordinate or consolidate executive bureaus, agencies, and offices, and for other purposes, in the interest of economy and the more efficient concentration of the Government.

Mr. OVERMAN. I ask unanimous consent that the unfinished business be temporarily laid aside. In doing so I give notice that I am going to ask the Senate to remain in session until the bill which has been before the Senate is disposed of.

Mr. HARDWICK. I object to that.

Mr. OVERMAN. That is a matter for the Senate to determine.

Mr. HARDWICK. But the Senator can not move it.

Mr. OVERMAN. I can resist an adjournment.

The PRESIDING OFFICER. The Senator from North Carolina asks unanimous consent that the unfinished business be temporarily laid aside.

Mr. ROBINSON. Mr. President, a parliamentary inquiry. It is in order for the Senator from North Carolina to move to proceed to the consideration of House bill 8753, which is the bill the Senate has just been discussing.

Mr. OVERMAN. Yes; having laid aside the unfinished business temporarily, my purpose is to proceed with the consideration of that bill.

The PRESIDING OFFICER. The request made by the Senator from North Carolina will require unanimous consent, and that seems to have been objected to.

Mr. HARDWICK. No; I did not object to that, but the Senator from North Carolina wants us to consent to stay in session until we pass this bill.

Mr. OVERMAN. That will come up afterwards. I merely gave notice.

The PRESIDING OFFICER. Then the Chair misapprehended the objection.

Mr. HARDWICK. The request of the Senator from North Carolina was to lay aside the regular order.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection. The Chair recognizes the Senator from North Carolina to make his motion.

Mr. OVERMAN. I move that the Senate proceed to the consideration of House bill 8753.

Mr. LODGE. That motion, of course, displaces the other bill.

Mr. OVERMAN. I do not want to displace that bill. I ask that by unanimous consent the Senate proceed with the bill that was pending when the hour of 2 o'clock arrived.

Mr. GALLINGER. It does not need any motion.

Mr. OVERMAN. I ask unanimous consent. That is included in the request for unanimous consent.

The PRESIDING OFFICER. The Chair hears no objection, and the Senate resumes the consideration of House bill 8753. The Senator from Georgia having the floor upon the interrogation of the Senator from Utah [Mr. KING], the Senator from Utah is recognized with the permission of the Senator from Georgia.

Mr. KING. I just want to complete the sentence which was suspended by the announcement of the unfinished business, and the part of the sentence I wanted to complete was that at least some members of the committee had numerous requests from their constituents and others for legislation to deal with the subject embraced in this bill, and in their judgment—certainly, in mine—some legislation was deemed necessary.

Mr. HARDWICK. Mr. President, I am in sympathy with the Senator's view as to trouble along that line; but, to continue for just a moment, the Senator from Idaho [Mr. BORAH] suggested that there would be ample safeguards for the rights and liberties of the American people because trial by jury was provided. So it is; and yet I invite the attention of the Senator from Idaho to the fact that when the alien and sedition laws of 1798 were passed trial by jury was provided in those statutes; and, more than that, because it was in derogation of the common law to so provide—it was thought it would take a special statutory provision to change the law—it was expressly provided in the sedition act that the truth could be given in evidence in answer to the charge laid in the indictment. So I say the experience of this country in its very infancy with an alien act and with a sedition act is not such as to encourage us to repeat it now.

Mr. KING. Will the Senator yield?

Mr. HARDWICK. I will in just a minute. Not only that, but the Senator from Idaho said that there was little danger of unjust conviction. Again I refer him to history and again I rely on history rather than prophecy. What was the situation then when the excitement was far less intense than it is now? How was it in the Lyon case, where a jury had convicted and both Houses of Congress, by practically a unanimous vote, voted to refund the fine out of the Public Treasury?

Mr. BORAH. Mr. President——

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

Mr. HARDWICK. I yield, of course.

Mr. BORAH. May I be permitted to say that there has always been a very grave doubt by historians but what the jury was right and Congress was wrong?

Mr. HARDWICK. The Senator entertains that view?

Mr. BORAH. Yes; I entertain a doubt, and I think I can submit some facts if the debate continues which will convince the Senator that in all probability that resolution was put through Congress under the whip of party and not upon an examination of the evidence.

Mr. HARDWICK. I do not think the Senator will convince me of that, for I have studied the case pretty closely, although I have great faith in the power of the Senator.

Mr. BORAH. The Senator will agree that historians have said it was party interests and the party lash put it through.

Mr. HARDWICK. Only Federalist historians wrote that. There was a good deal of party feeling about the matter, I admit.

Mr. BORAH. I do not remember whether they were Federalist historians alone.

Mr. HARDWICK. I do not know how Democratic and Republican historians may write about some of the party issues that we have now or may have later.

Mr. BORAH. Let me say to the Senator the fact that a man might have been unjustly convicted is not a conclusive argument against the justice of a law, because men have been unjustly convicted of murder.

Mr. HARDWICK. Undoubtedly. The Senator from Georgia is making no such argument as that.

Mr. BORAH. I am glad to hear that.

Mr. HARDWICK. The Senator did not suspect the Senator from Georgia of that, I know. But the fact remains that there were so many and so notorious instances where, in the opinion of the legislative branch of the Government, at least, the court had decided wrong and the jury had decided wrong in respect to this matter, that not only in the Lyon case, but in other cases—I can not remember the names of any more, but there were several of them—the Congress of the United States refunded the fine that had been imposed on the defendant out of the Public Treasury of the United States.

Mr. BORAH. Let me call the Senator's attention to another refunding upon the part of Congress. The Senator will remember that when Gen. Jackson was in New Orleans he refused to obey the order of a judge and that he was fined for refusing to do so. In that case was involved the great question of the right of the civil authority as against the military authority. The judge fined the general. The general paid his fine. Nobody that I know of has ever contended but what the action of the judge was entirely correct, and Gen. Jackson conceded it to be correct by paying the fine. Yet Congress refunded the thousand dollars which he paid.

Mr. HARDWICK. Because Gen. Jackson violated the civil law in the performance of a great military duty. Congress did not refund the fine that was paid by Lyon and these other men because they had rendered great military service to the country. Congress refunded those fines to these men, if you will read the debates at that time—and I suppose the Senator has—on the ground that they had been martyrized in the cause of free speech and had rendered as great a service to this country as any soldier ever did on the battle field.

Mr. BORAH. I know that was the reason assigned.

Mr. HARDWICK. That was the true reason, too; and, according to my view, I am sorry if the Senator disagrees with me, as it is the absolute truth and right about it.

Mr. President, I see no need of taking this sort of a step. There is certainly none in most parts of the country. I understand that the real—in fact, practically the only—object of this section is to get some men called I. W. W.'s, who are operating in a few of the Northwestern States, and you Senators from those States have been exceedingly solicitous to have legislation

of this kind enacted, so as to curtail some of the very undesirable activities of those particular people.

Mr. President, I dislike to be confronted by a situation in which in the name of patriotism we are asked to jeopardize the fundamental rights and liberties of 100,000,000 American people in order to meet a situation in a few Northwestern States, where those States themselves ought to be able to handle those questions for themselves and by themselves. It is another illustration of the inefficiency and impotency of the State under this growing custom of carrying all their troubles and all their burdens and all their woes and all their responsibilities to Washington and laying them upon the back of Uncle Sam.

Senators from those States, so far as I have been able to confer with them personally, admit to me freely that they have ample State statutes to deal with most of the things these I. W. W.'s are doing or are threatening. Why do they not enforce them instead of coming and asking us to pass a statute that is much worse than the sedition act of 1798, and applying that statute to 100,000,000 people, among the majority of whom at least there is no excuse or justification for any such legislation?

Mr. WALSH. I understood the Senator from Georgia to infer that there was some language in the bill which would prohibit one from advocating a negotiation of peace.

Mr. HARDWICK. The Senator will pardon me. I ask him not to interrupt me now on that subject, because I have not come to it. I am going to discuss that. I did, however, an hour or two ago make that statement, but I do not want to anticipate my argument. I have not quite reached that point. I shall be delighted to be interrupted by the Senator when I do.

Mr. POINDEXTER. Mr. President——

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

Mr. POINDEXTER. I was just going to suggest that the substance of the Senator's argument seems to be that the Western States ought, if they see fit, to prohibit people from favoring the cause of Germany and leave the citizens of Georgia the right to favor the cause of Germany.

Mr. HARDWICK. That suggestion is not worthy of the Senator. There is no citizen of Georgia who favors the German cause—not one that I know of or ever heard of——

Mr. POINDEXTER. The portion of the bill the Senator criticizes would not affect him.

Mr. HARDWICK. No; I am not afraid of that part of the bill. I will tell the Senator what I am afraid of before I get through. There is no trouble like that in Georgia, and there is none in most of this country. It looks to me like this is a question the Northwestern States could handle as to the I. W. W.'s, in a few States there, without asking the entire country to jeopardize some of its fundamental rights and liberties. It is because they will not do it or do not do it or can not do it.

Mr. KING. Will the Senator allow me just a moment?

Mr. HARDWICK. I yield.

Mr. KING. One of the observations just made by the Senator I so heartily indorse that I want first to express my approval of the same, and then probably express very briefly a dissent from others of his views, and then to propound a question to the Senator. I do agree with the Senator most heartily that many of the States are becoming impotent; they utterly fail to discharge the responsibilities resting upon them under the Constitution, and are attempting to place upon the Federal Government the duty of discharging the police powers and functions which as sovereign States appertain to them.

It is lamentable, indeed, that there is not more of a spirit of virility and strength on the part of the executive and legislative officers of the States, so that they might lead the States to a discharge of their duties. But the point concerning which I am going to ask the Senator a question is this: There is an organization in the United States known to all of us, the object of which is to destroy all government.

Mr. HARDWICK. Let me interject there. There is no man on this earth more utterly opposed to them than the Senator from Georgia.

Mr. KING. I know that. I know somewhat the views of the Senator from Georgia, and I know that he believes in order and in the Constitution and in the orderly growth and development of our Government. But that organization aims at the destruction of all government, the dislocation and destruction of our industrial and economic system. Its members do not strike for higher wages or improved conditions of labor; they strike for the purpose of absolutely destroying government. It is an anarchistical organization; a murderous, wicked, destructive organization. It does seem to me that as it is pursuing its diabolical work so effectively and, as it has been pursuing it during the past year, intruding itself into industrial organizations not only in the Northwestern States but in Eastern States, where war preparations are in progress, and by reason of which activities it is interrupting the progress of the war, it is high time that the Federal Government did something to protect itself and to aid the States in their attempts to protect themselves and the Government of the United States in the stupendous undertaking entailed by the war.

Mr. HARDWICK. Of course the Senator knows wherever these men by acts interfere with the Federal Government's preparations for war and industrial movement they can be handled under the law as it now stands?

Mr. KING. Oh, yes; if the law is sufficient, but as to that I am not sure.

Mr. HARDWICK. I do not think there is any doubt about that. I am sure the law is amply sufficient already, but if not I will say to the Senator that no Senator in this Chamber will go further or act quicker to enact such laws as are necessary to accomplish that purpose than the Senator from Georgia. But there is a great difference between mere words and acts. There has always been recognized in the jurisprudence of all free people that difference between words and acts, and I dislike to go so far along the pathway of making the spoken word a crime. The Senator knows the danger of false witnesses and of false information and of persecution that inheres in any such course as that. Every thoughtful lawyer recognizes the danger that lurks in any such pathway as that.

Mr. KING. Yes; of course. The common law, as the Senator well knows, did not protect the individual against the effects of his speech. It is true it did not censor speech, but after he spoke——

Mr. HARDWICK. He was subject to the law.

Mr. KING. This statute, as I interpret it, does not interdict free speech, but it make the person subject to penalities for such speech if it culminate in harm.

Mr. HARDWICK. I will say to the Senator from Utah if he were a judge construing it, and the only judge, I would not have the slightest hesitation in voting for it except on account of the precedent which it might establish. I am not criticizing any judge when I am making that statement. I happen to know the Senator from Utah and to understand his mental operation, but when you have brought here a measure that is capable of almost any construction and that can be used as an engine of persecution where perfectly loyal men who have honest difference of opinion may be punished, I tell you I halt and hesitate and gag over it. I tell you I can not vote for it.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER (Mr. HOLLIS in the chair). Does the Senator from Georgia yield to the Senator from Iowa?

Mr. HARDWICK. Certainly.

Mr. CUMMINS. I want very much to clearly understand the position being taken by the Senator from Georgia. As I gather it, his argument is being made against the amendment——

Mr. HARDWICK. From the Senate committee.

Mr. CUMMINS. Beginning with line 18 on page 2.

Mr HARDWICK. I am going to particularize now the language that I think is objectionable, and how I think it is objectionable.

Mr. CUMMINS. Did I understand aright when I gathered the impression that the Senator from Georgia would regard that amendment as proper State legislation?

Mr. HARDWICK. Oh, no.

Mr. CUMMINS. He suggested that these troubles ought to be covered by the States rather than by the General Government.

Mr. HARDWICK. I said that they could be cured in the States in most instances by the enforcement of existing State statutes.

Mr. CUMMINS. Then I am wrong in assuming, which I did at the moment, that the Senator from Georgia thought the legislation might be profitable if enacted by States but improper if enacted by the General Government.

Mr. HARDWICK. Oh, no; of course the State could not enact any such legislation; and then I do not think any legislature, State or Federal, ought to enact it.

Mr. CUMMINS. I do not want to continue the assumption.

Mr. HARDWICK. The trouble that has arisen out of the I. W. W. situation, in my judgment, as far as I have been advised, could largely be handled by the States.

Mr. CUMMINS. But the Senator from Georgia believes this proposed legislation would be too severe, no matter by what authority enacted.

Mr. HARDWICK. Yes; I would not enact any such legislation as this by any authority.

Now, let us see what this bill is and what the real objection in detail to its provisions are. It contains seven substantive propositions, three of which came from the House in the form

of a bill that passed there practically without contest, I am informed, and which I think could have passed this body practically without contest in the form that the House passed it. We are now informed by the Senator in charge of the bill, the Senator from North Carolina, that the amendments that make the bill particularly obnoxious, the amendments that give the bill the same features that made the sedition law of 1798 obnoxious and infamous, in my judgment at least, come from the Senate committee. So if the amendments or the amendment—I presume I might say it is all one amendment—suggested by the Senate committee were eliminated the bill would be far less objectionable. It is to be remembered also that the Department of Justice that framed this bill is not committed, and I am glad it is not, as long as it is my own party, to any such monstrous proposition as those now embodied in this bill and that are represented by it. As I said, in the bill as it now stands there are seven distinct substantive propositions. I am going to discuss them and I am going to tell the Senate what my objection is to each one of them.

First:

Whoever, when the United States is at war, shall willfully make or convey false reports or false statements with intent to interfere with the operation or success of the military or naval forces of the United States, or to promote the success of its enemies, or shall willfully make or convey false reports or false statements—

Now, that is the end of that proposition. Nobody can oppose that. I do not think it is necessary. I believe it is covered by the original espionage law. I think any Senator who has any recollection of that law will probably concur in that opinion. I made a somewhat hasty examination of that law *in connection* with this measure and that is my offhand opinion on that question. I believe it is already the law now, and I have no particular objection to it, except that it is unnecessary to repeat it—

Or—

And here is the second substantive proposition—

Or say or do anything except by way of bona fide and not disloyal advice to an investor or investors, with intent to obstruct the sale by the United States of bonds or other securities of the United States or the making of loans by or to the United States—

That is all right. I am not sure but that is already the law. The Department of Justice, however, thinks not, and it is on account of this second substantive proposition relating to the bonds and to the making of false statements with reference to bonds that the Department of Justice suggested this legislation and is urging expedition in connection with its consideration, because the administration desires to use that provision of the law in connection with the proposed and immediately pending liberty loan about to be offered.

Now, third:

And whoever, when the United States is at war, shall willfully cause or attempt to cause or incite or attempt to incite insubordination, disloyalty, mutiny, or refusal of duty in the military or naval forces of the United States, or shall willfully obstruct or discourage or willfully attempt to obstruct or discourage the recruiting or enlistment service of the United States.

That is the end of that. I am certain that is the law already. There may be some words added which do not materially change the sense of the legislation already passed, but anyhow that is the end of it and it was the end of the House bill. My judgment is that almost everything, if not quite everything, embraced in the House bill was already the law; but to remove some doubt on that subject, especially on the liberty-loan part of it, the Department of Justice presented this bill to the Judiciary Committee of the House of Representatives, and by that committee it was presented to the House of Representatives. If the bill had stopped there, every one of us could have afforded to pass it without the slightest objection. But in the Senate committee, for reasons that, of course, appear sound to that committee, or it would not have been done, very material and very far-reaching amendments were adopted, that entirely change the purpose, the scope, the object of this bill and that make it a measure altogether different and an altogether new proposition from that which came from the House of Representatives or from that which came from the Department of Justice or from that which the Attorney General to-day is urging this body to pass as expeditiously as possible in the interest of the third liberty loan.

What are those new propositions added by the Senate committee amendment? Here is the fourth:

And whoever, when the United States is at war, shall utter, print, write, or publish any disloyal, profane, scurrilous, contemptuous, or abusive language—

The use of all these adjectives seems to have greatly strengthened this proposed statute in the minds of its proponents. To my mind they weaken it. The weakest part of speech in the English language is the adjective qualifying and shading and changing and twisting meaning, so much so that one of the wisest lawyers I know, an old man, has a supreme contempt for the adjective, and says it destroys the virility of the Saxon speech; and when he wants to be unusually severe about some younger lawyer who visits his town he classes him as one of those "infernal adjective lawyers."

What is "abusive"? You might think "abusive" was one thing; I might think "abusive" was another thing. Many men, many minds; many courts, many constructions.

"Disloyal!" I know men who are foolish enough to insist that anybody in this country who does not do whatever the President of the United States tells him to do about anything that comes up is disloyal to the country. Of course those men themselves are more disloyal to the country than are the men they criticize. This country is no longer fit to be a free country if that is sound doctrine; and yet there are some men who call that disloyal.

Mr. CUMMINS. Mr. President——

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

Mr. CUMMINS. The Senator from Georgia, however, would not suggest that there is any court in Christendom which would hold or could hold that a refusal to adopt all the advice of the President of the United States would constitute disloyalty to the United States. There is no danger, at least, of that construction being put upon that word.

Mr. HARDWICK. I think I am with the Senator from Iowa on that question, but I am not absolutely dead certain. A Federal judge in Texas abusing the bench, dishonoring himself, dared to impugn and challenge the patriotism of Members of this body whose shoestrings he is not worthy to tie. Do you tell me that judge would not hold that because, forsooth, they did not agree with him about legislative questions they were disloyal? I do not know what he would hold; but I think that man would hold anything that he could get his hands on. I think he would even hold a stove until it burned him.

Oh, adjectives! God save us from the adjective lawyers and the adjective courts! I do not know what they will say is "abusive"; I do not know what they will say is "disloyal."

Any disloyal, profane, scurrilous, contemptuous, or abusive language about the form of Government of the United States.

The suggestions made on this floor that the extreme advocates of woman suffrage might be liable to indictment under this language is not at all far-fetched. Some of them have contended that it was a denial of fundamental liberty to deny the women the right to vote; that it was a mockery to call this country "the land of the free" so long as all freedom was denied to them; and that it was worse than mockery to term this a democracy when they had no part or parcel or voice in its deliberations.

Some of the language that I have seen in print from the advocates of that propaganda would subject them, in my judgment as a lawyer—and I say it deliberately—to indictment, and certainly to conviction, if they were tried in this Texas court to which I have referred.

or the Constitution of the United States—

I do not know how many people would be safe under that language. Some people say that the Constitution is a sort of an elastic thing; that it does not mean anything much, except what they want it to mean for the time being. Some people abuse it, and say it is an iron band around the forehead of progress, and some people high in authority—the very highest in this land—have used just about such language. Would they be subject to indictment? Some things they have said about the Constitution of the United States are pretty abusive, and some of their talk about it has been even worse. Could we indict them? I do not know what would happen under this section.

or the soldiers or sailors of the United States—

You know I am for them. They are about the only people who are doing any real fighting, and I have a thousand times more respect for men who fight as they are fighting than for the lip patriots who fight with their tongues, but at the same time, as pointed out by the distinguished senior Senator from Missouri [Mr. STONE] on yesterday, I am not sure how far that language would go. It seems that here in Washington, if we can credit the reports that are being published, we have an army of swivel-chair soldiers larger than the force of officers that lead our fighting forces, who walk around in gold braid and brass buttons, with jingling, clanking spurs, admiring themselves, and admired generally by the public, or at least so they seem to think——

Mr. SMITH of South Carolina. Why do they have spurs on them?

Mr. HARDWICK. A distinguished member of another body, if I may say it without offending my friend from New Mexico [Mr. FALL], said that, in his opinion, these swivel-chair officers,

who are wearing uniforms in such large numbers around Washington, hiding out from the draft, wore spurs so that when they put their feet upon their desks they would not slip off. [Laughter.] That is the only useful purpose the spurs can serve, so I suppose the distinguished gentleman was right. I am not, however, sure that if we should pass this bill, even with an earnest desire to remedy this condition that I regard as an evil, even to invite public attention to the fact that political favoritism of the lowest and basest type has been employed to shield these men from the manly duties that they owe to their country at the front, on the battle fields, and in the trenches, and that they are merely hiding them out from the draft in these bombproof office positions—I am not sure that a man who should say that would not be indicted for abusing soldiers and sailors of the United States Army and Navy.

or any language calculated—

The Senator from Idaho [Mr. BORAH], who is the ablest proponent of this bill—of course, not making any invidious comparisons between the various gentlemen who present it and stand sponsor for it, but who, at any rate, has made the longest argument in its support—admits that he thinks that the word "calculated" probably had better be changed to "intended." I promised to cite the Senator some authorities to show that "calculated" and "intended" have a very different legal signification. I am afraid I can not do so now, for I did not intend to speak until to-morrow, and I am speaking entirely without notes, entirely without preparation, except as my general reading has prepared me for the argument——

Mr. KING. If the Senator will pardon me, I think I have two decisions here to support his view in that regard.

Mr. HARDWICK. I know there are several such decisions, from having spent most of my life at the bar. I will let the Senator put the decisions to which he refers in in my time, if he will interrupt me, and cite them.

Mr. KING. I read from the Ninetieth Circuit Court of Appeals the case of Industrial Press against W. R. C. Smith Publishing Co., from the syllabus, as follows:

"Calculated to deceive" does not mean or include intent to deceive. There should be a clear averment that the name is used with intent to deceive in the respects claimed in the bill.

Mr. FALL. May I ask the Senator a question?

Mr. HARDWICK. I yield to the Senator from New Mexico for that purpose.

Mr. FALL. I simply want to clear up a question in my mind. Was that not a case where the statute required that the indictment or information should aver intent?

Mr. KING. Let me read a little further.

A bill for unfair competition in trade by the use by defendant of a name for a periodical similar to one used by complainant must clearly allege that it was so used with intent to deceive the public or patrons, and an allegation that it was "calculated to deceive" is insufficient.

Mr. FALL. I understand the distinction.

Mr. KING. Reading further from the syllabus:

Smallwood *v.* Com. (40 S. W., 248; 19 Ky., 344), where it was held that the word "calculated," as used in an instruction authorizing the jury in a prosecution for murder to convict if they believed that defendant willfully struck another with a pistol that was a deadly weapon or "calculated to produce death," was not equivalent to "intended," so as to render the instruction erroneous, but was synonymous with "fitted," "adapted," or "suited."

Without taking up any further time, I will merely call the Senator's attention to the case of the People ex rel. Springs against Reid, in One hundred and thirty-ninth Appellate Division Reports, Supreme Court of New York, page 555.

Mr. HARDWICK. Mr. President, there is no doubt whatever in my mind that the word "calculated" has a very different meaning from the word "intended" in statutes. One is objective and the other is subjective; that is the difference.

Mr. SMITH of Georgia. Will my colleague allow me a suggestion?

Mr. HARDWICK. Yes.

Mr. SMITH of Georgia. If it is thought that the word "calculated" has the same meaning as "intended," why not meet that question by adding the words "and intended," so as to read "calculated and intended"?

Mr. HARDWICK. It would be better to substitute the one word for the other, I think.

Mr. SMITH of Georgia. I think it might be well to use both. I think the meaning should be "calculated to produce the result and intended to produce the result."

Mr. HARDWICK. I believe my colleague is right about that; but, at any rate, as I have said, one of those words is subjective and the other is objective; one means what the man who did the thing had in his mind when he did it, and the other means what the effect of the thing he did was after he did it.

Mr. SMITH of Georgia. In the one case a man might be perfectly innocent, and it might be held that his act was calculated to produce the result, when he had nothing of the sort in his mind and would not have done it at all if he had thought it was calculated to produce an evil result.

Mr. HARDWICK. Precisely; and it has been so held by the courts, I think, in a great many cases. I am sorry I do not have the time to answer the challenge made by my friend from Idaho [Mr. BORAH] and to present the authorities, but the Senator from Utah [Mr. KING] has presented several. It seems to me, however, a self-evident proposition that there is a material and substantial difference between the two words, and that the proposed statute would be infinitely better one way than the other. I might do an act which is "calculated"—not calculated by me, but calculated so far as the results are concerned—to bring about a certain state of affairs without intending at all to bring about that state of affairs.

Mr. CUMMINS. Mr. President——

Mr. HARDWICK. I yield to the Senator.

Mr. CUMMINS. The Senator from Idaho [Mr. BORAH] is not now in his seat, but I think I heard him make the statement to which the Senator from Georgia now refers. The Senator from Idaho did not assert that there was no difference between the word——

Mr. HARDWICK. He said he was not certain, I think.

Mr. CUMMINS. Between the word "calculated" and the word "intended." I think he very clearly recognized the difference between the legal meaning of those words. So far as I am concerned, I agree entirely——

Mr. HARDWICK. Let me say to the Senator, because I was here and heard every word said, that the Senator from Idaho denied it and challenged me to produce any authority. He said he had been able to find only one himself.

Mr. CUMMINS. Just a moment. The Senator from Idaho is so well convinced that there is a difference in the meaning of those words that he has offered, or is about to offer, an amendment substituting the word "intended" for the word "calculated."

Mr. HARDWICK. And I am trying to strengthen him in that, because he said he would just as soon withdraw it, as it was not very important.

Mr. CUMMINS. The Senator from Georgia, I think, understood the Senator from Idaho correctly when he said he found but one decision which indicated a difference between the meaning of those words; but the Senator from Georgia challenged him upon that, and I think that he has sustained the challenge very successfully, for there is an obvious difference between the meaning of those words, and the Senator from New Mexico [Mr. FALL] very clearly pointed out yesterday the difference between the two in their practical application.

I understood the Senator from Idaho to say that in the great majority of instances in actual practice there would be no difference in the result of trials whether we use the word "calculated" or the word "intended." I only say this because the Senator from Idaho is not here.

Mr. HARDWICK. I think he thinks that, but the trouble is that is a mere prediction, and I am not fond of relying on predictions in matters of this sort.

To resume the reading from the bill—

or any language calculated—

"Intended," I think, it ought to be, or "calculated and intended" would do—

to bring the form of Government of the United States, or the Constitution of the United States, or the soldiers or sailors of the United States, or the flag of the United States, or the uniform of the Army or Navy of the United States into contempt, scorn, contumely, or disrepute—

And so forth.

Now, the sixth substantive proposition—

or shall utter, print, write, or publish any language calculated to incite or inflame resistance to any duly constituted Federal or State authority in connection with the prosecution of the war.

The most outrageous proposition is embraced in those few words that, in my judgment, ever was submitted to a legislative body in connection with a measure of this kind. Members of the two Houses of Congress in the performance of their constitutional duties have been compelled to stand on these floors and vote against certain measures which in the opinion of the majority were best calculated to prosecute the war.

Now, some of them—and I do not hesitate to say that I am one of them—have been very bitterly assailed by a lot of people, for whom I have the utmost scorn and contempt, because they exercised their own judgment and followed their own conscience in matters of this sort. We have been branded as disloyal to this country because we did not take orders and because we did not follow every plan and every method that was suggested, but had our own ideas and thought that perhaps there might be some other and different and, in our judgment, better way to wage this war. While lying newspapers and

lying men have maligned us, are we not to be permitted to go home and defend our own honor without being branded as felons when we undertake the defense?

Is that what representative government means, and is that the low estate to which the representatives of the people have fallen? If I thought so, I would not be very much devoted to this form of government myself; and yet, if any man who found it necessary, like the chairman of the great committee that reported the bill and, like I did, to vote against the food-control law, goes home and explains the reason why he opposed it some one may say "that is calculated to incite or inflame resistance to a law relating to the prosecution of this war, either as conducted by Federal or State authority, or both." Is that right? Is that fair? Is that just? Is a country in which that can be done a free country? Does free speech still live and is free thought still enthroned in the hearts and minds of a people who will submit to any such proposition as that? Yet that is what we are proposing to do in this bill.

Not only that, Mr. President, but I lay down the proposition—and it is fundamental and as sound as the ark upon which our covenant rests—that any man in this Republic—I do not care how humble he is, how poor he is, how lowly his station in life—has just as much right as the highest and mightiest official who sits enthroned in power to advocate a change in policy, a change in law, a change in plan, and a change in method even about conducting a war in a free country. So long as these men tell the people that they are in favor of the enforcement of the law as it is written, so long as it is so written they have the right to advocate a change, a repeal, or a modification of that law.

Oh, Senators, I tell you when you pass legislation of this character you will have gone further and faster than the Federalists ever went when under Alexander Hamilton's whip and spur they signed the death knell of their own party as they passed the sedition bill of 1798.

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

The PRESIDING OFFICER (Mr. ASHURST in the chair). Does the Senator from Georgia yield to the Senator from Montana?

Mr. HARDWICK. I yield.

Mr. MYERS. Does the Senator find anything in this bill that would forbid anyone advocating a change in the law governing the Food Administration?

Mr. HARDWICK. I do. I have just explained that to the Senate.

Mr. MYERS. Or that would forbid anyone to say that the law ought to be changed? Is that forbidden? Where does the Senator find that? I ask him to point it out, please.

Mr. HARDWICK. Has the Senator been in the Chamber during all of my remarks?

Mr. MYERS. I have been in the Chamber a part of the time.

Mr. HARDWICK. A part of the time is, I think, a correct answer, because I just explained exactly the way I thought that came in. Still, for the benefit of the Senator, whom I esteem very highly, I will explain to him exactly how that can and will be done.

The sixth substantive proposition in this bill is that you are going to put in prison for a period of not more than 20 years or you are going to punish by a fine of not more than $10,000, or both, any man who—

shall utter, print, write, or publish any language calculated to incite or inflame resistance to any duly constituted State or Federal authority in connection with the prosecution of the war.

Suppose the Senator from Montana had voted against some one of the measures which have been passed for the prosecution of the war, and that he was bitterly, viciously, and falsely assailed at home in connection with his vote, and that he went out, as would be his right, to defend his honor, his character, his manhood, and his position before his own constituency, and in order to do that he had to tell them why he was against the food-control bill, we will say, or the draft law. Assailed on every corner and from every angle and from every side, he has got to show why he did not support those measures; and yet when he does it they will say: "That is calculated to inflame the people to resist or oppose the law."

Mr. MYERS. Not "oppose." "Oppose" is not in the provision, but "resist" is.

Mr. HARDWICK. What is the difference between "resist" and "oppose"?

Mr. MYERS. "Opposing" is a mental operation, while "resisting" is refusing to subject one's self to the law.

Mr. HARDWICK. I hope the Senator is right about that; it would make it just a little better if he is; but I am afraid to risk that matter; I am afraid that some Texas judge, like the "misfit" we have down there to whom I have referred, might say, as he did say of those who took a certain view on certain of these measures, that they ought to be taken out and shot.

Mr. MYERS. Still, the Senator never heard of that suggestion being carried into effect?

Mr. HARDWICK. I would not like to risk it in that Texas court over which that distinguished and able-bodied citizen presides; I would not care to risk my liberty with any such man as that. Really, of course, he is not fit to be on any bench; that stands to reason, and can not be disputed by anyone. Senators must see the danger. That judge would unhesitatingly say, if I lived in Texas and went home to defend my vote on the food-control legislation, which I am very proud to say I opposed, that I was trying to inflame resistance to the execution of a law which was necessary to the prosecution of the war. Ah, Senators, I say you have opened a Pandora's box when you enact any such legislation as this. The furies that Alexander Hamilton and his co-Federalist chiefs unloosed to gnaw the very vitals of the party they loved, and to which they owed allegiance, were as nothing compared to what the result will be if you enact legislation of this character and continue to walk along this pathway. Instead of destroying one political party, you may destroy two political parties, if you keep it up and both continue to unite in the accomplishment of such results, and instead of having, as you will have after awhile, an autocracy that is only rivaled in modern history by the Romanoff dynasty in Russia before it lost power, you will invite that which you fear most, the other extreme, the reign of American Bolsheviki in this country. One extreme begets the other. Ah, Senators, half way between those two camps I stand; I am neither for the autocracy of the Romanoffs nor for the socialism of the Bolsheviki.

Mr. CUMMINS. Mr. President——

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

Mr. HARDWICK. I yield to the Senator.

Mr. CUMMINS. I think there is no man who values the right of criticism in public affairs more than I do, and there are not very many who exercise it more freely than I do. If I believed that this amendment could have any such effect as is suggested by the Senator from Georgia, I would condemn it quite as severely and emphatically as he does.

Mr. HARDWICK. I am sure of that.

Mr. CUMMINS. But I do not understand that it means any such thing; and I am going to ask the Senator from Georgia to elaborate a little upon it, in order that I may be able to view it from every possible angle. Does the Senator from Georgia understand that anyone who refuses to accept a recommendation of the President of the United States with regard to the propriety of a law is resisting lawful authority?

Mr. HARDWICK. The Senator from Georgia most emphatically does not; but there are a lot of fools in this country who mighty nearly think that, or claim to do so.

Mr. CUMMINS. Then let us go one step farther. I want to know what the Senator from Georgia understands by resistance to "any duly constituted authority." What is the character of the act of resistance?

Mr. HARDWICK. I do not think it is quite so important what the Senator from Georgia may understand about it as it is important what the Texas judge might thing about it.

Mr. CUMMINS. Well, Mr. President, I do not think we can make laws to suit the idiosyncracies or the idiocies of a Texas judge.

Mr. HARDWICK. No; but we can make laws that an unfit judge can not twist into all sorts of constructions that are quite possible from the language employed. We had better quit making them at all if we can not do that. It would be better never to have another law from now until judgment day if we can not make laws that are incapable of as many misconstructions as this Senate committee amendment is.

Mr. CUMMINS. I doubt if we could pass any law that a corrupt judge could not twist into an instrument of injustice.

Mr. HARDWICK. I doubt that, too.

Mr. CUMMINS. But I come back to this matter. Agreeing with the Senator from Georgia that the word "calculated" ought to be stricken out and the word "intended" ought to be inserted instead of "calculated," "resistance to a duly constituted Federal authority" is a refusal to obey a duly constituted authority.

Mr. HARDWICK. Will the Senator let me elaborate that a little, or does he understand what I mean?

Mr. CUMMINS. Yes; I should like to know what the Senator means by "resistance," because it can not be that if the Senator from Georgia were to go home and defend his views with regard to any law he would be a lawbreaker.

Mr. HARDWICK. Why, Mr. President, a newspaper published in Georgia that was supposed to be reputable contended that I ought to be indicted for doing this very thing, under a law just like this.

Mr. CUMMINS. There is no reputable man who would contend anything of that kind about the Senator from Georgia. He was a disreputable man, whoever he may be, or wherever he may live, who would contend that the Senator from Georgia has not that right, both morally and legally.

Mr. HARDWICK. Well, Mr. President, here is the way they do it, and here is the way they have done it. I am not dealing in prophecy now; I am talking about history. I do not have myself in mind more than I do many other people throughout this country, in office and out of office, who have views that do not agree with everything that has been done, and who think other plans might have been pursued with more hope of success in some of these matters.

Whoever * * * shall utter, print, write, or publish any language calculated to incite or inflame resistance——

Mr. CUMMINS. Will not the Senator read that "intended to"?

Mr. HARDWICK. We have an amendment here, and of course I have to discuss the amendment as it is. Of course, if it is calculated, it is a little worse; but if it is intended, it is somewhat better. But here is the argument they will make: "Why, it is just as plain as a pikestaff. This man goes out, and he makes these speeches. He shows that they were mistaken about these things. He attempts to show, at least, that these laws are wrong, and the result is that the people are opposed to them, and they resist them, and the ultimate result is that they do not obey them."

How are you going to escape his logic? I am not sure but that the courts would be justified in so holding, if this language is left exactly like it is. If the language is made to read "intended," then, of course, they would have to convince any jury that tried a case like that that the man, whoever he was, who was taking that position, intended to interfere with the country, and then there would be only one more step of reasoning, "Why, surely, as a sensible man, he could not have done that unless he intended to accomplish the natural result of his acts."

Mr. CUMMINS. Precisely. Well, in the execution of any of our criminal laws which I have opposed, for instance, and which I may be at liberty to criticize elsewhere, does the Senator from Georgia mean to say that if I express my view with regard to the righteousness or propriety of any criminal law I am inflaming or inciting some one to resist an officer who is in the execution of that law, who has a warrant of arrest, and is about to take one into custody? Could my opposition to the law itself be construed into an invitation or a suggestion that one who was about to be arrested by an officer should resist the law?

Mr. HARDWICK. Why, undoubtedly. I would not so contend, but it has been so contended on this floor. I heard a distinguished Senator of the United States stand in this presence, in the Senator's hearing, I think, and in mine, I know, and say that people who opposed these laws thoroughly obstructed the draft, for instance—he was discussing the draft in that particular case—because, although they did not advise anybody to resist the law, the effect of their argument was that people got opposed to it and would resist it, and that they were infinitely more guilty of stirring up opposition to the law than people who went out and advised folks flatly and expressly to resist it. Why, that contention has been made right in this Chamber.

Mr. CUMMINS. I did not know that the Senator had accepted any such rule as that.

Mr. HARDWICK. I do not accept it, but it has occurred. I despise it, but men have been indicted and dragged into court for less than that.

Mr. VARDAMAN. Mr. President, I should like, with the consent of the able Senator from Georgia, to ask the Senator from Iowa his opinion of this question that might arise under a law of this character.

Quite a number of Senators, while the revenue bill was under consideration, insisted upon raising a larger per cent of the money with which to pay the expenses of this war by taxation instead of by selling bonds. Now, suppose a Senator should go on the stump and, in defending his record, criticize the injustice of the present law, should urge that the money necessary to defray the expenses of this war which is now being raised by selling bonds and thereby putting the burden upon posterity ought to have been raised by levying taxes upon excess war profits and swollen incomes. Does the honorable Senator think that would be a violation of this proposed statute in the way of discouraging or hindering the prosecution of the war?

Mr. CUMMINS. Mr. President, very clearly not.

Mr. VARDAMAN. The Senator thinks not?

Mr. CUMMINS. I believe that a greater portion of the expense incident to the war should be raised by taxation, and I intend to say so, here and everywhere.

Mr. VARDAMAN. I intend to do the same thing, and do it boldly and emphatically.

Mr. CUMMINS. But it is impossible for me to conceive a judge so corrupt or so ignorant as to construe a criticism of that kind into an obstruction of the sale of bonds, because, the law having been passed, I think that no one should attempt to interfere with the sale of the bonds, because that is the way in which the duly constituted authority has determined to raise the money for the prosecution of the war; and while I believe that I have a perfect right to criticize the law and to endeavor to change or modify it, yet there could be no obstruction to the sale of bonds by any course of that kind.

Mr. VARDAMAN and Mr. GORE addressed the Chair.

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

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

Mr. VARDAMAN. I wish to say that I agree with the Senator from Iowa that every effort should be made by every patriotic citizen to raise this money according to the law as now written; but does not the Senator think that probably there are people who would not buy these bonds, thinking that if the bonds were not taken the Government would be forced to the extreme of conscripting the money for defraying the expenses of the war as it has conscripted the men to fight the war?

Mr. CUMMINS. Mr. President, that is not inconceivable—that is, that some minds would operate in that way—but it is inconceivable that any judge should hold that a person who acted upon those motives would be a violator of the law.

Mr. GORE and Mr. McKELLAR addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Georgia yield, and, if so, to whom?

Mr. HARDWICK. I yield first to the Senator from Oklahoma.

Mr. GORE. Mr. President, with reference to what the Senator from Iowa says, there is no doubt as to the justice of the point for which he is contending. I dislike to introduce a personal reference; but I may say that during the last liberty-loan campaign, in October, I had occasion to deliver an address in New York City. During the course of my remarks I insisted upon the raising of a larger part of the revenue for the conduct of the war from taxation, and a lesser proportion from the sale of bonds. I did take occasion, however, to urge the necessity of subscribing for the bond issue then being floated. I declared, during the course of my remarks, that the failure of the loan would be almost as bad as the loss of a battle, and that it was just as much a public and patriotic duty to subscribe for the bonds as to pay taxes; and yet the leading publication in my own State assailed me most bitterly for attacking the liberty loan and discouraging the purchase of bonds. I do not imagine that any judge would share the views of that editor; and yet it shows how, when passion is rampant, the minds of otherwise prudent men are unbalanced or led astray.

Mr. McKELLAR and Mr. McCUMBER addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Georgia yield, and, if so, to whom?

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

Mr. McCUMBER. I think the Senator from Tennessee rose first.

Mr. McKELLAR. I want to ask the Senator from Georgia—and I should also like to ask the Senator from Iowa, who is on the committee—about the words "any duly constituted Federal authority." Just what does that term mean?

Mr. HARDWICK. It means every branch of State and Federal authority.

Mr. McKELLAR. This troubles me: Take the commission that is in control of Hog Island. Is that a duly constituted Federal authority? If it is, would a person who criticized or who incited any one to criticize or inflame against that commission, which has charge there—I am just using it as an illustration, of course—come within the provisions of this bill? If so, it is very important for some of us to know it before we vote for the bill.

Mr. CUMMINS. Mr. President, I am not the author of these words. I accepted them when they were presented in the committee by the Senator from Montana [Mr. WALSH], who usually employs the proper phrase to express the idea that he has in mind. I do not know what authority in the Hog Island enterprise the Senator from Tennessee has in view. I am not very familiar with that enterprise.

Mr. McKELLAR. I will say to the Senator that I have not any at all; I do not know who it is; but evidently there must

be a duly constituted Federal authority in control of that project.

Mr. CUMMINS. I do not know that. If the Senator from Tennessee will kindly describe to me the relation which the Government has toward that enterprise, which I understand is a private enterprise, then I shall be able to answer the question a good deal more intelligently.

Mr. McKELLAR. I understand that it is under Government control.

Mr. FLETCHER and other Senators addressed the Chair.

The PRESIDING OFFICER. To whom does the Senator yield? Seven Senators are on their feet.

Mr. HARDWICK. If the Senators will pardon me just a minute, I am willing to yield to any of them; but I think the language is just as broad as it can be. It covers everything that is a Federal authority. The Senator will have to find out whether that is a Federal authority or not, and then he can answer his own question.

Mr. FLETCHER. Mr. President——

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

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

Mr. FLETCHER. I was just going to state the situation at Hog Island. The Emergency Fleet Corporation, through the agency of the International Shipbuilding Corporation, is in charge of the yard and building the ships; so the Federal authority there would probably be the Emergency Fleet Corporation. I merely mention that in view of what has been said.

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

The PRESIDING OFFICER. The Secretary will call the roll.

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

Ashurst	Harding	Nelson	Shields
Borah	Hardwick	Norris	Smith, Ga.
Calder	Henderson	Overman	Smith, Md.
Chamberlain	Jones, Wash.	Page	Smith, S. C.
Colt	Kellogg	Pittman	Smoot
Cummins	King	Poindexter	Sterling
Curtis	Kirby	Pomerene	Sutherland
Dillingham	Lodge	Ransdell	Swanson
Fletcher	McCumber	Reed	Thomas
France	McKellar	Robinson	Tillman
Frelinghuysen	McLean	Saulsbury	Townsend
Gallinger	McNary	Shafroth	Trammell
Gore	Martin	Sheppard	Vardaman
Hale	Myers	Sherman	Warren

Mr. SAULSBURY. I have been requested to announce the absence of my colleague [Mr. WOLCOTT] on necessary public business.

The PRESIDING OFFICER. Fifty-six Senators have answered to their names. There is a quorum present.

Mr. McCUMBER. Mr. President——

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

Mr. HARDWICK. I yield to the Senator, and I beg his pardon for not yielding sooner.

Mr. McCUMBER. I desire to ask the Senator from Georgia possibly two questions. The first one is this: What would be the Senator's view of the possible construction of any judge upon a provision in the penal laws of a State which provided that any person who, by word or act, advised another to disobey any of the laws of the State should be guilty of a misdemeanor? Would the Senator contend that any judge fit to be called a judge could ever possibly hold that a mere condemnation of the law itself was equivalent to advising its resistance?

Mr. HARDWICK. Not if the language was as stated by the Senator; but that is not the language in this bill.

Mr. McCUMBER. The second question is this: If a judge could possibly so hold, I do not think the Senator would contend that we ought to abolish a law of that kind simply because some one unfitted to hold the position might so hold.

Mr. HARDWICK. Probably not. If the Senator had followed my argument throughout, however, he would not ask either one of those questions. The difficulty is that we have not used language like that. If you will merely put in this bill exactly the language which the Senator has stated, and which is now of record, I should vote for that part of it with little hesitation.

Mr. McCUMBER. I agree with the Senator that we should have used the word "advise" and not "calculated"; and I think probably there will be very little difference in the Senate about that proposition. I can not see the logic of the use of the word "calculated" at all.

Mr. HARDWICK. Well, "to incite or inflame resistance"—there is no need of those words.

Mr. McCUMBER. I know; but the Senator certainly could not claim that any court would hold that merely expressing opposition to a law would be construed to mean that the person so objecting was inciting or inflaming resistance.

Mr. HARDWICK. They have held that in this country.

Mr. McCUMBER. Let us take a case like this: Take the case of a State like mine, a prohibition State. The question of prohibition is a question that comes up at every election and at every session of the legislature, and we have orators on both sides, those proclaiming in favor of it and those proclaiming against it, those contending against it arguing that it is a denial of the freedom of the individual. Now, no court would hold, or could possibly hold, that the person who was against prohibition was committing an offense against the law or was inciting anyone to resist the law.

Mr. HARDWICK. The trouble about it is, if the Senator pleases, that the language used here is not the language that the Senator has used. If the language used here were that "any person who shall by utterance, writing, or publication use language which is intended to cause resistance to any law" should be punished, I would be for it. I would find no objection to it. But it is "to incite or inflame resistance"; and there are courts in this country that have held—I will not undertake to specify them now, but I think I can substantiate that statement—that any argument that goes to the very roots of the law itself has a tendency to inflame and to incite resistance. I do not think it is a sound contention, but it is not an unusual one.

Mr. McCUMBER. I do not think it is a contention that any court could possibly stand by.

Mr. HARDWICK. The trouble is that they have, Senator.

Now, Mr. President, I have but a very few more words to say about this matter.

The next proposition is that any person who—

shall by utterance, writing, printing, publication, or language spoken urge, incite, or advocate any curtailment of production in this country of any thing or things, product or products, necessary or essential to the prosecution of the war in which the United States may be engaged—

is a felon.

Mr. SMITH of Georgia. Mr. President, the next sentence limits that—

With intent by such curtailment to cripple or hinder the United States in the prosecution of the war.

Mr. HARDWICK. My colleague is right. I think that removes the most objectionable thing that I had in mind about that. I do not think there is any particular trouble about that with that limitation; without it, it would be unspeakably dangerous.

Now we come to the final proposition:

And whoever shall advocate, favor, teach, defend, or suggest the doing of any of the acts or things in this section enumerated, and whoever shall by word or act support or favor the cause of the German Empire or its allies in the present war or by word or act oppose the cause of the United States therein—

Shall be a felon, and punished as prescribed by this act.

That language, if it is to stay in the bill at all, undoubtedly ought to be amended. It ought to be "whoever shall favor the German Empire or its allies in the present war, or by word or act oppose the United States therein." We do not want to leave any room for construction about what the cause of the United States in this war is. Senators say they do not mean anything more than to oppose the country while it is prosecuting this war. If they mean no more than that, they ought not to employ language which is easily capable of a different construction than that, and that may embark us on the broad field of inquiry as to exactly what and how broad the cause of this country is in prosecuting this war.

Mr. McCUMBER. What would the Senator strike out in that phrase?

Mr. HARDWICK. I would strike out the words "the cause of," and just say, "whoever favors the German Empire and its allies, or opposes the United States, in this war," if I were going to have the language at all.

I have a further objection to that proposition, even as amended. I undertook to state it in a colloquy I had with the Senator from Idaho. It is a serious objection; it is not a factious objection; and I predict that if we leave this language in the day will come when we will see some grave abuses growing out of this very thing.

There are men in this country, and there are newspapers in this country, who insist now that if anybody should propose to make peace with Germany he would be very close to a traitor to this country. Senators for whom I have the greatest respect, and for whose opinions and judgment I have the greatest respect, I know entertain that view. Yet they must realize that they have neither a monopoly of wisdom nor a monopoly of patriotism, and that other men might just as well feel otherwise about that and still be as loyal and as patriotic as they are.

Personally, I am inclined to agree for the present; but the time may come when all of us, or all sensible men, can agree that

we have an opportunity to conclude an honorable peace. Yet if the time did come when we could obtain a peace with honor, and anybody undertook to lead a movement of that sort in this country, there are men and there are newspapers and there may be courts, or judges thereof at least, who would say that when he did it he was opposing the United States in this war, and favoring Germany and her allies. It is a dangerous proposition to risk. There are men in this country who go so far as to say—one I have in mind now—that the President of the United States did this country a great disservice when he discussed at a joint session of Congress not long ago the terms on which the United States might conclude peace.

As far as I am concerned I do not contend that the time has arrived when anybody ought to suggest peace. My idea is that we are in the fighting business now, and that we have not yet come to a point where we could hope to get a proper peace. But I hope the time may come when we can honorably compose our differences with our enemy, when we can with honor to the United States end this slaughter that is now devastating the world. When that time comes I do not want myself or any other man in this country, whether he is in office or out of it, to be muzzled so that he can not speak. I insist now, as I insisted earlier in the day to the Senate, that the humblest citizen of the United States, out of office though he be, unclothed with power though he stand, has just as much right as the President of the United States or anybody else in office, however high their authority, to advocate whatever course of action he thinks is right with respect to this matter. It is utterly impossible in a free country to enact and enforce a statute without muzzling freedom by which you can say it is patriotic and lawful to advocate a continance of this war from now until doomsday but unpatriotic and disloyal and treasonable and criminal to advocate a conclusion of peace, even when it can be honorably concluded.

Mr. President, I think, no doubt, if the committee in charge of this bill will strike out all except what the House of Representatives passed we can readily agree to the passage of the bill. The vice of a large portion of it, at least practically all of it, comes from the Senate committee amendments. I do think that in the interest of free speech, of liberty, order regulated by law, and fundamental rights in this land of the free, that that is about far enough to go to-day, and I again warn the Senate that even as the sedition act of 1798 spelled and sounded the death warrant of one political party, too much of this sort of thing can easily spell and sound the death knell and the death warrant of two political parties in this country.

Mr. LODGE. Mr. President, before saying the little I desire to say about the committee amendments to the bill I wish to refer to some remarks that were made here as to the candidacy of Mr. Berger, of Wisconsin, and the question of peace. At this time, Mr. President, no peace could possibly be made that was not a German peace, made in her interest, equivalent to a loss of the war; and I think any allusion or any talk of a peace at this time is most unfortunate, for I believe the idea cherished by anybody that we can separate the German people from the Kaiser——

Mr. HARDWICK. Will the Senator let me interrupt him?

Mr. LODGE. Certainly.

Mr. HARDWICK. I merely want to say, so that neither the Senate nor the country may misunderstand my position, that I agree with the Senator.

Mr. LODGE. I know the Senator does, for I have been listening to him.

Mr. HARDWICK. I do not think this is any time to talk about peace, but I do not want to be muzzled when the time comes.

Mr. LODGE. I understand the Senator's position; he stated it very clearly. Anyone who cherishes the idea that we can separate the German people from the Kaiser or that we can separate Austria from Germany, or Turkey and Bulgaria from Germany, is cherishing the merest delusion. I think for that reason all talk about peace is harmful, for it tends to divide and confuse opinion here and among our allies and to strengthen the German determination to stop at nothing short of the fulfillment of all their demands.

Mr. President, there is another form of demanding peace which is much worse, and that is the kind of peace that was demanded by Mr. Berger, as I saw it reported in the newspapers. It was to make peace now and make it at any price practically. That seems to me to be so disloyal as to border on treason. The man is under indictment for similar offenses. I think his candidacy was most unfortunate, and that he should poll 100,000 votes in a great State of this Union is to me to the last degree melancholy.

Mr. LEWIS. Mr. President——

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

Mr. LODGE. I do.

Mr. LEWIS. Let me ask my eminent friend from Massachusetts, Does the Senator from Massachusetts assume that the United States Senate under the Constitution of the United States, until it is amended or destroyed, would allow a man to take a seat in this body who had to swear he would support the Constitution when his campaign had been both against the Government and for the destruction of the Constitution?

Mr. LODGE. Mr. President, that fortunately is a hypothetical question now. I for one should hope to see a seat refused such a man as the Senator describes.

Mr. President, as to this bill, the worst offenders in this country are those agents and spies—the word "spies" has been used here very loosely—but those agents of the German Government who have been engaged not merely since we entered the war but since the beginning of the war in dynamiting factories, in starting great incendiary fires, in attempting to destroy railroad bridges, in poisoning food, and in mixing glass with bread. Those are criminal acts of the worst kind, and they are being committed frequently throughout this country. There are other men in this country who are furnishing information to the German Government injurious to us and helpful to the German Government. Those are spies. We have a law to reach those people, but the criminals who put a bomb on a ship or blow up a factory and destroy innocent lives according to my idea have been treated altogether too delicately. I saw in a paper that two have been arrested and the charge against them dropped out of sight. They come to trial and they get some short term in the State prison or the prison of the United States, a punishment for which they care nothing. The only way, in my opinion, to put an end to those criminal activities of organized German agents and spies is to treat them as spies and agents of that kind always have been treated in time of war—try them by a court-martial and shoot them. Germany does not hesitate to do that. No other country hesitates to do it. We have ample law for that. This proposed law does not touch those classes at all. The German agents and the German spies do not go about this country publishing their views. On the contrary, they probably pretend to be loyal to the United States in order to cover their opposition. This bill is directed against those who print or publish or utter language injurious to the Government and helpful to the German cause. To state it very broadly, it is aimed at certain classes of agitators who exist in different parts of the country.

With the purposes of this bill I think everybody must be in sympathy. I do not suppose there is the slightest objection anywhere to the bill as it came from the House with the committee amendments to that portion of the bill; but the Senate committee has seen fit to add an amendment which is longer than the original measure and which is designed to meet certain very dangerous expressions or outbreaks of opinion in different parts of the country. They ought to be met, they ought to be dealt with in some way, and dealt with lawfully. It should not be left, as it now is, to the rough hand of popular justice or injustice to settle. Undoubtedly the cases which this law intends to cover will be dealt with by lynch law if we do not deal with it ourselves.

Mr. CHAMBERLAIN. May I interrupt the Senator?

Mr. LODGE. Certainly.

Mr. CHAMBERLAIN. I am glad to hear the Senator suggest that these men ought to be dealt with by a military tribunal.

Mr. LODGE. The spies and German agents?

Mr. CHAMBERLAIN. I mean the spies and German agents. Germany has not hesitated to deal with them under the military code, and if our military code is not broad enough to cover that class of cases it seems to me it ought to be amended so as to place within the jurisdiction of military tribunals the classes of men—and women, too, if you please—mentioned by the Senator.

Mr. LODGE. I feel very strongly about that, and I think we have increased and continued these crimes by the tender way in which we have handled spies and criminal agents. There is no other way to describe it.

Mr. BORAH. Mr. President——

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

Mr. LODGE. I do.

Mr. BORAH. The Senator referred to the fact that unless these people were dealt with in an orderly way and a legal way the mob would undoubtedly deal with them, and that the Senator did not desire to have occur. I simply call attention to the fact that I have received notice by telegraph that at Collinsville, Ill., April 5, a mob of 360 men lynched a man by the name of Prager for disloyalty.

Mr. LODGE. That is an illustration of the point I was making.

Mr. OVERMAN. Will the Senator yield to me?

Mr. LODGE. Certainly.

Mr. OVERMAN. I want to say that I have messages here from my own State, where the Federal court is in session. A man was on trial who said he cared nothing for the American flag; that he loved the German flag better, and would rather fight under the German flag than the American flag, and he hoped Germany would win.

Mr. HARDWICK. He ought to have been sent over there.

Mr. OVERMAN. He was turned loose by the court because there was no law to punish him, and the marshal has reported to me that unless we did something mob law would break out in North Carolina pretty soon.

Mr. STERLING. Mr. President, in connection with what is being said in regard to mob violence or the fear of mob violence, I call the attention of the Senator from Massachusetts to an account of a meeting of the governors of the various States here, and I read this statement:

> Govs. Manning, of South Carolina, and Milligan, of Maine, warned that unless drastic steps were taken soon mob violence would be expected.

Mr. LODGE. I think there can be no doubt of that, Mr. President.

Mr. SHIELDS. Mr. President——

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

Mr. LODGE. I do.

Mr. SHIELDS. There is no one more opposed to mob law than I am. I think the course of justice ought always to run smooth. There ought always to be a resort to the courts to punish all unlawful conduct. But I think there has been too much argument here in favor of this statute in order to protect the emissaries of Germany. I understand this law is to punish them in order to prevent them from doing wrong to this country, wrong to our Army and our Navy and our Government, and not for their protection against lynch law. Of course we would rather not have the mob law, but the object of this law is to suppress the infamous and murderous conduct that is going on in this country and not to protect these murderers and incendiaries and emissaries of Germany.

Mr. LODGE. Mr. President, I hope nothing that I have said could be possibly twisted into a suggestion that I wanted to protect these people.

Mr. SHIELDS. Certainly not; I did not intend to say that; but I only called attention to the fact that since this bill has been up we constantly refer to it as a measure which ought to be passed to stop lynching and to stop mob law. That is one of the consequences which will follow if we do not have a law to punish them, and I would not go so far as to say it ought to follow.

Mr. LODGE. Mr. President, my first criticism is that the law under which we could reach spies and German agents is not enforced in such a way as to really strike terror to their hearts and put an end to it.

Mr. FALL. Mr. President——

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

Mr. LODGE. I yield.

Mr. FALL. I ask the Senator how he would apply the law we have now upon our statute books so as to vest in a military tribunal the trial of those charged with treason or with being spies?

Mr. LODGE. I think that to bring them before a military tribunal we must have additional legislation. In the law we have, as I recall it, there are certain offenses described, and if a person is convicted of those offenses he is liable to the death penalty.

Mr. FALL. But the tribunals constituted for the trial of those cases are the ordinary civil tribunals.

Mr. LODGE. Undoubtedly.

Mr. FALL. The only method by which a military tribunal could obtain jurisdiction to try the cases would be by a suspension of the writ of habeas corpus or else the civil tribunal would, under our law, take possession of the accused upon an application for a writ and withdraw him from the operation of the military law and put him to trial before that civil tribunal. If the law fails now, it is because of the failure of the civil tribunals to visit sentence.

Mr. LODGE. It is the failure of the civil tribunal to punish these crimes as they should be punished, in my judgment.

Mr. OVERMAN. There ought to be some law providing for a court-martial to hang these people. I want to know if the Senator can cite me to a law on the statute books that enables them to be punished? The truth is——

Mr. LODGE. I do not mean the cases covered by the act we are now considering.

Mr. OVERMAN. I know you can not convict a man of treason under our law. You must have a different law.

Mr. LODGE. The Senator remembers the espionage act better than I do, but I think in that bill we made provision——

Mr. OVERMAN. We have no law on the subject, and the truth is we can not convict anybody for it. It is utterly inefficient.

Mr. LODGE. The language of the Constitution, as I recall it—I have not it open before me—is "giving aid and comfort" to the enemy.

Mr. OVERMAN. That is it.

Mr. LODGE. I know the difficulties that have occurred in the past in the definition of treason. What I was referring to, and I may be wrong, in the espionage act, as it is called, which we passed, which included really, I think, 12 different bills, I thought there was a provision for the crimes which I have mentioned, the using of dynamite, or anything of that sort, or plotting against the Government, for which death was one of the penalties.

Mr. OVERMAN. The Senator is right; but I am sorry to say the provisions were stricken out. The bill we passed here six months ago would cover it. It came back from the House yesterday. The Senate has tried to take care of the situation in conference. As soon as the consideration of this bill is over, that bill, which, I think, will take care of that situation, will be brought up. It did pass the Senate six months ago.

Mr. LODGE. Difficulty is found in the course of the civil tribunal and that is the reason why I agree so strongly with the Senator from Oregon that it would be well if we could have legislation which should bring certain cases of spies and criminal agents before a court-martial.

Mr. NELSON. Will the Senator allow me?

Mr. LODGE. Certainly.

Mr. NELSON. I want to read one paragraph of the Constitution which I think is absolutely prohibitive against trying men not in the military and naval service of the United States by a court-martial:

> The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

I take it that under this provision of the Constitution, unless a man is in the military or naval service of the United States, he could not be tried by a court-martial. At all events, he could not unless we suspend the writ of habeas corpus, and that would have to be suspended by an act of Congress and not by the President.

Mr. LODGE. One very great President did suspend the writ of habeas corpus.

Mr. WALSH. I call the attention of the Senator to the fact that the Constitution was construed in the Milligan case, so often referred to during the present Congress, in which the defendant Milligan and others who had been convicted by a court-martial in Indiana were discharged on a writ of habeas corpus.

Mr. LODGE. I remember the case; but, of course, a district can be declared under martial law in time of war.

Mr. FALL. If the Senator will permit me, only upon the theory that there is a revolution in that district.

Mr. LODGE. The theory is not so important as the fact.

Mr. FALL. That is what the Constitution provides; and it is only upon the theory that the civil law can not be enforced either by the State authorities, if it happens to be in the State, or by the National authority, where the unheaval is of such force in that State that the civil process can not be invoked successfully; and then by a tribunal properly constituted. As the Senator suggested, that tribunal has been considered to be the President of the United States, and not only in one case, but Mr. Jefferson was the first authority in the United States who suspended the writ of habeas corpus. Mr. Lincoln was compelled to suspend it, and the courts recognized it as being suspended, even when Mr. Lincoln had not declared a revolution to exist.

Mr. LODGE. There was a man who, in 1863, said it could be done if necessary.

Mr. President, I have gotten away from the bill. This amendment, as I understand it, was taken from the Montana statute, and I believe from what has been said here the passage of that statute was due to if not suggested by the decision of a judge out there who acquitted a man charged with offenses which certainly, in my judgment, deserved punishment. The origin of the statute seems to me to make it necessary that, however meritorious it is, we should scrutinize it with care. If I may use a phrase, which I borrow from the Senator from Tennessee [Mr. SHIELDS], it was what might be called an impulsive statute,

and I think an impulsive statute deserves to be carefully examined, because we do not desire, certainly in meeting these undoubted evils, to create a situation which might terrorize and prevent men from engaging in free and legitimate discussion—I mean loyal men. It is one thing to punish a man for what is described here and another thing to use it as it might be used in the hands of unscrupulous officials to stifle opinion, either in a newspaper or an utterance by an individual.

We do not want to put the innocent in peril in our desire to reach the guilty. I think we can amend this clause so that it will be safe and at the same time carry out the purposes that we desire. As to the word "calculated," the Senator from Tennessee read the legal definition of it, which was rather looser than I had expected. I think the word "calculated" is too broad a word. I think it leaves too dangerous a power in the hands of the men who are called upon to administer the law. If any danger arises from this statute it will be in its administration, not in the clause as it reads here, as it is read and understood by us, but in the way in which it is administered.

I am aware that the Senator from New Mexico [Mr. FALL] yesterday in a colloquy with the Senator from Tennessee [Mr. SHIELDS] called attention to the difference between the use of the word "calculate" and the use of the word "intend" as shifting the burden of proof. I think that is undoubtedly true, but it seems to me that that degree of protection which is carried in the word "intend," and which we find in most of our statutes in the form of the adverb "knowingly," prevents the punishment or the persecution of the innocent. I think the word "calculated" ought to be changed to "intended," and we should give that much advantage. I do not think it would interfere with the effective operation of the statute, for it is to be remembered that although this statute only carries the accused person into court and before a jury and gives him a trial, that is a great protection. I think we ought to have in all such cases the protection of trial by jury. That is the reason why I am so much opposed to the wholesale power that we have given to stop the passage through the mails of any publications simply on the judgment of one man.

But it is to be remembered that the mere threat of prosecution, the mere threat of bringing a man or a newspaper or any publication into court, to the average man is a very serious matter; and a threat of prosecution would undoubtedly deter many men who are just as loyal men as stand in the country to-day from expressing their honest opinion, which they would have a right to express.

I hope the Senate will be willing to change the word "calculated" to "intended," as suggested by the Senator from Idaho.

In line 5, page 3, occur the words "or inflame." "Inflame" to my mind is rather a novel word in a statute. It is not very clear to me what the legal interpretation would be. It seems to me it would be better to put in some word with which we are familiar in statutes, such as the word "encourage." That is a small point, but it seems to me to be a necessary one.

Mr. WALSH. Mr. President——

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

Mr. LODGE. Certainly.

Mr. WALSH. I wish to suggest to the Senator from Massachusetts that the word "incite" conveys to the mind very much the same idea.

Mr. LODGE. I think it does.

Mr. WALSH. I do not think the statute would be to any extent affected if the word "inflame" were entirely omitted.

Mr. LODGE. Incite, as I understand it, involves the idea of beginning resistance. I think there is another idea to be covered, and that is the encouraging of resistance which already exists. Stimulating it, inflaming it, in ordinary conversation is perfectly understood; but I think a better statutory word could be found. I think, however, there are two stages of resistance: One covered by incitement, which starts it when perhaps it does not exist; and the other, which stimulates and encourages it after it is begun; but that is not a very vital point.

Mr. FALL. Mr. President——

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

Mr. LODGE. I do.

Mr. FALL. Mr. President, of course this has been a very interesting discussion all the way through, and certainly by no means the least interesting portion of it is that to which we are now lisening. I mean that very sincerely. I am, however, impressed with the statement which was made by the Senator from Massachusetts, in answer to a suggestion of the chairman of the Committee on Military Affairs, the Senator from Oregon [Mr. CHAMBERLAIN], in which the Senator indicated that he would like to see certain offenders in the United States tried by military tribunals. The point I am arriving at is this:

It has been suggested here, and agreed to I think by nearly all, that unless the law itself provides some method of dealing with those who are outraging public opinion by attacks upon our form of Government or upon our Constitution or upon our soldiers or upon the uniform, unless something is done one of two things must inevitably happen—that is, that lynch law will be invoked against those people or that sooner or later they will be dealt with by a military tribunal.

Now, I want simply to ask the Senator from Massachusetts if it is not his understanding, as it is mine, that, while before the civil tribunals, which some of us are anxious to retain as the proper tribunals before which offenses shall be tried, "hair-splitting"—if the Senator will allow me to use that term—definitions as to what "inflame" and what "calculated" mean and what "incite" means, and so forth, may very properly be indulged in, before no military tribunal will ever any defense be listened to for one moment based upon such attempted definitions of words?

Mr. LODGE. I entirely agree to that.

Mr. FALL. No presumptions are engaged in before a military tribunal as to "intent," and the principle of our civil law that the presumption of innocence, which is always the sheet anchor of the defense in any case, is a necessary shield and protection to the accused, in no instance will apply in a trial before a military tribunal. Does not the Senator agree with me that that is the distinction practically between civil and military tribunals?

Mr. LODGE. I think that distinction is probably sound.

Mr. FALL. Then is it not a fact, if I am not trespassing upon the Senator——

Mr. LODGE. Not at all.

Mr. FALL. Is it not a fact that, possibly because none of us here, or very few of us, have ever dealt with public affairs during a time of war, even those of us who are most determined to assist in every possible way in carrying this war to what we conceive to be its legitimate conclusion, being influenced by the fact that we have been legislating and considering matters during the "piping times of peace," while recognizing that we are at war, can not bring our minds to grasp the fact that the people of the United States are to-day in war and that the distinctions that we have had in mind, the hairsplitting—I will again use that term—definitions of words applicable to penal statutes and thrown around penal statutes for the defense of the accused do not apply to this present condition when the object of legislation of this kind is to enable us to carry this war to a successful conclusion?

Mr. LODGE. Well, if in any way we can get the class of crimes which I have in mind and the spies who are carrying information before military tribunals, the Senator from New Mexico will not find me making any trouble about hairsplitting definitions. One reason that I favor military tribunals for crimes of that kind is that they are prompt, and yet the accused can be represented by counsel and can know the charge against him.

Mr. FALL. Undoubtedly.

Mr. LODGE. It is a prompt procedure, and a great deal of delay is avoided; but I should think nobody would think of putting the offenses involved in this bill before a military tribunal.

Mr. FALL. If the Senator will allow me, I think inevitably, if you do not put them in the hands of the courts——

Mr. LODGE. That is what we are proposing to do.

Mr. FALL. But if you do not put them in the hands of the courts, and put them there in such a way that people will believe that justice will be meted out, if Senators are so insistent upon still throwing around the accused the protective language which will enable him simply to throw the burden upon the prosecution to prove his intent, although the effect of his language may be most disastrous—if insistence upon shielding the accused by placing upon the prosecution in these cases the burden of proving intent is successful, you will try these cases either by a military tribunal or Judge Lynch will preside over the court. To me there is no other conclusion, and I have been insistent—trespassing further upon the Senator's time—from the introduction of the original so-called espionage bill, upon one line of legislative procedure, which is that authority should be vested in the tribunals of the United States to try certain cases where in times of peace they had no jurisdiction under our ordinary civil law, for the very purpose of attempting to carry along with us in our own country here through this war the jurisdiction of the civil tribunals, the constitutional courts, and those legislative courts formed under the Constitution; that all crimes might be tried before those courts; and that we might not be compelled to invoke the military courts. That has been my purpose——

Mr. LODGE. I understand.

Mr. FALL. And it is yet my purpose; but I say to the Senator very frankly that if the statutes which we have attempted to enact fail, as they have failed, under decisions of the courts such as were read at the request of the Senator from Montana [Mr. WALSH], if guilty persons can not be punished under such statutes because of legal technicalities, the people of the United States will see that they are punished in some way, and the efforts of the Senator from Massachusetts and myself to keep open the civil tribunals, to afford to all accused the right to the writ of habeas corpus, the right of trial by jury, the right to be confronted with witnesses, to have the accusation read, and the accusation itself founded upon indictment or upon affidavit or upon information alleging the crime committed will be of no avail.

If all those things can be carried along with us through this war, then some of us will be perfectly satisfied with the result of our labors; but if the statutes of Congress fail, as they have failed invariably, because of the very fact, as in the case of the espionage bill itself, in my judgment, that they are so emasculated by hypercritical amendments and hairsplitting definitions that within the legislation itself defining the offense there is carried such a defense to the accused as to render it practically impossible for the United States Government or the State authorities to convict him of any crime or offense whatsoever, then, I say to the Senator—and I think the Senator will agree with me—that the military tribunals inevitably will be compelled to deal with the situation or the people will take the law into their own hands.

Mr. LODGE. Mr. President, this bill does not deal with any crimes or any offenses which I should think for a moment of suggesting to place before a military tribunal; but it seems to me the Senator from New Mexico wants to keep the jurisdiction of all offenses in civil tribunals—in which desire I very largely sympathize—but he also wants to make the civil tribunals as much like military tribunals as he can. I think we had better keep them separate. As to the men who are committing crimes and who are genuine spies, I think a military tribunal is the only fit place for them.

Mr. CHAMBERLAIN. May I interrupt the Senator from Massachusetts?

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

Mr. LODGE. Certainly.

Mr. CHAMBERLAIN. I thought there was a provision in the Articles of War which reached the class of individuals mentioned a while ago by the Senator from Massachusetts, and I find that is true. I find that article 82 of the Articles of War provides:

ART. 82. Spies: Any person who in time of war shall be found lurking or acting as a spy in or about any of the fortifications, posts, quarters, or encampments of any of the armies of the United States, or elsewhere, shall be tried by a general court-martial or by a military commission, and shall, on conviction thereof, suffer death.

Articles 46, 47, and 48 provide as follows:

ART. 46. Approval and execution of sentence: No sentence of a court-martial shall be carried into execution until the same shall have been approved by the officer appointing the court or by the officer commanding for the time being.

ART. 47. Powers incident to power to approve: The power to approve the sentence of a court-martial shall be held to include:

"(a) The power to approve or disapprove a finding and to approve only so much of a finding of guilty of a particular offense as involves a finding of guilty of a lesser included offense when, in the opinion of the authority having power to approve, the evidence of record requires a finding of only the lesser degree of guilt; and

"(b) The power to approve or disapprove the whole or any part of the sentence."

ART. 48. Confirmation; when required: In addition to the approval required by article 46, confirmation by the President is required in the following cases before the sentence of a court-martial is carried into execution, namely:

"(a) Any sentence respecting a general officer;

"(b) Any sentence extending to the dismissal of an officer, except that in time of war a sentence extending to the dismissal of an officer below the grade of brigadier general may be carried into execution upon confirmation by the commanding general of the Army in the field or by the commanding general of the territorial department or division;

"(c) Any sentence extending to the suspension or dismissal of a cadet; and

"(d) Any sentence of death, except in the cases of persons convicted in time of war of murder, rape, mutiny, desertion, or as spies; and in such excepted cases a sentence of death may be carried into execution upon confirmation by the commanding general of the Army in the field or by the commanding general of the territorial department or division.

"When the authority competent to confirm the sentence has already acted as the approving authority no additional confirmation by him is necessary."

So that it appears that we have recourse now to the Articles of War to punish the class of offenders mentioned by the Senator from Massachusetts.

Mr. FALL. Mr. President, the Senator, of course, is correct in the strict sense of the term. In any military district or upon a military reservation or within five miles of a cantonment, or any place of that kind, which is purely under military rule, and where military authority is supreme there the Articles of War apply, but the Senator certainly does not mean that the eighty-second article of war, which he has just read—the courts have passed upon the proposition too often for there to be any doubt about it—suspends the writ of habeas corpus.

Mr. CHAMBERLAIN. I do, so far as the State courts are concerned.

Mr. FALL. In the United States to-day?

Mr. CHAMBERLAIN. Yes.

Mr. FALL. Then all legislation here of this character is entirely unnecessary; there is no doubt about that.

Mr. CHAMBERLAIN. The Articles of War only cover the case of spies outside of those connected with the military service.

Mr. FALL. No; it does not make any difference, Mr. President. The Articles of War govern the Army and the conduct of civilians in connection with the Army in any military zone.

Mr. CHAMBERLAIN. I beg to differ from the Senator. The articles speak for themselves. They define who shall come within their provisions; they specify those who are within the military service, camp followers, and others.

Mr. FALL. Precisely.

Mr. CHAMBERLAIN. And then go ahead and, in article 82, specify spies as coming within the jurisdiction of military tribunals.

Mr. FALL. Certainly. There is no difference between the Senator and myself except the question of jurisdiction; that is all.

Mr. BORAH. It applies if the spy is in a military district.

Mr. CHAMBERLAIN. May I say that a spy anywhere in the United States is in a military district? He may not be near a fortification or a post or a cantonment, but he is a spy just the same; and if he is within a cantonment or near a cantonment or near a post or fortification he is subject to the jurisdiction of a military court.

Mr. LODGE. Mr. President, I have a case in mind which illustrates what I mean. I have seen a report in the newspapers that a man—I think he was an Austrian or a German—in one of our factories, which was under military supervision and which was making shells, was found to be putting in short fuses, so that the shells would not explode when they landed; in fact, destroying their usefulness. He was caught in the act, was remanded to the civil tribunals, and that is the last I have heard of the case. I do not know what has become of him. A man like that, working on military supplies in a factory over which the Government has supervision, I think, ought to go before a court-martial and be tried there quickly and disposed of there quickly; but such cases go to the civil courts, or, apparently, the case to which I referred to went to the civil courts.

This bill, however, to come back to it, does not touch the cases of the dangerous criminal agents and the spies; and the danger of it is that it will be used, if loosely drawn, to suppress free and legitimate discussion by the great mass of the loyal people of this country. That is not desirable, from my viewpoint.

Now, Mr. President, to go on with the bill, in line 18, on page 3——

Mr. McCUMBER. Mr. President——

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

Mr. LODGE. I yield.

Mr. McCUMBER. Before the Senator leaves line 5, where he suggested that some other word than the word "inflame" should be used, as "inflamé" is an uncommon word and has probably not been construed by the courts, I would suggest that there be used in place of the word "inflame" the words "urge or provoke," so as to read: "Calculated to incite, urge, or provoke resistance." Those are the statutory words commonly used.

Mr. LODGE. Yes; something of that kind, I think, is better than the word "inflame," which certainly is not a common statutory word.

Mr. JONES of Washington. Mr. President——

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

Mr. LODGE. Certainly.

Mr. JONES of Washington. Before the Senator proceeds to line 18, I want to ask him if he does not think it would be well to strike out, in lines 13 and 14, the words "with intent by such curtailment of the production of things necessary in the prosecution of the war"; in other words, ought not the urging of the curtailment of the prosecution of things necessary in the prose-

cution of the war to be prohibited without being compelled to show further that it was done with the intention to hinder?

Mr. LODGE. My attention has not heretofore been called to that; but I am disposed to agree with the Senator that that is needless, and it is better to make it simple.

Mr. JONES of Washington. I think it is not only needless——

Mr. LODGE. I think it might be harmful.

Mr. JONES of Washington. I think it would be very harmful, and I hope the Senator from Montana will consider that, as I understand this provision of the bill is his suggestion.

Mr. WALSH. Mr. President——

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

Mr. LODGE. I yield.

Mr. WALSH. Upon the reflection that I have been able to give it, I should think it would be inadvisable. I want to make the statute as strong as I can consistently; but I can very readily conceive how it might be grossly abused if that clause were, as a matter of fact, taken out. One might dissuade his neighbor from sowing wheat, and urge, for instance, that flax is a much more profitable crop and one that is equally necessary for the conduct of the war. He might be charged, then, with urging the curtailment of the production of wheat, a necessity of the war, but he does not do it at all to injure the United States. I fear that the bill would be open to very just criticism if that particular clause were eliminated.

Mr. JONES of Washington. What I fear is that if it remains in the bill we will not stop any of the incitement to curtail production.

Mr. WALSH. I am not unmindful of the difficulty of the situation suggested by the Senator from Washington; and yet I should feel that the bill would be open to much of the criticism that has, I think undeservedly, been directed against it in other respects if those words were not left in.

Mr. LODGE. Of course the words "necessary or essential" are open to a great deal of possible discussion.

In line 17 there occurs this language:

By word or act support or favor the cause of the German Empire or its allies.

Who are the allies of the German Empire—I am speaking of her legal allies? Austria, Bulgaria, and Turkey. We are not at war with Turkey and Bulgaria. I think we ought to be; but, as a matter of fact, we are not at war with them. Yet we have a bill here that punishes a man who says anything favorable to a country with which we are not at war. It seems to me that it might be improved by some rewording, because that presents one of those difficulties to which the Senator from New Mexico [Mr. FALL] has alluded in respect to hairsplitting technicalities.

Mr. NELSON. To what does the Senator refer?

Mr. LODGE. I refer to the language "the German Empire or its allies."

Then we come to the last clause; and I must say it seems to me it would be better if it read "oppose the United States." I think the word "cause" is another loose word, and that it is much simpler to say "oppose the United States"; and that will cover everything.

Mr. President, some time ago I presented an amendment, which I am now going to move. I do not know whether there is any amendment pending.

The PRESIDING OFFICER. There is no amendment pending.

Mr. CUMMINS. Mr. President——

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

Mr. LODGE. I do.

Mr. CUMMINS. Before the Senator from Massachusetts goes to the amendment that he intends to offer, I want to call his attention to one of the things that has bothered me with respect to the bill. I am generally very much in favor of it.

Mr. LODGE. So am I.

Mr. CUMMINS. I agree to the substitution of the word "intended" for the word "calculated," as I have already said, and I had hoped that while the Senator from Massachusetts, with his critical judgment respecting the use of words, was considering lines 4 and 5, he would refer to the word "resistance" and give us the benefit of his opinion with regard to the proper meaning of that word. The provision is—

Or shall utter, print, write, or publish any language—

I will read it now as I would have it—

intended to incite or inflame resistance to any duly constituted Federal or State authority.

What is "resistance to any duly constituted Federal or State authority"? Is the word "resistance" the equivalent or the synonym in this case of the word "disobedience"? If it covers mere disobedience to the law, its propriety could very well be doubted; but if it means something other than mere failure to obey the law, then its employment may be very wise. I look upon the word as meaning or requiring something more than mere failure to comply with a law or a lawful order. Our statutes already attach penalties for failure to comply with their provisions or with orders which were made under them. I am led, therefore, to ask the Senator what, in his opinion, is the real meaning of the word "resistance"?

Mr. LODGE. Mr. President, I should not think it covered mere disobedience; for example, if Mr. Garfield commanded the people of this country not to fill their bins with coal—not to "hoard" it, as he called it a year ago—or to fill their bins, as he now commands them, I do not think a failure in either case could be interpreted as resistance to the law. "Resistance to the law," as I read it, means resistance to the execution of the law.

Mr. NELSON. Mr. President, will the Senator from Massachusetts yield to me for a moment?

Mr. LODGE. With pleasure.

Mr. NELSON. I wish to call the attention of Senators to section 62 of the Penal Code, which gives an illustration of such language.

Whoever shall forcibly assault, resist—

I call attention to the word "resist"—

oppose, prevent, impede, or interfere with any officer or employee of the Bureau of Animal Industry of the Department of Agriculture in the execution of his duties, or on account of the execution of his duties, shall be fined—

And so forth.

There the word "resist" is used and, I think, it is used in the sense of impeding an officer in the performance of his duties.

Mr. LODGE. As I have said, resisting the execution of the law——

Mr. NELSON. Yes; I think that is the sense in which it is used here.

Mr. CUMMINS. I suspect that the word "resist" in that statute is qualified by the word "forcibly."

Mr. NELSON. No.

Mr. LODGE. No; that only qualifies one word.

Mr. CUMMINS. I will ask the Senator to read it again.

Mr. NELSON. It does not qualify the word "resist"; there is a comma after the word "assault"—

Whoever shall forcibly assault—

Then there is a comma, and it proceeds—

resist, oppose, prevent, impede, or interfere—

The word "resist" is not qualified.

Mr. CUMMINS. May I ask the Senator from Minnesota what he understands by the word "resistance"? Is it mere failure to obey?

Mr. NELSON. No; I do not think it is mere failure to obey.

Mr. CUMMINS. Well, what is it, then?

Mr. STERLING. If the Senator will permit me, I will read the general statute with regard to resistance to an officer.

Mr. CUMMINS. To an officer?

Mr. STERLING. Yes, sir. It is as follows:

Whoever shall knowingly and willfully obstruct, resist, or oppose any officer of the United States, or other person duly authorized, in serving or attempting to serve or execute any mesne process or warrant, or any rule or order, or any other legal or judicial writ or process of any court of the United States or United States commissioner, or shall assault, beat, or wound any officer or other person duly authorized, knowing him to be such officer, or other persons so duly authorized, in serving or executing any such writ, rule, order, process, * * * shall be fined—

And so forth.

Mr. CUMMINS. Of course that means, as I said in the case of the statute read by the Senator from Minnesota [Mr. NELSON], resistance to the execution of an order of the court, or of the law.

Mr. LODGE. Yes.

Mr. CUMMINS. It does not mean a mere failure to obey a law, or an order which may be issued by some lawful authority.

Mr. STERLING. A failure to obey a subpœna, for example, would not be resistance to the order of the court.

Mr. CUMMINS. And I wanted it to be perfectly clear, at any rate, when I voted for the statute, that I did not vote for it with the understanding that the mere suggestion of a failure to obey the law should visit upon one the extreme penalties that are here provided.

Mr. LODGE. It is my opinion that the word "resistance" is usually interpreted to mean and conveys the idea of resistance to the execution of a law.

Mr. NELSON. Mr. President, if the Senator will yield to me for a moment, I think the two words that precede "re-

sistance" indicate that it can not be the mere failure to obey the law. The words are, "calculated to incite or inflame resistance." That means that somebody outside is acting or inciting. The two words there have different shades of meaning. The word "incite" implies, among other meanings, personal solicitation, while the word "inflame" does not imply that. For instance, a man makes a harangue or speech before a mob, before a crowd, encouraging them to disobedience. That is inflaming them. But if a man, by personal solicitation in any form, does the same thing, that comes under the head of "inciting." So I think the two terms cover different shades of meaning.

Mr. LEWIS. Mr. President——

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

Mr. LEWIS. I beg pardon. I was about to tender an amendment, and I thought the Senator had yielded the floor.

Mr. LODGE. No; I have not, yet. I have been trying to regain it.

If I may say one word more before I pass to the little amendment I am going to offer, I think it would be wise, after "German Empire," in line 18, to leave out "or its allies." If you say "the cause of the German Empire," you cover whatever is done in her favor, whether it is done in Turkey or Bulgaria or Russia or Finland or anywhere else. Germany is sending troops at this moment to Finland. I think the more general you make it, the better; but if you leave in the word "allies" you at once embarrass yourself with the fact that we have not declared war on Turkey and Bulgaria, as we ought to have done.

Mr. President, the amendment I want to offer was read from the desk this morning. The Senator from Idaho [Mr. BORAH] has offered an amendment repealing the clause of the espionage bill which gives to the Postmaster General, without any restriction whatever, the power to shut out from the mails practically any newspaper, periodical, or publication that he does not happen to like.

I think that is a very dangerous power to be conferred on one man. It is not only inferior to the civil tribunals, but I think there is a less chance of justice than in a court-martial. I shall vote for the amendment of the Senator from Idaho with the greatest pleasure, but I do believe that it is well within the power of Congress to decide what shall be excluded from the mails.

Mr. WALSH. Mr. President——

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

Mr. LODGE. Certainly.

Mr. WALSH. I dare say the Senator from Massachusetts will recall that when the bill was originally under consideration in the month of June last, that particular provision was the subject of very extensive discussion; and attention was then called to the fact that we have already in times of prosperous peace conferred upon the Postmaster General the power to exclude from the mails publications that are deemed inimical to the public interest.

Mr. LODGE. The peace power is very carefully limited. It is confined to obscene publications and other things that are perfectly capable of definition. The other was very much broader. But if we want to exclude from the mails, let us do it by law here, and determine ourselves what we want excluded.

It is in that view that I offer this amendment:

The use of the mails shall not be permitted to any newspaper, magazine, or periodical, circular, or pamphlet which is printed in whole or in part in the German language.

Those circulars, pamphlets, and newspapers are the nests in which all of these treasonable and injurious utterances are hatched. I do not say that applies to them all, of course, but it applies to a great many. They are not prevented from publishing. They can publish in English and supply it to their constituency perfectly well. The language of the United States is English; and I think in time of war we had better circulate through the mails the language of the United States, and not the language of our enemies.

Mr. KING. Mr. President——

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

Mr. LODGE. I yield; yes.

Mr. KING. What I am about to say is scarcely a question. I was just about to observe to the Senator that, speaking for myself, I would prefer to see the first section of the bill which is now under consideration defeated, and not passed, than to have adopted the amendment offered by the Senator from Idaho and which the Senator from Massachusetts has just indorsed. I know from investigation that that section has proven a powerful weapon and a very valuable weapon in the hands of the Government in preventing this wicked and criminal propaganda that has been carried on by the I. W. W.'s and other traitors in this country.

Mr. LODGE. Mr. President, this bill is designed to meet that very propaganda and that very language and those very publications, and let them go to the courts, and not leave them to be dealt with by a Cabinet officer.

Mr. KING. I want to say to the Senator that in a number of instances—several scores, I am told—they have resorted to the courts, and in every single instance the action of the Postmaster General has been supported. He has not exercised in an arbitrary or a capricious way the power which we have given him.

Mr. LODGE. I am not attacking the Postmaster General, or the way in which he has exercised his authority. I am putting the proposition on the broad ground that it is too great a power to be intrusted to one man. I would a great deal rather trust it to a court-martial.

Mr. KING. I think it would be a very great mistake in time of war, such as this is, to deny to some agency of the Government the power to prevent treasonable, disloyal, anarchistic, or seditious publications from being transmitted through the mails, especially where, as the law now provides, there is a remedy by appeal to the court.

Mr. NORRIS. Mr. President——

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

Mr. LODGE. I yield. I yield the floor.

Mr. NORRIS. I want to suggest to the Senator before he yields the floor that the good that the Senator from Utah believes has been accomplished, even conceding it to be true, still leaves in the power that to my mind is a greater danger than what he suppresses as the law now stands, and that is the power to coerce newspapers that he does not suppress; that the indirect danger is greater than the direct danger.

Mr. LODGE. Mr. President, I move the amendment which I send to the desk, and which I have already read.

Mr. LEWIS. Mr. President, I desire to offer an amendment, with the purpose of having it read and printed, and calling it up later. It is rather an important amendment, and I will ask the attention of the Senate to it, as I should like to have the judgment of the Senators upon the amendment.

The PRESIDING OFFICER. The amendment will be read for the information of the Senate.

The SECRETARY. The Senator from Illinois proposes the following amendment:

SECTION —. Whenever any person in the United States or in any Territory or country under the jurisdiction of or administered by the United States, who, being a citizen of the United States or exercising and enjoying the rights and privileges of a citizen of the United States, shall by conduct, acts, or declaration, show that such person is a disloyal citizen of the United States and unworthy of citizenship of the United States, or of enjoying the rights and privileges of a citizen of the United States, such fact, when established by procedure provided in this bill, shall forfeit his citizenship in the United States and all rights, privileges, and emoluments that go therewith, and shall forfeit all right to become a citizen of the United States and enjoyment of all privileges that attend, enter upon, and follow the becoming a citizen of the United States.

SEC. —. Any person described in the foregoing section who shall, in the manner provided in this act, have been proven to be a disloyal citizen and unworthy of the citizenship of the United States shall, by the judgment condemning such citizen to forfeit the said citizenship, have all property held under the laws of the United States and enjoyed under the protection of the laws of the United States forfeited and returned to the United States, to be taken by the United States under proper judgment and decree and appropriated for uses for the defense by the United States and for the protection of the United States against all foes that are at war with and against the United States.

SEC. —. Any person or persons who may have knowledge of any acts or conduct or declarations of any person named in this law, showing such person or persons to be unworthy of the citizenship of the United States, shall have the right to make complaint before any court having jurisdiction to grant citizenship to any person, and said court upon said complaint shall have process served upon the person or persons complained of, to be answered in the form of the proceeding in court of the condemnation of property, and issue upon the said cause be duly entered in such form of pleading as is provided in the practice within the particular State or District where the action is brought. The cause shall be heard before a jury after the order and manner of causes heard before a jury involving the rights of persons and property as prescribed for civil procedure in matters in which juries are provided by the law of the State or district where the action is brought. The verdict of the jury shall state the finding of the jury as to the matter of disloyalty, and also shall state whether there shall be forfeit of property or not, as in each case may be by the circumstances to the jury justified.

SEC. —. That hereafter, following the declaration by court or jury of disloyalty and the withdrawal of citizenship from any person or persons or of property, it shall be in the power of any court having jurisdiction to grant citizenship, to restore citizenship, and make order of restoration of property or the value thereof, upon the showing to the court through the ordinary legal procedure, by petition under the form of practice in equity, that the said person has become loyal and worthy to be restored to citizenship. That upon the decree of restoration the said person shall be at once restored to all privileges and im-

munities, rights, and honors, that attend and follow citizenship in the United States of America, as though to the full extent he had no judgment or forfeiture rendered against him.

Mr. LEWIS. Mr. President, I merely ask that the amendment be now printed and lie upon the table, as I shall move its adoption at the proper time.

Mr. LODGE. I was about to ask the Senator to have it printed. It is a long and very important amendment.

Mr. LEWIS. Yes, sir.

Mr. THOMAS. Mr. President, the discussion of this bill has very naturally assumed a very broad range, and the amendments which have been offered from time to time, I think, need but one more to demonstrate how far we are at sea from that sort of legislation which it is within our power to enact. If some Senator will now introduce another amendment abolishing the right of trial by jury, I am inclined to think that the bill as it now stands will be reasonably perfect.

The last proposed amendment reads to me like a bill of attainder, and I am inclined to think that it would be so construed as to property and as to individual rights if it should be enacted into law and become the subject of judicial construction.

Mr. President, I want to cast my vote for a bill which will accomplish the object which the Judiciary Committee had in view when they reported the measure to the Senate by a practically unanimous vote. I do not desire, in the effort to accomplish that purpose, to go so far as to enact a measure so radical and far-reaching as to virtually defeat itself. It is the history of all drastic penal legislation that when it becomes too extreme it is incapable of enforcement. The courts, by a liberal construction or the reverse, and the juries having the power to pass upon the facts, will refuse to effectuate the purposes of a statute so radical in its character as to meet with their disapproval.

There was a time in the common law of England when the pettiest of offenses were punished by death. I think the larceny of a shilling was such an offense. The juries, by an almost constant system of conduct, and the judges, by winking as far as they could at that conduct, very frequently, perhaps in a majority of cases where grand larceny had been committed, accepted testimony which indicated the value of the property to be less than the minimum amount, which, upon conviction, was followed by execution or punished capitally.

That, Mr. President, was not only a practice justified by the humane instincts of an enlightened community, but it was the application of the principles of justice, as far as they could be applied, in view of an express law too rigid in its penalties and its provisions to receive the sanction of public opinion.

Mr. President, there is no question but that the use of language, written or spoken, in the hands of a capable individual, can create much mischief, can undermine the cause of the Nation to some degree, and can produce injurious consequences of a far-reaching character. That is obvious not only because of our present experiences but we are so told by the history of nations. To the extent to which that mischief can be restricted and punished in times like these, legislation is necessary. To the extent that it can not be restricted and punished by legislation, no matter how drastic it may be, we should not go.

Of course it would be perfectly legitimate for me to be asked at this point to point out the limit which defines proper and constitutional legislation from that which is improper and unconstitutional. Frankly I can not do it. I think no man can; and that suggests the difficulty with which the committee were confronted in their efforts to phrase something adequate to the exigency. What they have produced here is doubtless as nearly perfect as can be phrased in language, but in my judgment it is not such language as we should crystallize into a statute at this time or at any other time.

I took occasion yesterday to call attention to the absence of an element which is absolutely inseparable from crime, and without which, no matter how grave the act, there can be no crime. I refer, of course, to the intent with which an act may be committed. I know of no exception to the fundamental proposition that acts, to be criminal, must be willful or deliberate, except those which indicate a carelessness, a rashness, a disregard for the rights of others, so obvious as to become the equivalent of a willful intent.

The Senator from Washington a few moments ago suggested that where the term does appear it should be eliminated, lest the object of the statute should be defeated by its inclusion. Mr. President, I think the Senator upon reflection will admit the very obvious wisdom of the reply of the Senator from Montana with regard to that suggestion. We can not afford, Mr. President, and at this time of all times we can least afford, to break down or disregard so fundamental a safeguard in the enactment of criminal legislation as the element of intent. Otherwise, Mr. President, the innocent and the guilty will alike be included within the recitals of this criminal statute. Otherwise we make no distinction whatever between the man who deliberately commits an offense and the man who innocently commits an act which, if it were intended, would constitute the offense.

Hence, I shall move at the proper time on line 18, page 2, between the last two words of the line, to insert the word "willfully," and to insert the same word on line 4, page 3, between the words "shall" and "utter," and between the words "shall" and "display," on line 7, of page 3, and also between the words "shall" and "advocate," in line 14, so that the acts which are to be prohibited shall constitute offenses when they shall have been performed willfully or with deliberate intent; and I do not believe, Mr. President, that any court in this country will sustain an act from which those words or their equivalents are absent.

If they do sustain it, they will import into the law the old common-law element of intent, and wherever it does not appear that the act complained of was so committed they will instruct the jury accordingly. But it seems to me to be a reflection upon the experience of the Congress and upon the wisdom of its Members to pass a bill of this sort, which does not contain that essential element of criminal intent.

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

Mr. THOMAS. I yield for that purpose.

Mr. MYERS. Can any man utter any disloyal, profane, scurrilous, contemptuous, or abusive language about the form of government of the United States without intending to speak the words which pass his lips?

Mr. THOMAS. Oh, no. When a man speaks a word he intends to speak it; but he may not intend willfully to slander his Government in speaking it. I got a letter yesterday morning from a private soldier, who complained very bitterly because he had not received his pay. His contention was that those dependent upon him were suffering because he had not received his pay, and he expressed his opinion of the Government of the United States in language far more forcible than elegant. Now, that soldier did not mean to defame his Government. He did not mean to speak words of disloyalty. In his resentment at what he considered unjust treatment he expressed himself to me as I have stated. There is an instance, Mr. President, in which the boy would be punished, sent to the penitentiary for a term of years or fined far beyond his means, perhaps, if we are going to enact this statute in the precise terms in which it was reported from the Committee on the Judiciary.

Now, let me call attention to another word which seems to me, Mr. President, to carry this law far beyond the intentions of its framers, and certainly far beyond the legitimate purpose of the act. I allude to the word "defend"—

> Whoever shall advocate, favor, teach, defend, or suggest the doing of any of the acts or things in this section enumerated—

Mr. President, John Doe may be indicted for seditious utterances in violation of this act. My friend the Senator from Montana may be employed to defend him, and of course if he is so employed he will endeavor to the best of his ability to acquit his client; but if, in so doing, he defends the act, however necessary and legitimate it may be to the purposes of the defense, he in turn may be indicted and punished, together with his client, for defending that client.

Mr. STERLING rose.

Mr. THOMAS. It may be, Mr. President, that that is a far-fetched illustration, but certainly it is within, and far within, the opinions which I have heard expressed here to-day as to what this statute ought to be and as to what they intend it shall be.

I yield to the Senator from South Dakota.

Mr. STERLING. I was just about to ask the Senator in substance what he has stated, that it might be a far-fetched illustration; but does not the Senator think that the court would exclude from the operation of a statute the defense made by an attorney in behalf of his client?

Mr. THOMAS. I think a court would; but why should we enact here a statute which would make it necessary for a court to do so?

Mr. STERLING. It would be a violation of his constitutional right, of course, if he was deprived of his defense.

Mr. THOMAS. Yes; that is true; and yet one Senator has said that unless we pass this law and make it drastic enough the military authorities will assume jurisdiction of these cases and punish them according to military codes. That, with all due respect to my distinguished friend, for whose legal ability

I have the highest opinion, was, to my mind, one of the most astonishing utterances that I have heard in the course of this debate.

Mr. OVERMAN. Will the Senator yield to me?

Mr. THOMAS. I yield.

Mr. OVERMAN. Mr. President, I had an idea of going on with the bill until it was completed, but some Senators have dinner engagements, and so on. I wonder if I could not get unanimous consent to consider the bill to-morrow, and that at not later than 5 o'clock to-morrow afternoon we shall agree to vote on it. I suggest that the Secretary read the agreement I propose, and then if anyone here objects that will be the end of it.

Mr. THOMAS. I do not want to yield for the purpose of submitting that proposition because I understand it would require a call of the roll under the rule.

Mr. OVERMAN. I will just present it, and if anyone objects it will go over.

The VICE PRESIDENT. A quorum has to be developed. Otherwise there can be no unanimous-consent agreement as to the final passage of the bill.

Mr. OVERMAN. I will let the Senator from Colorado proceed, and I shall present the agreement after he gets through.

Mr. THOMAS. Mr. President, of course the failure of legislation under the civil law for the regulation of crime even in times of war could not transfer jurisdiction to military tribunals under our form of government; nor, as the Senator from Minnesota [Mr. NELSON] well suggested, can any crime under the Constitution of the United States be punishable except by the verdict of a jury, unless it was committed by those directly within the jurisdiction of the military or naval authority. So, whether we enact this statute or not, there can be no assumption of power, except possibly through the declaration of martial law in districts that are said to be in insurrection, to stretch their authority and assume jurisdiction of a solitary offense here to be created or anything like it. That has been the law ever since the Milligan case.

Mr. FALL. Mr. President——

Mr. THOMAS. I will yield in just a moment. I have had occasion once or twice to refer to the Milligan case, and now refer to it as one of the great landmarks in the judicial history of the United States. I yield to the Senator from New Mexico.

Mr. FALL. I simply want to say, in view of the fact that the Senator apparently had reference to something I said, I did not mean for one moment to say that if we failed to enact legislation of this kind the military authority would extend all over the United States. In fact, I deny that absolutely.

Mr. THOMAS. I understood the Senator to say—and, of course, if I misunderstood him I must apologize—that unless legislation of this sort was adopted, these offenses would go to a tribunal that would not only not quibble upon the meaning of words, but which would deny to the defendant those presumptions which exist for his protection at common law.

Mr. FALL. I would not have the Senator for a moment think I meant that military law would go of its own accord. What I meant to say was that to save this Government and this country of ours the President of the United States would be justified in doing exactly what Abraham Lincoln did in declaring a state of revolution to exist while possibly the State itself was not in revolution. The military law would then apply.

Mr. THOMAS. I, of course, accept the Senator's correction, and I am sorry I misunderstood him; but, Mr. President, the Executive of the Nation is powerless to clothe military tribunals with jurisdiction over criminal offenses not committed by military people. Of course, he may suspend the writ of habeas corpus, and within the limits of that suspension, there being no law except military law, those committing offenses may be arrested, imprisoned, probably shot; but in every instance where the courts are open the mere declaration of martial law does not close them. In every case where the courts are open the accused has a right to appeal to the civil tribunals of the country, and in the past that appeal has not been made in vain, to my knowledge. However, sufficient unto the day is the evil thereof. Let us not enact measures now which may be too broad in their aim and consequently too sweeping in their consequences because of an apprehension that unless we be swift about this legislation the Executive may interfere and put the country under the edict of martial law.

I think, Mr. President, the suggestions which I have made with regard to the amendments here should be adopted. I will not promise now to vote for this measure even if they are adopted, for in the absence of clear language imputing willful intent to a citizen who may be guilty of a violation of these provisions I could not under my construction of my oath of office here vote for the passage of the bill.

Mr. OVERMAN obtained the floor.

Mr. SMITH of Georgia. Will the Senator yield to me, that I may present two amendments?

Mr. OVERMAN. I yield for that purpose.

Mr. SMITH of Georgia. I wish just to offer, so that they may go into the RECORD, two amendments. On line 22, page 2, strike out the words "soldiers or sailors" and insert "Army and Navy"; and on page 3, line 5, at the close of the line, add before the word "any" the words "legal order of any," so that it will read:

To incite or inflame resistance to any legal order of any duly constituted Federal or State authority—

And so forth.

Mr. MYERS. I should like to ask the Senator from Georgia a question about that proposed amendment. Suppose an officer of the United States or of a State government goes to arrest a man who is doing something forbidden by this bill after it is enacted into a law, and the man about to be arrested resists, where would the legal order be?

Mr. SMITH of Georgia. This refers to the criticism——

Mr. MYERS. The officer sees that a man is violating this law and, without any warrant, proceeds to arrest him, and the man resists. Where is the legal order?

Mr. SMITH of Georgia. It has no reference to that case at all. The right of arrest exists, under certain circumstances, everywhere, without indictment and without a warrant. This is the paragraph which refers to the criticism——

Mr. MYERS. I will amplify my question. Suppose that anyone uses language calculated——

Mr. OVERMAN. I did not yield for the amendments to be debated. I yielded to the Senator to offer his amendments, and they can be debated later.

I now propose the following unanimous-consent agreement.

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

The Secretary read as follows:

UNANIMOUS-CONSENT AGREEMENT.

It is agreed, by unanimous consent, that at not later than 5 o'clock p. m., on the calendar day of Saturday, April 6, 1918, the Senate will proceed to vote, without further debate, upon any amendment that may be pending, any amendment that may be offered, and upon the bill H. R. 8753, a bill to amend section 3, title 1, of the act entitled "An act to punish acts of interference with foreign relations, the neutrality, and the foreign commerce of the United States," etc., through the regular parliamentary stages to its final disposition; and that after the hour of 1 o'clock p. m. on said calendar day no Senator shall speak more than once or longer than 10 minutes upon the bill, or more than once or longer than 5 minutes upon any amendment offered thereto.

Mr. OVERMAN. I wish to say if this is agreed to I shall ask the Senate to take a recess until 11 o'clock to-morrow, which will give from 11 to 5 o'clock to debate the bill and all amendments to it.

Mr. SMITH of Georgia. Surely, we will have time to get through with it if we can take the ordinary adjournment until 11 o'clock. The Senator knows more about the probable talk upon it than I do. I should be glad to give unanimous consent to vote not later than 5; but then, as to an adjournment, I want to bring up to-morrow, not for any length of time, a very important bill. I want to introduce a bill.

Mr. OVERMAN. Could not the Senator wait until Monday?

Mr. SMITH of Georgia. No; I want to introduce it to-morrow.

Mr. OVERMAN. I will agree to let the Senator introduce his bill at any time.

The VICE PRESIDENT. Is there objection from any Senator present to the proposed agreement?

Mr. KING. Mr. President, of course I am going to vote for this bill and I am in favor of it, with a few amendments. I know there are several Senators who are opposed to it, and in good faith. While I share the desire of the Senator from North Carolina to pass the bill, and pass it speedily, and appreciate the necessity of speedy action, I am inclined to think that it might not be wise to urge the proposed agreement at this time.

Mr. OVERMAN. I am going to urge it, and if anybody wants to object let him object.

Mr. SMITH of Georgia. Can we not at least give unanimous consent to dispose of it during the calendar day to-morrow? And if we have to sit a little later than 5, let us stay and dispose of it. I am perfectly in accord with the desire to complete the bill.

Mr. KING. I am not going to object, but I want full opportunity for those who desire to discuss it to have that opportunity.

Mr. OVERMAN. The bill has been debated. It is a very short bill, but it is an important bill, and there have been fine speeches made upon it.

The VICE PRESIDENT. The Chair understands that the Senator from Utah does not object?

Mr. KING. I do not.

The VICE PRESIDENT. Then the roll will be called.

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

Ashurst	Henderson	Overman	Smoot
Chamberlain	Jones, N. Mex.	Phelan	Sterling
Cummins	King	Pittman	Stone
Curtis	Kirby	Pomerene	Swanson
Fall	Lewis	Robinson	Thomas
France	Lodge	Sheppard	Trammell
Frelinghuysen	Martin	Shields	Underwood
Gore	Myers	Smith, Ariz.	Vardaman
Hale	Norris	Smith, Ga.	Weeks

The VICE PRESIDENT. Thirty-six Senators have answered to the roll call. There is not a quorum present. The Secretary will call the roll of absentees.

The Secretary called the names of the absent Senators, and Mr. KENDRICK, Mr. NEW, Mr. SHAFROTH, Mr. TILLMAN, and Mr. TOWNSEND answered to their names when called.

The VICE PRESIDENT. Forty-one Senators have answered to the roll call. There is not a quorum present.

Mr. OVERMAN. I move that the Sergeant at Arms be directed to request the attendance of absent Members.

The motion was agreed to.

The VICE PRESIDENT. The Sergeant at Arms will execute the order of the Senate.

Mr. MCKELLAR, Mr. THOMPSON, Mr. REED, Mr. SMITH of South Carolina, Mr. COLT, Mr. BECKHAM, Mr. SAULSBURY, Mr. MCNARY, Mr. GALLINGER, Mr. BORAH, and Mr. NELSON entered the Chamber and answered to their names.

Mr. SAULSBURY. I desire to announce that my colleague [Mr. WOLCOTT] and also the Senator from South Dakota [Mr. JOHNSON] are detained on important public business.

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

Mr. OVERMAN. Mr. President, I ask that the Secretary now read the proposal for a unanimous-consent agreement as to the pending bill.

The VICE PRESIDENT. The Secretary will state the proposed unanimous-consent agreement.

The Secretary read as follows:

It is agreed by unanimous consent that on the legislative day of Saturday, April 6, 1918, the Senate will vote upon any amendment that may be pending, any amendment that may be offered, and upon the bill H. R. 8753, a bill to amend section 3, title 1, of the act entitled "An act to punish acts of interference with foreign relations, the neutrality, and the foreign commerce of the United States," etc., through the regular parliamentary stages to its final disposition; and that after the hour of 1 o'clock p. m. of April 6 no Senator shall speak more than once or longer than 10 minutes upon the bill, or more than once or longer than 10 minutes upon any amendment offered thereto.

Mr. STONE. What is the hour fixed for a vote?

Mr. CUMMINS. No hour is fixed.

The VICE PRESIDENT. No hour is fixed.

Mr. MYERS. Mr. President, I suggest that the hour of 1 o'clock be changed to 2 o'clock. It seems to me that three hours should be allowed for speeches.

Mr. OVERMAN. I have no objection to that.

Mr. REED. Mr. President, it seems to me that we ought to vote on the principal amendments which may be offered to this bill before a unanimous-consent agreement of this character is had. The time fixed is very short. The fact that it is now within 25 minutes of the ordinary hour of adjournment, and that the Senate will probably not convene until 12 o'clock to-morrow——

Mr. OVERMAN. I have given notice that I would ask the Senate to take a recess until 11 o'clock to-morrow.

Mr. REED. That only adds an hour.

Mr. OVERMAN. But there will be no morning hour, and the whole day will be devoted to the bill.

Mr. REED. That interferes with committee work, which is crowding constantly for attention.

I think that the Senator ought not to ask for a vote upon this bill at so early a date. I think we ought to vote upon the principal amendments before debate is limited. This proposed unanimous-consent agreement is almost equivalent to asking for 10-minute debate, beginning at the present time.

Mr. OVERMAN. There will be three hours for debate, if the Senate meets at 11 o'clock.

Mr. REED. The bill is a very important one. It is a bill with the spirit of which, I think, every man in the Senate is in accord. It is a bill which I believe every man in the Senate who has considered the matter thinks goes further than it ought to go, and I see no reason in the world for any such haste as is involved in the proposed agreement. I do not think the Senator ought to ask it.

Mr. OVERMAN. Then, we will let it run into Monday, Tuesday, or Wednesday of next week.

Mr. REED. Suppose that we really go on until Monday or Tuesday of next week, what would be the harm? Here is a bill that involves questions that are almost vital in their importance; it is a bill that many patriotic men fear will work injury in some respects. I am not going to call any names, but I talked to a Senator who was largely instrumental in helping to draft this bill, and, as I understood him, he himself thought that the matter ought to be carefully reviewed. That is my opinion.

Mr. SHAFROTH. Will the Senator suggest a time?

Mr. REED. I do not think we have reached a stage to suggest a time; I think we ought to vote upon the principal amendments that may be offered to this bill. Then we will know what the measure is really to be, and when we come to give our consent to a final vote we will give it in the light of that situation; but if the amendments are brought up, as they ordinarily are brought up, under unanimous-consent agreements of this character when the debate is limited to 10 minutes, it frequently happens that questions receive but very meager consideration. If we can dispose of the principal amendments by going on with the bill to-morrow, I have no doubt that we will very speedily reach a time when we can vote. There has been no delay of this bill.

Mr. OVERMAN. I think we have had about all the debate that is likely to take place on the main amendments in connection with the speeches which have been made to-day. There are a few Senators who desire to speak to-morrow, but only a few. I have talked with the leader of the opposition, and he is perfectly willing that this course be taken. I refer to the Senator from Georgia [Mr. HARDWICK].

Mr. REED. I do not number myself in the opposition.

Mr. OVERMAN. No; I am not referring to the Senator; I refer to the Senator from Georgia, who is willing to vote at 4 o'clock to-morrow. Now, we propose to go further and provide for a vote on the legislative day.

Mr. REED. I simply want to have the principal amendments to this bill disposed of before we are asked to proceed under a 10-minute limitation on debate. I do not think any amendment ordinarily receives proper consideration under those circumstances, and I think this is a matter that ought to be carefully thought out.

Mr. OVERMAN. Mr. President, the Senator has not been here—I know he had business elsewhere, and I am not criticizing him—but the principal speeches have been made in the five hours' debate to-day on the main amendments to the bill.

Mr. REED. Mr. President, it is true that there have been one or two speeches made, but that is not the point I am making. Amendments will be offered to this bill, and amendments when offered ought to be properly discussed. If there had been a great consumption of time on this bill the necessity for a unanimous-consent agreement might be apparent, but I see no necessity for it.

Mr. OVERMAN. I would not insist on it if it were not for the fact that expedition is necessary.

Mr. REED. There has not been any disposition on the part of anybody to delay action; and what reason is there why we can not go on in the ordinary way with the bill?

Mr. OVERMAN. Mr. President, I will suggest to the Senator—he was probably not here—that I have already stated that I had an urgent message which came down from the Attorney General, urging that this bill be passed to-day.

Mr. REED. Why?

Mr. OVERMAN. Because he said the sale of the bonds was to commence on Monday next, and he would like to have the bill passed before the sale began. He said that so far as he was concerned, rather than to see this bill not passed he was willing to see those amendments go out of the bill. He was so anxious to have the bill passed that he asked me to do that; but I could not afford to do it, because the committee had urged that these amendments be made. So far as he is concerned, rather than not have this bill passed, he will just limit it to the bond sale; but I could not listen to that.

Mr. REED. Mr. President, we hear some very strange and very peculiar reasons offered for sudden action by the Congress, but about as strange a one as I have heard is the one just offered. There is not a man in this Chamber who does not know that the sale of the bonds does not depend upon the passage of this bill. Why, Mr. President, if the sale of the bonds that we are about to offer to the American people depends upon the passage of a bill of this character, we are already defeated in this war.

I hear Senators about me speak about people denouncing the sale of these bonds. I will venture the assertion that there will not be found in the United States a single man of any prominence or influence who will say one word against the sale of these bonds. There will be, perhaps, some criminal, some crank,

some Bolshevik, who will mouth a little bit about them; and every time he opens his foul lips to say anything against the sale of these bonds he will only increase the market. It is utter nonsense to talk about the sale of the bonds depending upon the passage of a bill of this character. It is not true.

The VICE PRESIDENT. Is there objection to the proposed unanimous-consent agreement?

Mr. REED. Mr. President, I do not desire to make a formal objection. I am asking the Senator to go on with this matter. Let us take up these amendments and pass upon them in an orderly way. Nobody is going to be hurt. We all want to enact a proper statute; but do not let us be rushed into a hasty agreement on the ground that otherwise the bonds will not sell.

I expect to go out and give some of my time to helping persuade people to buy these bonds, and I expect to do as I did on the other bond issue—to bankrupt myself temporarily and borrow money to buy bonds. Almost everybody else in the United States is going to do the same thing; but the sale of the bonds does not depend upon the enactment of this statute.

Mr. LODGE. Mr. President, if the sale of the bonds depended upon the enactment of this bill, we would not place the loan at all.

The VICE PRESIDENT. Is there objection?

Mr. REED. Mr. President, if the Senator will not accede to my request, which I think is reasonable, I am going to object to unanimous consent to a vote at this time.

The VICE PRESIDENT. That disposes of the matter.

Mr. OVERMAN. The Senator is not insistent in regard to going on with the amendments this afternoon?

Mr. REED. I am perfectly willing to go right along with them, and after the principal amendments are disposed of I would just as soon come to a vote.

Mr. OVERMAN. Let us vote on the amendments, then, Mr. President.

The VICE PRESIDENT. The amendments of the committee will be stated.

The first amendment of the Committee on the Judiciary was, on page 2, line 6, after the word "statements" to insert "or say or do anything except by way of bona fide and not disloyal advice to an investor or investors."

The amendment was agreed to.

The next amendment was, on page 2, line 12, after the word "cause," to insert "or incite or attempt to incite."

The amendment was agreed to.

The next amendment was, on page 2, line 15, after the word "obstruct," to insert "or discourage or willfully attempt to obstruct or discourage."

The amendment was agreed to.

The next amendment was, on page 2, line 16, after the words "United States," to strike out "to the injury of the service or of the United States," and insert "and whoever, when the United States is at war, shall utter, print, write, or publish any disloyal, profane, scurrilous, contemptuous, or abusive language about the form of government of the United States, or the Constitution of the United States, or the soldiers or sailors of the United States, or the flag of the United States, or the uniform of the Army or Navy of the United States, or any language calculated to bring the form of government of the United States, or the Constitution of the United States, or the soldiers or sailors of the United States, or the flag of the United States, or the uniform of the Army or Navy of the United States into contempt, scorn, contumely, or disrepute, or shall utter, print, write, or publish any language calculated to incite or inflame resistance to any duly constituted Federal or State authority in connection with the prosecution of the war, or shall display the flag of any foreign enemy, or shall by utterance, writing, printing, publication, or language spoken, urge, incite, or advocate any curtailment of production in this country of any thing or things, product or products, necessary or essential to the prosecution of the war in which the United States may be engaged, with intent by such curtailment to cripple or hinder the United States in the prosecution of the war, and whoever shall advocate, favor, teach, defend, or suggest the doing of any of the acts or things in this section enumerated, and whoever shall by word or act support or favor the cause of the German Empire or its allies in the present war or by word or act oppose the cause of the United States therein."

Mr. THOMAS. Mr. President, I move to amend the amendment of the committee by inserting the word "willfully," on line 18, page 2, between the words "shall" and "utter"; also the same word on page 3, line 4, between the words "shall" and "utter"; also on line 7, between the words "shall" and "display"; also on line 14, between the words "shall" and "advocate."

Mr. BORAH. What page?

Mr. THOMAS. Page 3.

Mr. MYERS. Mr. President, I think that is putting useless verbiage in the bill. I do not see how a man can utter any disloyal, profane, scurrilous, contemptuous, or abusive language about anything without willfully speaking the words, without intending to do it, unless he did it in his sleep or while he was delirious or while he was insane. Those are the only three exceptions of which I can think. If you are going to put in the word "willfully," some highly technical judge will simply extend the meaning of the word "willfully" to more than it ought to qualify, and we shall have decisions that a man must willfully intend to defame the form of government of the United States, or the Constitution of the United States, or the soldiers or sailors of the United States. Every qualification that you put in there is simply going to make the law harder to enforce, and going to make the spirit of it harder to carry out. I think the law ought to be as it is in the State of Montana, that a man who utters words of that character is conclusively presumed to know what he is doing and is guilty under this act.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Colorado to the amendment of the committee.

Mr. LODGE. Mr. President, this is a very important amendment. I make the point of no quorum.

The VICE PRESIDENT. The Secretary will call the roll.

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

Ashurst	Kendrick	Phelan	Thomas
Borah	King	Reed	Tillman
Colt	Lewis	Robinson	Townsend
Cummins	Lodge	Shafroth	Underwood
Fall	McNary	Sheppard	Vardaman
France	Martin	Smith, Ariz.	Wadsworth
Frelinghuysen	Myers	Smith, S. C.	
Gallinger	Nelson	Smoot	
Jones, N. Mex.	Overman	Swanson	

The VICE PRESIDENT. Thirty-three Senators have answered to the roll call. There is not a quorum present.

Mr. GALLINGER. Mr. President, I have taken no part in the debate. I presume I have no right to say much; but I will ask the Senator from North Carolina to move an adjournment now. I think he will make more progress with his bill.

Mr. OVERMAN. Mr. President, I am inclined to think so. The Senator from New Hampshire, who always does his duty, had left the Chamber, and has returned to it, notwithstanding sickness in his family. Appreciating what we asked for, he returned to the Chamber under those circumstances. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 55 minutes p. m.) the Senate adjourned until to-morrow, Saturday, April 6, 1918, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

FRIDAY, *April 5, 1918.*

The House met at 12 o'clock noon.

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

Almighty and everliving God our Heavenly Father, in whom all wisdom, power, and goodness are centered, we lift up our hearts in fervent prayer with the millions who are at this moment praying for the success of our allied forces, who are engaged in a most terrific battle against the barbarians who would break through all barriers and check the onward march of civilization so well begun and so far advanced.

Give, we beseech Thee, courage, strength, victory to our arms, that liberty, justice, peace, and righteousness may live, a blessing to untold generations; and all praise we will ascribe to Thee, for Thine is the kingdom and the power and the glory forever. Amen.

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

RATIFICATION OF PROHIBITION AMENDMENT BY DELAWARE.

The SPEAKER. The Chair has a communication from the secretary of state of Delaware announcing the ratification by the legislature of that State of the prohibition amendment. The communication will be filed.

HERBERT A. MEYER.

Mr. ANTHONY. Mr. Speaker, I ask unanimous consent for the present consideration of House resolution 297, directing the Secretary of War to furnish the House the facts in reference to the issuance of a commission as captain to Herbert A. Meyer.

The SPEAKER. The gentleman asks unanimous consent for the present consideration of a resolution, which the Clerk will report.