1631. Also, petition of the National Association of Tuberculosis, of New York City, relative to increase in pay for the personnel of the United States Public Health Service, etc.; to the Committee on Interstate and Foreign Commerce.

1632. Also, petition of T. C. Atkeson, representative of the National Grange, and others, relative to the views of farmers on national questions, etc.; to the Committee on Agriculture.

1633. By Mr. SINCLAIR: Petition of the Central Labor Union of Devils Lake, N. Dak., favoring Federal control of the railroads for a period of two years; to the Committee on Interstate and Foreign Commerce.

1634. Also, petition of the Central Labor Union of Devils Lake, N. Dak., opposing the passage of the Sterling-Graham peace-time sedition bills; to the Committee on the Judiciary.

1635. By Mr. STINESS: Petition of employees of Providence office of the Steamboat-Inspection Service, Providence, R. I., requesting an increase of salaries for the United States Steamboat-Inspection Service employees; to the Committee on Interstate and Foreign Commerce.

SENATE.

WEDNESDAY, *February 18, 1920.*

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

Almighty God, it is our privilege to call upon Thy name and to lift our hearts in reverence and in devotion to Thee. We thank Thee for the spiritual basis of life, for the great spiritual principles to which we may gather all our thought and all our plan of life, for the great spiritual forces that run through the current of human life and thought, making for the advancement of human civilization and the establishment of justice and peace among men. Grant us to-day those spiritual principles and forces that will keep us close to the thought of God. For Christ's sake. Amen.

On request of Mr. CURTIS and by unanimous consent the reading of the Journal of yesterday's proceedings was dispensed with and the Journal was approved.

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

The VICE PRESIDENT. The Secretary will call the roll.

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

Ball	Frelinghuysen	McLean	Smith, Md.
Beckham	Gay	McNary	Smoot
Borah	Hale	Moses	Spencer
Brandegee	Harris	Myers	Stanley
Calder	Harrison	Nelson	Sterling
Capper	Henderson	New	Sutherland
Chamberlain	Hitchcock	Nugent	Thomas
Colt	Johnson, S. Dak.	Page	Townsend
Culberson	Jones, N. Mex.	Phipps	Trammell
Curtis	Jones, Wash.	Pittman	Walsh, Mont.
Dial	Kellogg	Poindexter	Warren
Dillingham	Kenyon	Pomerene	Watson
Elkins	King	Ransdell	Williams
Fernald	Kirby	Sheppard	Wolcott
Fletcher	Knox	Sherman	
France	McKellar	Smith, Ga.	

Mr. DIAL. I wish to announce that my colleague [Mr. SMITH of South Carolina] is detained by illness. I ask that this announcement may continue for the day.

Mr. HARRISON. I desire to announce that the Senator from North Dakota [Mr. GRONNA] and the Senator from Wyoming [Mr. KENDRICK] are absent at a meeting of the Agricultural Committee.

Mr. CURTIS. I have been requested to announce the absence of the Senator from New Jersey [Mr. EDGE] on business of the Senate.

I wish also to announce that the Senator from Wisconsin [Mr. LENROOT] is detained from the Senate by illness.

Mr. MCKELLAR. The Senator from Virginia [Mr. SWANSON] is detained by illness in his family, the Senator from Rhode Island [Mr. GERRY] is detained at home by illness, and the Senator from Missouri [Mr. REED] is necessarily absent.

The Senator from Arizona [Mr. ASHURST], the junior Senator from North Carolina [Mr. OVERMAN], the Senator from California [Mr. PHELAN], the Senator from Arkansas [Mr. ROBINSON], the Senator from Alabama [Mr. UNDERWOOD], and the senior Senator from North Carolina [Mr. SIMMONS] are absent on official business.

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

ESTIMATE OF APPROPRIATION (S. DOC. NO. 226).

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Secretary of the Interior, submitting supplemental estimate of appropriation, in the sum of $10,000, required for a new ash tank and vacuum cleaner for boilers in the power plant of the old Land Office Building, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

FLATHEAD NATION OF INDIANS.

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 2454) for the relief of certain members of the Flathead Nation of Indians, and for other purposes, which was, on page 2, line 11, after the word "completed," to strike out the remainder of the paragraph and insert:

Provided further, That not exceeding 40 acres of each allotment made under the provisions of this act shall be designated as a homestead which shall be inalienable and nontaxable during the minority of the allottee and thereafter until such restrictions may be removed either by Congress or the Secretary of the Interior.

Mr. CURTIS. I move that the Senate concur in the House amendment.

The motion was agreed to.

RECLAMATION PROJECTS.

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 796) for furnishing water supply for miscellaneous purposes in connection with reclamation projects, which were, on page 1, line 8, after the word "proper," to insert "*Provided*, That the approval of such contract by the water users' association or associations shall have first been obtained"; on page 1, line 12, to strike out "unless" and insert "if"; on page 1, line 12, to strike out "hot"; and on page 2, line 2, after "appropriator," insert "*Provided further*, That the moneys derived from such contracts shall be covered into the reclamation fund and be placed to the credit of the project from which such water is supplied."

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

Mr. SMOOT. May I ask the Senator a question first? I have not had a chance to examine the amendments made by the House. Will the Senator in a few words explain the amendments and their effect upon the bill as passed by the Senate?

Mr. MYERS. Mr. President, I shall be pleased to do so.

One amendment strikes out the word "not" and the word "unless" and inserts the word "if" in another place. It merely changes the wording and does not alter the meaning at all. It makes the meaning a little clearer.

Another amendment provides that any moneys derived from the disposition of water under the bill shall go to the benefit of the particular reclamation project to which the water belongs, which I think is proper.

Another amendment provides that no action shall be taken under this measure, that no water shall be contracted to be supplied, unless the Secretary of the Interior shall first consult any association of water users that there may be on the particular project and get their consent.

I am quite willing to accept the amendments. I think they are all right, and I move that they be concurred in.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. D. K. Hempstead, its enrolling clerk, announced that the House had passed a bill (H. R. 12467) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1921, and for other purposes, in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

Mr. WARREN. I present a resolution adopted at the fifty-fifth annual convention of the National Wool Growers' Association, an old and live association which has been in session at Salt Lake City, Utah. It is a matter of only 10 lines, and I ask that it may be printed in the RECORD.

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

[Resolution adopted by the fifty-fifth annual convention of the National Wool Growers' Association, held in Salt Lake City, Utah, Jan. 21, 1920.]

"Whereas the armistice has been signed for over a year, and the country is full of unrest, and there is an uncertainty in regard to the future that should be allayed as soon as possible: Therefore be it

"*Resolved by the National Wool Growers' Association*, That the Senate of the United States as soon as possible should enact into binding statute the League of Nations pact, safe-

guarding American interests to the fullest extent by all the reservations that they deem necessary to secure this result. Reservations must be so strong as to leave no doubt as to any constitutional limits. The American Constitution must be preserved in all its Americanism and for the perpetuity of the Nation. If the league can not be passed in this condition, then declare the war at an end so far as the United States is concerned."

Mr. RANSDELL. I present a petition signed by a large number of customs employees at the port of New Orleans, La., requesting to have sufficient increase made in the appropriation in order that salaries on a par with those in private employ may be paid to customs employees in particular and to all Federal employees in general. I move that the petition be referred to the Committee on Appropriations.

The motion was agreed to.

Mr. CAPPER presented memorials of sundry citizens of Argonia and Elk City and of McPherson County, all in the State of Kansas, remonstrating against compulsory military training, which were ordered to lie on the table.

Mr. PHELAN presented a resolution adopted by Lodge No. 820, Brotherhood of Railway Clerks, of Stockton, Calif., favoring an increase in the salary of railroad clerks, which was referred to the Committee on Interstate Commerce.

HAWAIIAN NATIONAL PARK.

Mr. POINDEXTER. From the Committee on Pacific Islands, Porto Rico, and the Virgin Islands I report back favorably without amendment the bill (H. R. 3654) to authorize the governor of the Territory of Hawaii to acquire privately owned lands and rights of way within the boundaries of the Hawaii National Park, and I submit a report (No. 428) thereon.

I will state that in substance it is a bill which authorizes the Territory of Hawaii to acquire detached pieces of private property lying within the Hawaii National Park at the expense of the Territory of Hawaii and without expense to the United States. A favorable report from the Secretary of the Interior is attached to the report of the committee; and I ask unanimous consent for the present consideration of the bill.

There being no objection, the bill was considered as in Committee of the Whole, and it was read, as follows:

Be it enacted, etc., That the governor of the Territory of Hawaii is hereby authorized to acquire, at the expense of the Territory of Hawaii, by exchange or otherwise, all privately owned lands lying within the boundaries of the Hawaii National Park as defined by "An act to establish a national park in the Territory of Hawaii," approved August 1, 1916, and all necessary perpetual easements and rights of way, or roadways, in fee simple, over or to said land or any part thereof.

SEC. 2. That the provisions of section 73 of an act entitled "An act to provide a government for the Territory of Hawaii," approved April 30, 1900, as amended by an act approved May 27, 1910, relating to exchanges of public lands, shall not apply in the acquisition, by exchange, of the privately owned lands herein referred to.

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

RAILROAD LANDS FOR ROAD OR PARK PURPOSES.

Mr. PITTMAN. On behalf of the Committee on Public Lands I report back favorably without amendment the bill (S. 3484) authorizing certain railroad companies or their successors in interest to convey for public road or park purposes certain parts of their rights of way, and I submit a report (No. 427) thereon. As I intend to ask for the present consideration of the bill, I ask to have the report read. It is very brief.

The VICE PRESIDENT. The Secretary will read.

The Reading Clerk read the report, as follows:

The Committee on Public Lands, to whom was referred the bill (S. 3484) authorizing certain railroad companies or their successors in interest to convey for public-road or park purposes certain parts of their rights of way, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

The bill was referred to the Interior Department for consideration and recommendation. The department recommends that the bill be passed. The report of the department is hereto attached and made a part of this report.

This bill is practically identical with S. 2100, introduced by Senator NORRIS, of Nebraska, on the 18th day of June, 1919, and which became a law on October 10, 1919. The only material difference in the bill under consideration and Public No. 64, Sixty-sixth Congress, is that Public No. 64 extends only to the Union Pacific Railroad Co. and its successors and assigns, whereas the bill under consideration, upon the recommendation of the Secretary of the Interior, has been extended to all railroad companies who have obtained rights of way over the public domain and who are in a similar position with relation to the public as the Union Pacific Railroad.

The Secretary of the Interior approved the character of the legislation but deemed it wise to have one act passed rather than to have the time of Congress and the department taken up with the passage of several similar acts. Public No. 64, Sixty-sixth Congress, is as follows:

[Public No. 64, Sixty-sixth Congress. S. 2100.]

An act authorizing the Union Pacific Railroad Co., or its successors, to convey for public-road purposes certain parts of its right of way.

Be it enacted, etc., That the Union Pacific Railroad Co., or any of its successors or assigns, is hereby authorized to convey to any State, county, or municipality any portion of its right of way, to be used as a public highway or street: *Provided*, That no such conveyance shall have the effect to diminish the right of way of said railroad company to a less width than 50 feet on each side of the center of the main track of the railroad as now established and maintained.

Received by the President, October 10, 1919.

[NOTE BY THE DEPARTMENT OF STATE.—The foregoing act having been presented to the President of the United States for his approval and not having been returned by him to the House of Congress in which it originated within the time prescribed by the Constitution of the United States has become a law without his approval.]

—

DEPARTMENT OF THE INTERIOR,
Washington, January 16, 1920.

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

MY DEAR SENATOR: In response to your request therefor, report is made on Senate bill No. 3484 as follows:

Said bill, entitled "A bill authorizing certain railroad companies or their successors in interest to convey for public road or park purposes certain parts of their rights of way," proposes to authorize all railroad companies to which grants for rights of way through the public lands have been made by Congress, or their successors in interest or assigns, to convey to any State, county, or municipality any portion of such right of way to be used as a public highway, street, or park, provided that no conveyance shall diminish the right of way to a less width than 50 feet on each side thereof.

Bills authorizing conveyances by railroad companies for public-road purposes have been introduced into the present Congress as follows:

Senate bill No. 2100, entitled "A bill authorizing the Union Pacific Railroad Co. or its successors to convey for public-road purposes certain parts of its right of way," upon which a report was made by me July 11, 1919, recommending the enactment of a substitute bill submitted authorizing all railroad companies to make such conveyances for public-road purposes. Prior to the receipt of said report, however, said bill passed the Senate, on July 8, 1919, and subsequently passed the House of Representtives, and was submitted to the President for his signature on October 10, 1919. The bill became a law October 22, 1919, without the signature of the President, being Public Law No. 64.

Senate bill No. 3104, entitled "A bill authorizing the Central Pacific Railroad Co. of California, or its successors or assigns, to convey for public road or park purposes certain parts of its right of way," upon which a report was made by me on October 24, 1919, renewing the recommendation made in said report of July 11, 1919, that a bill of a general character be enacted.

House bill 9825, entitled "A bill authorizing any land-grant railroad company or its successors to convey for public-road purposes certain parts of its right of way," upon which a report was made by me on November 8, 1919, recommending the enactment of the substitute bill proposed in connection with said report of July 11, 1919, in the place of said House bill No. 9825.

Senate bill No. 3272, entitled "A bill authorizing any land-grant railroad company or its successors to convey for public-road purposes certain parts of its right of way," which is identical in character and language with House bill No. 9825, and upon which a report was made by me on December 2, 1919, renewing the previous recommendations as to the enactment of general legislation.

Copies of these reports of July 11, 1919; October 24, 1919; November 8, 1919; and December 2, 1919, are attached hereto.

Except for the fact that the bill now under consideration is made applicable to conveyances for park purposes, it is identical in character and language with the substitute bill proposed by me in connection with said report of July 11, 1919. I would therefore recommend its enactment.

Cordially, yours,

FRANKLIN K. LANE, *Secretary.*

—

DEPARTMENT OF THE INTERIOR,
Washington, December 2, 1919.

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

MY DEAR SENATOR: In response to your request therefor, report is made on Senate bill No. 3272, as follows:

Said bill, entitled "A bill authorizing any land-grant railroad company or its successors to convey for public-road purposes certain parts of its right of way," is identical in character and language with House bill No. 9825, upon which report was made by this department November 8, 1919, copy of which is inclosed.

The recommendation made in said report that the substitute bill referred to therein be enacted is hereby renewed.

Cordially, yours,

ALEXANDER T. VOGELSANG,
Acting Secretary.

—

DEPARTMENT OF THE INTERIOR,
Washington, November 8, 1919.

Hon. N. J. SINNOTT,
Chairman Committee on Public Lands,
House of Representatives.

MY DEAR MR. SINNOTT: In response to your request therefor, report is made on H. R. 9825, as follows:

Said bill, entitled "A bill authorizing any land-grant railroad company or its successors to convey for public purposes certain parts of its right of way," proposes to authorize any land-grant railroad company or any of its successors or assigns to convey to any State, county, or municipality any portion of its right of way to be used as a public highway or street, provided that no such conveyance shall have the effect to diminish the right of way to a less width than 50 feet on each side of the center of the main tract of the railroad as now established and maintained.

These bills authorizing railroad companies to convey portions of their rights of way for road and highway purposes have been introduced in the present Congress. Senate bill No. 2100 authorized the Union Pacific Railroad Co. to make conveyances of portions of its right of way for the purposes mentioned. A report was made by me on this bill on July 11, 1919, in which I recommended the enactment of a substitute applicable to all railroad companies to which grants for rights of way through the public lands have been made by Congress. On July 8, 1919, prior to the receipt of said report of July 11, 1919, the

bill as originally introduced was favorably reported by the Senate Committee on Public Lands and passed the Senate on the same date. It was introduced in the House of Representatives on July 9, 1919, and referred to the Committee on the Public Lands, which also made a favorable report July 29, 1919, recommending the enactment of the bill as originally introduced. The bill passed the House October 6, 1919, and on October 10, 1919, the enrolled bill was submitted to me for a report as to objections to the approval thereof.

Senate bill No. 3104 authorized the Central Pacific Railroad Co. to make conveyances of portions of its right of way for use as a public highway, street, or park. A report was made on this bill on October 24, 1919, in which I again renewed my recommendation that the substitute bill proposed in connection with my report of July 11, 1919, be enacted in place of this bill. Copies of said reports of October 24, 1919, and July 11, 1919, and of the proposed substitute bill are hereto attached.

The term "land grant railroad" has acquired a special meaning in the administration of the public land laws being applied to such railroads for which grants of public land to aid in the construction thereof were made similar to the grant made by the acts of July 1, 1862 (12 Stat., 489), and July 2, 1864 (13 Stat., 356), for the benefit of the Union Pacific and Central Pacific Railroad companies referred to in said report dated July 11, 1919. These acts contain grants for right of way purposes similar in character to that in section 2 of said act of July 1, 1862.

By the act of March 3, 1875 (18 Stat., 482), a grant of the right of way through the public lands of the United States was made to railroad companies organized as therein set forth to the extent of 100 feet on each side of the line of the road and also adjacent grounds for station buildings, depots, machine shops, sidetracks, turnouts, and water stations, not to exceed in amount 20 acres for each station to the extent of one station for each 10 miles of such road. Other acts, both general and specific in character, have made grants of rights of way through the public lands, some of them not exceeding in width 50 feet on each side of the line of road.

The use of the term "land grant railroad" is therefore confusing and might cause the bill here under consideration, if enacted, to be construed as applying to rights of way only granted by such acts of Congress by which grants of public lands were also made to aid in the construction of railroads. It is therefore recommended that the substitute bill proposed in connection with said report of July 11, 1919, on Senate bill No. 2100, be enacted in place of the bill now under consideration.

Cordially, yours,

F. K. LANE, *Secretary.*

—

DEPARTMENT OF THE INTERIOR,
Washington, October 24, 1919.

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

MY DEAR SENATOR: In response to your request therefor, dated October 8, 1919, report is made on Senate bill No. 3104, as follows:

Said bill, entitled "A bill authorizing the Central Pacific Railroad Co. of California, or its successors or assigns, to convey for public road or park purposes certain parts of its right of way," proposes to authorize said railroad company, or any of its successors or assigns, to convey to any State, county, or municipality any portion of its right of way to be used as a public highway, street, or park, provided that no conveyance shall diminish the right of way to a less width than 50 feet on each side of the main tract of the railroad as now established and maintained.

Except for the addition of the words "or park," on line 6 of said bill, it is identical in character and language with Senate bill No. 2100, on which a report was made by me on July 11, 1919, in which I recommended the enactment in the place thereof of a substitute bill applicable to all railroad companies to which grants for rights of way through the public lands have been made by Congress. A copy of said report is inclosed herewith.

It appears that said Senate bill No. 2100 was favorably reported by the Committee on Public Lands on July 8, 1919, prior to the receipt of said report of July 11, 1919, and passed the Senate on the same date. It was introduced in the House of Representatives on July 9, 1919, and referred to the Committee on Public Lands, which also made a favorable report July 29, 1919, recommending the enactment of the bill as originally introduced. It was subsequently passed by the House of Representatives, and on October 10, 1919, the enrolled bill was submitted to me for a report as to the objections to the approval thereof, and appears to be now before the President awaiting his signature.

The introduction of this bill applicable to the right of way of the Central Pacific Railroad Co. indicates the necessity of legislation applicable to all railroad companies, such as that proposed in my report of July 11, 1919, and I so recommend.

Cordially, yours,

FRANKLIN K. LANE, *Secretary.*

—

DEPARTMENT OF THE INTERIOR,
Washington, July 11, 1919.

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

MY DEAR SENATOR: In response to your request therefor report is made on Senate bill 2100, as follows:

Said bill, entitled "A bill authorizing the Union Pacific Railroad Co. or its successors to convey for public road purposes certain parts of its right of way," proposes to authorize said Union Pacific Railroad Co., or any of its successors or assigns, to convey to any State, county, or municipality any portion of its right of way, to be used as a public highway or street, provided that no conveyance shall diminish the right of way to a less width than 50 feet on each side of the center of the main track of said railroad as now established and maintained.

By the acts of Congress approved July 1, 1862 (12 Stat., 489), and July 2, 1864 (13 Stat., 356), a grant of lands was made to aid in the construction of said Union Pacific Railroad, among others, and by section 2 of the said act of July 1, 1862, a right of way through the public lands was granted to said company to the extent of 200 feet in width on each side of said railroad where it may pass over the public lands, including all necessary grounds for stations, buildings, workshops, depots, machine shops, switches, sidetracks, turntables, and water stations.

In the case of Northern Pacific Railway Co. *v.* Townsend (190 U. S., 267), the grant for said right of way was construed as follows:

"In effect the grant was of a limited fee, made on an implied condition of reverter in the event that the company ceased to use or retain the land for the purpose for which it was granted."

In the case of Rio Grande Western Railway Co. *v.* Stringham (239 U. S., 44), which was a suit to quiet title to a strip of land claimed and used by the railway company as a railroad right of way under the act of March 3, 1875 (18 Stat., 482), and to which the defendant asserted title to a patent for a placer mining claim, the court held: "the right of way granted by this and similar acts is neither a mere easement nor a fee simple absolute, but a limited fee made upon an implied condition of reverter in the event that the company ceases to use or retain the land for the purposes for which it is granted and carries with it the incidents and limitations usually attending the fee," citing New Mexico *v.* United States Trust Co., 172 U. S., 171, 183; Northern Pacific Railway Co. *v.* Townsend, 190 U. S., 267, 271; United States *v.* Michigan, 190 U. S., 379, 392; Western Union Telegraph Co. *v.* Pennsylvania Railroad Co., 195 U. S., 540, 570.

The effect of the abandonment of a right of way, the grant for which was made to the Northern Pacific Railroad Co. by the act of July 2, 1864 (13 Stat., 365), was considered by the department in the case of E. A. Crandall (43 L. D., 556), in which it was held that upon the abandonment by the railway company of the right of way granted to it across the lands included in a homestead patent there under consideration the legal title to the lands of such right of way reverted to and became the property of the United States, and must so remain until some provision of statute has been made by Congress for its disposition.

Acts confirming the validity of conveyances made by certain railway companies for portions of their rights of way have heretofore been passed by Congress among which may be mentioned the acts of April 28, 1904 (38 Stat., 538); March 3, 1905 (33 Stat., 1014), and June 24, 1912 (37 Stat., 138).

A draft of a bill which is proposed as a substitute for the bill under consideration is herewith attached and it is recommended that it be enacted in the place of said bill which limits its object to conveyances made by the Union Pacific Railroad Co., or its successors or assigns.

Cordially, yours,

FRANKLIN K. LANE, *Secretary.*

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

Mr. WARREN. I do not want to object to the consideration of the bill if there is no debate to follow, but if it is to take any time I shall have to object, as I have given notice that I shall call up the deficiency appropriation bill this morning.

Mr. PITTMAN. I am sure there will be no debate. It is simply a repetition of an act that has become a law extended to another railroad.

Mr. WARREN. If it leads to no debate, I shall not object.

There being no objection, the bill was considered as in Committee of the Whole, and it was read, as follows:

Be it enacted, etc., That all railroad companies to which grants for rights of way through the public lands have been made by Congress, or their successors in interest or assigns, are hereby authorized to convey to any State, county, or municipality any portion of such right of way to be used as a public highway, street, or park: *Provided*, That no such conveyance shall have the effect to diminish the right of way of such railroad company to a less width than 50 feet on each side of the center of the main track of the railroad as now established and maintained.

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

BILLS INTRODUCED.

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

By Mr. SMOOT:

A bill (S. 3931) granting an increase of pension to Frank G. Vallereux (with accompanying papers); to the Committee on Pensions.

By Mr. HALE:

A bill (S. 3932) granting a pension to Rose Mercer (with accompanying papers); to the Committee on Pensions.

By Mr. GAY (by request):

A bill (S. 3935) for the relief of certain estates; to the Committee on Claims.

By Mr. PHELAN:

A bill (S. 3936) granting an increase of pension to James A. Keefer (with accompanying papers); to the Committee on Pensions.

AMENDMENT OF FEDERAL RESERVE ACT.

Mr. RANSDELL. Mr. President, I introduce two bills to amend the Federal reserve act, and ask that they be referred to the Committee on Banking and Currency. Both bills propose to amend the same subject matter and purport to extend to State banks, which are members of the Federal Reserve System, in their transactions with Federal reserve banks all the rediscounting privileges now possessed by national banking associations. One incorporates in the original law the full text of the law as amended and the other merely amends the Federal reserve act by extending the above privileges to the member State banks without writing into the Federal reserve act the provisions of law relative to national banks.

Under existing law State banks are at a disadvantage with national banks, and the purpose of the amendment is to place

them on a parity. The principle of the amendment of the act has the approval of the Federal Reserve Board.

The bill (S. 3933) to amend paragraph 10 of section 9 of the Federal reserve act approved December 23, 1913, was read twice by its title and referred to the Committee on Banking and Currency; and

The bill (S. 3934) to amend paragraph 10 of section 9 of the Federal reserve act approved December 23, 1913, was read twice by its title and referred to the Committee on Banking and Currency.

ADDRESS BY ROME G. BROWN.

Mr. KELLOGG. Mr. President, I send to the desk an address made by Rome G. Brown, of the Minneapolis Tribune, before the Middlesex County Bar Association, at Boston, Mass., which I should like to have referred to the Committee on Printing with a view to having it printed as a public document. I do not ask to have it printed in the RECORD at this time.

The VICE PRESIDENT. It will go to the Committee on Printing.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. Sharkey, one of his secretaries, announced that the President had on this day approved and signed the joint resolution (S. J. Res. 154) authorizing the Secretary of War, in his discretion, to turn over to the State of Kansas emergency hospital equipment to be used temporarily in emergency hospitals to be established in that State, and for other purposes.

RAILROAD CONTROL—CONFERENCE REPORT.

Mr. CUMMINS. Mr. President, I present the report of the committee of conference upon House bill 10453, commonly known as the railroad bill. I ask that it be printed in the RECORD, and I give notice that immediately after the House acts upon the report, if the report is adopted by the House, I shall ask consideration on the part of the Senate. It is probable that the House will dispose of the report on Saturday.

The report was ordered to be printed in the RECORD, 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. 10453) to provide for the termination of Federal control of railroads and systems of transportation; to provide for the settlement of disputes between carriers and their employees; to further amend an act entitled "An act to regulate commerce," approved February 4, 1887, as amended, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment as follows: In lieu of the matter proposed by the Senate amendment, insert the following:

"TITLE I.—DEFINITIONS.

"SECTION 1. This act may be cited as the 'Transportation act, 1920.'

"SEC. 2. When used in this act—

"The term 'Interstate commerce act' means the act entitled 'An act to regulate commerce,' approved February 4, 1887, as amended;

"The term 'commerce court act' means the act entitled 'An act to create a commerce court, and to amend an act entitled "An act to regulate commerce," approved February 4, 1887, as heretofore amended, and for other purposes,' approved June 18, 1910;

"The term 'Federal control act' means the act entitled 'An act to provide for the operation of transportation systems while under Federal control, for the just compensation of their owners, and for other purposes,' approved March 21, 1918, as amended;

"The term 'Federal control' means the possession, use, control, and operation of railroads and systems of transportation, taken over or assumed by the President under section 1 of the act entitled 'An act making appropriations for the support of the Army for the fiscal year ending June 30, 1917, and for other purposes,' approved August 29, 1916, or under the Federal control act; and

"The term 'commission' means the Interstate Commerce Commission.

"TITLE II.—TERMINATION OF FEDERAL CONTROL.

"SEC. 200. (a) Federal control shall terminate at 12.01 a. m., March 1, 1920; and the President shall then relinquish possession and control of all railroad and systems of transportation then under Federal control and cease the use and operation thereof.

"(b) Thereafter the President shall not have or exercise any of the powers conferred upon him by the Federal control act relating—

"(1) To the use or operation of railroads or systems of transportation;

"(2) To the control or supervision of the carriers owning or operating them, or of the business or affairs of such carriers;

"(3) To their rates, fares, charges, classifications, regulations, or practices;

"(4) To the purchase, construction, or other acquisition of boats, barges, tugs, and other transportation facilities on the inland, canal, or coastwise waterways; or (except in pursuance of contracts or agreements entered into before the termination of Federal control) of terminals, motive power, cars, or equipment, on or in connection with any railroad or system of transportation;

"(5) To the utilization or operation of canals;

"(6) To the purchase of securities of carriers, except in pursuance of contracts or agreements entered into before the termination of Federal control, or as a necessary or proper incident to the adjustment, settlement, liquidation and winding up of matters arising out of Federal control; or

"(7) To the use for any of the purposes above stated (except in pursuance of contracts or agreements entered into before the termination of Federal control, and except as a necessary or proper incident to the winding up or settling of matters arising out of Federal control, and except as provided in section 202) of the revolving fund created by such act, or of any of the additions thereto made under such act, or by the act entitled 'An act to supply a deficiency in the appropriation for carrying out the act entitled "An act to provide for the operation of transportation systems while under Federal control, for the just compensation of their owners, and for other purposes," approved March 21, 1918,' approved June 30, 1919.

"(c) Nothing in this act shall be construed as affecting or limiting the power of the President in time of war (under section 1 of the act entitled 'An act making appropriations for the support of the Army for the fiscal year ending June 30, 1917, and for other purposes,' approved August 29, 1916) to take possession and assume control of any system of transportation and utilize the same.

"GOVERNMENT-OWNED BOATS ON INLAND WATERWAYS.

"SEC. 201. (a) On the termination of Federal control, as provided in section 200, all boats, barges, tugs, and other transportation facilities, on the inland, canal, and coastwise waterways (hereinafter in this section called 'transportation facilities') acquired by the United States in pursuance of the fourth paragraph of section 6 of the Federal control act (except the transportation facilities constituting parts of railroads or transportation systems over which Federal control was assumed) are transferred to the Secretary of War, who shall operate or cause to be operated such transportation facilities so that the lines of inland water transportation established by or through the President during Federal control shall be continued, and assume and carry out all contracts and agreements in relation thereto entered into by or through the President in pursuance of such paragraph prior to the time above fixed for such transfer. All payments under the terms of such contracts, and for claims arising out of the operation of such transportation facilities by or through the President prior to the termination of Federal control, shall be made out of moneys available under the provisions of this act for adjusting, settling, liquidating, and winding up matters arising out of or incident to Federal control. Moneys required for such payments shall, from time to time, be transferred to the Secretary of War as required for payment under the terms of such contracts.

"(b) All other payments after such transfer in connection with the construction, utilization, and operation of any such transportation facilities, whether completed or under construction, shall be made by the Secretary of War out of funds now or hereafter made available for that purpose.

"(c) The Secretary of War is hereby authorized, out of any moneys hereafter made available therefor, to construct or contract for the construction of terminal facilities for the interchange of traffic between the transportation facilities operated by him under this section and other carriers whether by rail or water, and to make loans for such purposes under such terms and conditions as he may determine to any State whose constitution prohibits the ownership of such terminal facilities by other than the State or a political subdivision thereof.

"(d) Any transportation facilities owned by the United States and included within any contract made by the United States for operation on the Mississippi River above St. Louis, the possession of which reverts to the United States at or before the expiration of such contract, shall be operated by the Secretary of War, so as to provide facilities for water carriage on the Mississippi River above St. Louis.

"(e) The operation of the transportation facilities referred to in this section shall be subject to the provisions of the interstate-commerce act as amended by this act or by subsequent legislation, and to the provisions of the 'shipping act, 1916,' as now or hereafter amended, in the same manner and to the same extent as if such transportation facilities were privately owned and operated; and all such vessels while operated and employed solely as merchant vessels shall be subject to all other laws, regulations, and liabilities governing merchant vessels, whether the United States is interested therein as owner, in whole or in part, or holds any mortgage, lien, or interest therein. For the performance of the duties imposed by this section the Secretary of War is authorized to appoint or employ such number of experts, clerks, and other employees as may be necessary for service in the District of Columbia or elsewhere, and as may be provided for by Congress.

"SETTLEMENT OF MATTERS ARISING OUT OF FEDERAL CONTROL.

"SEC. 202. The President shall, as soon as practicable after the termination of Federal control, adjust, settle, liquidate, and wind up all matters, including compensation, and all questions and disputes of whatsoever nature, arising out of or incident to Federal control. For these purposes and for the purpose of making the payments specified in subdivision (a) of section 201, all unexpended balances in the revolving fund created by the Federal control act or of the moneys appropriated by the act entitled 'An act to supply a deficiency in the appropriation for carrying out the act entitled "An act to provide for the operation of transportation systems while under Federal control, for the just compensation of their owners, and for other purposes," approved March 21, 1918,' approved June 30, 1919, are hereby reappropriated and made available until expended; and all moneys derived from the operation of the carriers or otherwise arising out of Federal control, and all moneys that have been or may be received in payment of the indebtedness of any carrier to the United States arising out of Federal control, shall be and remain available until expended for the aforesaid purposes; and there is hereby appropriated for the aforesaid purposes, out of any money in the Treasury not otherwise appropriated, $200,000,000 in addition to the above, to be available until expended.

"COMPENSATION OF CARRIERS WITH WHICH NO CONTRACT MADE.

"SEC. 203. (a) Upon the request of any carrier entitled to just compensation under the Federal control act, but with which no contract fixing or waiving compensation has been made and which has made no waiver of compensation, the President: (1) shall pay to it so much of the amount he may determine to be just compensation as may be necessary to enable such carrier to have the sums required for interest, taxes, and other corporate charges and expenses referred to in paragraph (b) of section 7 of the standard contract between the United States and the carriers, accruing during the period for which such carrier is entitled to just compensation under the Federal control act, and also the sums required for dividends declared and paid during the same period, including, also, in addition, a sum equal to that proportion of such last dividend which the period between its payment and the termination of the period for which the carrier is entitled to just compensation under the Federal control act bears to the last dividend period; and (2) may, in his discretion, pay to such carrier the whole or any part of the remainder of such estimated amount of just compensation.

"(b) The acceptance of any benefits by a carrier under this section—

"(1) Shall not deprive it of the right to claim additional compensation, which, unless agreed upon, shall be ascertained in the manner provided in section 3 of the Federal control act; but

"(2) Shall constitute an acceptance by the carrier of all the provisions of the Federal control act as modified by this act, and obligate the carrier to pay to the United States, with interest at the rate of 6 per cent per annum from a date or dates fixed in proceedings under section 3 of the Federal control act, the amount by which the sums received on account of such compensation, under this section or otherwise, exceed the sum found due in such proceedings.

"REIMBURSEMENT OF DEFICITS DURING FEDERAL CONTROL.

"SEC. 204. (a) When used in this section—

"The term 'carrier' means a carrier by railroad which, during any part of the period of Federal control, engaged as a common carrier in general transportation, and competed for traffic, or connected, with a railroad under Federal control, and which sustained a deficit in its railway operating income for that portion (as a whole) of the period of Federal control during which it operated its own railroad or system of transportation; but does not include any street or interurban electric railway which has as its principal source of operating revenue urban, suburban, or interurban passenger traffic or sale of power, heat, and light, or both; and

"The term 'test period' means the three years ending June 30, 1917.

"(b) For the purposes of this section—

"Railway operating income or any deficit therein for the period of Federal control shall be computed in a manner similar to that provided in section 209 with respect to such income or deficit for the guaranty period; and

"Railway operating income or any deficit therein for the test period shall be computed in the manner provided in section 1 of the Federal control act.

"(c) As soon as practicable after March 1, 1920, the commission shall ascertain for every carrier, for every month of the period of Federal control during which its railroad or system of transportation was not under Federal operation, its deficit in railway operating income, if any, and its railway operating income, if any, (hereinafter called 'Federal control return'), and the average of its deficit in railway operating income, if any, and of its railway operating income, if any, for the three corresponding months of the test period taken together, (hereinafter called 'test period return'): *Provided*, That 'test period return,' in the case of a carrier which operated its railroad or system of transportation for at least one year during, but not for the whole of, the test period, means its railway operating income, or the deficit therein, for the corresponding month during the test period, or the average thereof for the corresponding months during the test period taken together, during which the carrier operated its railroad or system of transportation.

"(d) For every month of the period of Federal control during which the railroad or system of transportation of the carrier was not under Federal operation, the commission shall then ascertain (1) the difference between its Federal control return, if a deficit, and its test period return, if a smaller deficit, or (2) the difference between its test period return, if an income, and its Federal control return, if a smaller income, or (3) the sum of its Federal control return, if a deficit, plus its test period return, if an income. The sum of such amounts shall be credited to the carrier.

"(e) For every such month the commission shall then ascertain (1) the difference between the carrier's Federal control return, if an income, and its test period return, if a smaller income, or (2) the difference between its test period return, if a deficit, and its Federal control return, if a smaller deficit, or (3) the sum of its Federal control return, if an income, plus its test period return, if a deficit. The sum of such amounts shall be credited to the United States.

"(f) If the sum of the amounts so credited to the carrier under subdivision (d) exceeds the sum of the amounts so credited to the United States under subdivision (e), the difference shall be payable to the carrier. In the case of a carrier which operated its railroad or system of transportation for less than a year during, or for none of, the test period, the foregoing computations shall not be used, but there shall be payable to such carrier its deficit in railway operating income for that portion (as a whole) of the period of Federal control during which it operated its own railroad or system of transportation.

"(g) The commission shall promptly certify to the Secretary of the Treasury the several amounts payable to carriers under paragraph (f). The Secretary of the Treasury is hereby authorized and directed thereupon to draw warrants in favor of each such carrier upon the Treasury of the United States for the amount shown in such certificate as payable thereto. An amount sufficient to pay such warrants is hereby appropriated out of any money in the Treasury not otherwise appropriated.

"INSPECTION OF CARRIERS' RECORDS.

"SEC. 205. The President shall have the right, at all reasonable times until the affairs of Federal control are concluded, to inspect the property and records of all carriers whose railroads or systems of transportation were at any time under Federal control, whenever such inspection is necessary or appropriate (1) to protect the interests of the United States, or (2) to supervise matters being handled for the United States by agents of the carriers, or (3) to secure information concerning matters arising during Federal control, and such carriers shall provide all reasonable facilities therefor, including the issuance of free transportation to all agents of the President while traveling on official business for these purposes.

"Such carriers shall, at their expense, upon the request of the President, or those duly authorized by him, furnish all necessary and proper information and reports compiled from the records made or kept during the period of Federal control affecting their respective lines, and shall keep and continue

such records and furnish like information and reports compiled therefrom.

"Any carrier which refuses or obstructs such inspection, or which willfully fails to provide reasonable facilities therefor, or to furnish such information or reports shall be liable to a penalty of $500 for each day of the continuance of such offense, which shall accrue to the United States and may be recovered in a civil action to be brought by the United States.

"CAUSES OF ACTION ARISING OUT OF FEDERAL CONTROL.

"SEC. 206. (a) Actions at law, suits in equity, and proceedings in admiralty, based on causes of action arising out of the possession, use, or operation by the President of the railroad or system of transportation of any carrier (under the provisions of the Federal control act, or of the act of August 29, 1916) of such character as prior to Federal control could have been brought against such carrier, may, after the termination of Federal control, be brought against an agent designated by the President for such purpose, which agent shall be designated by the President within 30 days after the passage of this act. Such actions, suits, or proceedings may, within the periods of limitation now prescribed by State or Federal statutes, but not later than two years from the date of the passage of this act, be brought in any court which but for Federal control would have had jurisdiction of the cause of action had it arisen against such carrier.

"(b) Process may be served upon any agent or officer of the carrier operating such railroad or system of transportation, if such agent or officer is authorized by law to be served with process in proceedings brought against such carrier and if a contract has been made with such carrier by or through the President for the conduct of litigation arising out of operation during Federal control. If no such contract has been made process may be served upon such agents or officers as may be designated by or through the President. The agent designated by the President under subdivision (a) shall cause to be filed, upon the termination of Federal control, in the office of the clerk of each district court of the United States, a statement naming all carriers with whom he has contracted for the conduct of litigation arising out of operation during Federal control, and a like statement designating the agents or officers upon whom process may be served in actions, suits, and proceedings arising in respect to railroads or systems of transportation with the owner of which no such contract has been made; and such statements shall be supplemented from time to time, if additional contracts are made or other agents or officers appointed.

"(c) Complaints praying for reparation on account of damage claimed to have been caused by reason of the collection or enforcement by or through the President during the period of Federal control of rates, fares, charges, classifications, regulations, or practices (including those applicable to interstate, foreign, or intrastate traffic) which were unjust, unreasonable, unjustly discriminatory, or unduly or unreasonably prejudical, or otherwise in violation of the interstate commerce act, may be filed with the commission, within one year after the termination of Federal control, against the agent designated by the President under subdivision (a), naming in the petition the railroad or system of transportation against which such complaint would have been brought if such railroad or system had not been under Federal control at the time the matter complained of took place. The commission is hereby given jurisdiction to hear and decide such complaints in the manner provided in the interstate commerce act, and all notices and orders in such proceedings shall be served upon the agent designated by the President under subdivision (a).

"(d) Actions, suits, proceedings, and reparation claims, of the character above described pending at the termination of Federal control shall not abate by reason of such termination, but may be prosecuted to final judgment, substituting the agent designated by the President under subdivision (a).

"(e) Final judgments, decrees, and awards in actions, suits, proceedings, or reparation claims, of the character above described, rendered against the agent designated by the President under subdivision (a), shall be promptly paid out of the revolving fund created by section 210.

"(f) The period of Federal control shall not be computed as a part of the periods of limitation in actions against carriers or in claims for reparation to the commission for causes of action arising prior to Federal control.

"(g) No execution or process, other than on a judgment recovered by the United States against a carrier, shall be levied upon the property of any carrier where the cause of action on account of which the judgment was obtained grew out of the possession, use, control, or operation of any railroad or system of transportation by the President under Federal control.

"REFUNDING OF CARRIERS' INDEBTEDNESS TO UNITED STATES.

"SEC. 207. (a) As soon as practicable after the termination of Federal control the President shall ascertain (1) the amount of the indebtedness of each carrier to the United States, which may exist at the termination of Federal control, incurred for additions and betterments made during Federal control and properly chargeable to capital account; (2) the amount of indebtedness of such carrier to the United States otherwise incurred; and (3) the amount of the indebtedness of the United States to such carrier arising out of Federal control. The amount under clause (3) may be set off against either or both of the amounts under clauses (1) and (2), so far as deemed wise by the President, but only to the extent permitted under any contract now or hereafter made between such carrier and the United States in respect to the matters of Federal control, or, where no such contract exists, to the extent permitted under paragraph (b) of section 7 of the standard contract between the United States and the carriers relative to deductions from compensation: *Provided*, That such right of set-off shall not be so exercised as to prevent such carrier from having the sums required for interest, taxes, and other corporate charges and expenses referred to in paragraph (b) of section 7 of such standard contract, accruing during Federal control, and also the sums required for dividends declared and paid during Federal control, including, also in addition, a sum equal to that proportion of such last dividend which the period between its payment and the termination of Federal control bears to the last regular dividend period: *And provided further*, That such right of set-off shall not be exercised unless there shall have first been paid such sums in addition as may be necessary to provide the carrier with working capital in amount not less than one twenty-fourth of its operating expenses for the calendar year 1919.

"(b) Any remaining indebtedness of the carrier to the United States in respect to such additions and betterments shall, at the request of the carrier, be funded for a period of 10 years from the termination of Federal control, or a shorter period at the option of the carrier, with interest at the rate of 6 per cent per annum, payable semiannually, subject to the right of such carrier to pay on any interest-payment day the whole or any part of such indebtedness. Any carrier obtaining the funding of such indebtedness as aforesaid shall give, in the discretion of the President, such security, in such form and upon such terms, as he may prescribe.

"(c) If the President and the various carriers, or any of them, shall enter into an agreement for funding, through the medium of car trust certificates, or otherwise, the indebtedness of any such carrier to the United States incurred for equipment ordered for the benefit of such carrier, such indebtedness so funded shall not be refundable under the foregoing provisions.

"(d) Any other indebtedness of any such carrier to the United States which may exist after the settlement of accounts between the United States and the carrier and is then due shall be evidenced by notes payable in one year from the termination of Federal control, or a shorter period at the option of the carrier, with interest at the rate of 6 per cent per annum, and secured by such collateral security as the President may deem it advisable to require.

"(e) With respect to any bonds, notes, or other securities, acquired under the provisions of this section or of the Federal control act or of the act entitled 'An act to provide for the reimbursement of the United States for motive power, cars, and other equipment ordered for railroads and systems of transportation under Federal control, and for other purposes,' approved November 19, 1919, the President shall have the right to make such arrangements for extension of the time of payment or for the exchange of any of them for other securities, or partly for cash and partly for securities, as may be provided for in any agreement entered into by him or as may in his judgment seem desirable.

"(f) Carriers may, by agreement with the President, issue notes or other evidences of indebtedness, secured by equipment trust agreements, for equipment purchased during Federal control by or through the President under section 6 of the Federal control act, and allocated to such carriers respectively; and the filing of such equipment trust agreements with the commission shall constitute notice thereof to all the world.

"(g) A carrier may issue evidences of indebtedness pursuant to this section without the authorization or approval of any authority, State or Federal, and without compliance with any requirement, State or Federal, as to notification.

"EXISTING RATES TO CONTINUE IN EFFECT.

"SEC. 208. (a) All rates, fares, and charges, and all classifications, regulations, and practices, in any wise changing, affecting, or determining, any part or the aggregate of rates, fares, or

charges, or the value of the service rendered, which on February 29, 1920, are in effect on the lines of carriers subject to the interstate-commerce act, shall continue in force and effect until thereafter changed by State or Federal authority, respectively, or pursuant to authority of law; but prior to September 1, 1920, no such rate, fare, or charge shall be reduced, and no such classification, regulation, or practice shall be changed in such manner as to reduce any such rate, fare, or charge, unless such reduction or change is approved by the commission.

"(b) All divisions of joint rates, fares, or charges, which on February 29, 1920, are in effect between the lines of carriers subject to the interstate-commerce act, shall continue in force and effect until thereafter changed by mutual agreement between the interested carriers or by State or Federal authorities, respectively.

"(c) Any land-grant railroad organized under the act of July 28, 1866 (chapter 300), shall receive the same compensation for transportation of property and troops of the United States as is paid to land-grant railroads organized under the land-grant act of March 3, 1863, and the act of July 27, 1866 (chapter 278).

"GUARANTY TO CARRIERS AFTER TERMINATION OF FEDERAL CONTROL.

"SEC. 209. (a) When used in this section—

"The term 'carrier' means (1) a carrier by railroad or partly by railroad and partly by water, whose railroad or system of transportation is under Federal control at the time Federal control terminates, or which has heretofore engaged as a common carrier in general transportation and competed for traffic, or connected, with a railroad at any time under Federal control; and (2) a sleeping car company whose system of transportation is under Federal control at the time Federal control terminates; but does not include a street or interurban electric railway not under Federal control at the time Federal control terminates, which has as its principal source of operating revenue urban, suburban, or interurban passenger traffic or sale of power, heat, and light, or both;

"The term 'guaranty period' means the six months beginning March 1, 1920;

"The term 'test period' means the three years ending June 30, 1917; and

"The term 'railway operating income' and other references to accounts of carriers by railroad shall, in the case of a sleeping car company, be construed as indicating the appropriate corresponding accounts in the accounting system prescribed by the commission.

"(b) This section shall not be applicable to any carrier which does not on or before March 15, 1920, file with the commission a written statement that it accepts all the provisions of this section.

"(c) The United States hereby guarantees—

"(1) With respect to any carrier with which a contract (exclusive of so-called cooperative contracts or waivers) has been made fixing the amount of just compensation under the Federal control act, that the railway operating income of such carrier for the guaranty period as a whole shall not be less than one-half the amount named in such contract as annual compensation, or, where the contract fixed a lump sum as compensation for the whole period of Federal operation, that the railway operating income of such carrier for the guaranty period as a whole shall not be less than an amount which shall bear the same proportion to the lump sum so fixed as six months bears to the number of months during which such carrier was under Federal operation, including in both cases the increases in such compensation provided for in section 4 of the Federal control act;

"(2) With respect to any carrier entitled to just compensation under the Federal control act, with which such a contract has not been made, that the railway operating income of such carrier for the guaranty period as a whole shall not be less than one-half of the annual amount estimated by the President as just compensation for such carrier under the Federal control act, including the increases in such compensation provided for in section 4 of the Federal control act. If any such carrier does not accept the President's estimate respecting its just compensation, and if in proceedings under section 3 of the Federal control act it is determined that a larger or smaller annual amount is due as just compensation, the guaranty under this paragraph shall be increased or decreased accordingly;

"(3) With respect to any carrier, whether or not entitled to just compensation under the Federal control act, with which such a contract has not been made, and for which no estimate of just compensation is made by the President, and which for the test period as a whole sustained a deficit in railway operating income, the guaranty shall be a sum equal to (a) the amount by which any deficit in its railway operating income for the guaranty period as a whole exceeds one-half of its average annual deficit in railway operating income for the test period, plus (b) an amount equal to one-half the annual sum fixed by the President under section 4 of the Federal control act;

"(4) With respect to any carrier not entitled to just compensation under the Federal control act, which for the test period as a whole had an average annual railway operating income, that the railway operating income of such carrier for the guaranty period as a whole shall not be less than one-half the average annual railway operating income of such carrier during the test period.

"(d) If for the guaranty period as a whole the railway operating income of any carrier entitled to a guaranty under paragraph (1), (2), or (4) of subdivision (c) is in excess of the minimum railway operating income guaranteed in such paragraph, such carrier shall forthwith pay the amount of such excess into the Treasury of the United States. If for the guaranty period as a whole the railway operating income of any carrier entitled to a guaranty under paragraph (3) of subdivision (c) is in excess of one-half of the annual sum fixed by the President with respect to such carrier under section 4 of the Federal control act, such carrier shall forthwith pay the amount of such excess into the Treasury of the United States. The amounts so paid into the Treasury of the United States shall be added to the funds made available under section 202 for the purposes indicated in such section. Notwithstanding the provisions of this subdivision, any carrier may retain out of any such excess any amount necessary to enable it to pay its fixed charges accruing during the guaranty period.

"(e) For the purposes of this section railway operating income, or any deficit therein, for the test period shall be computed in the manner provided for in section 1 of the Federal control act.

"(f) In computing railway operating income, or any deficit therein, for the guaranty period for the purposes of this section—

"(1) Debits and credits arising from the accounts, called in the monthly reports to the commission equipment rents and joint facility rents, shall be included, but debits and credits arising from the operation of such street electric passenger railways, including railways commonly called interurbans, as are not under Federal control at the time of termination thereof, shall be excluded;

"(2) Proper adjustments shall be made (a) in case any lines which were, during any portion of the period of Federal control, a part of the railroad or system of transportation of the carrier, and whose railway operating income was included in such income of the carrier for the test period, do not continue to be a part of such railroad or system of transportation during the entire guaranty period, and (b) in case of any lines acquired by, leased to, or consolidated with, the railroad or system of transportation of the carrier at any time since the end of the test period and prior to the expiration of the guaranty period, for which separate operating returns to the commission are not made in respect to the entire portion of the guaranty period;

"(3) There shall not be included in operating expenses, for maintenance of way and structures, or for maintenance of equipment, more than an amount fixed by the commission. In fixing such amount the commission shall so far as practicable apply the rule set forth in the proviso in paragraph (a) of section 5 of the 'standard contract' between the United States and the carriers (whether or not such contract has been entered into with the carrier whose railway operating income is being computed);

"(4) There shall not be included any taxes paid under Title I or II of the revenue act of 1917, or such portion of the taxes paid under Title II or III of the revenue act of 1918 as by the terms of such act are to be treated as levied by an act in amendment of Title I or II of the revenue act of 1917; and

"(5) The commission shall require the elimination and restatement of the operating expenses and revenues (other than for maintenance of way and structures, or maintenance of equipment) for the guaranty period, to the extent necessary to correct and exclude any disproportionate or unreasonable charge to such expenses or revenues for such period, or any charge to such expenses or revenues for such period which under a proper system of accounting is attributable to another period.

"(g) The commission shall, as soon as practicable after the expiration of the guaranty period, ascertain and certify to the Secretary of the Treasury the several amounts necessary to make good the foregoing guaranty to each carrier. The Secretary of the Treasury is hereby authorized and directed thereupon to draw warrants in favor of each such carrier upon the Treasury of the United States, for the amount shown in such certificate as necessary to make good such guaranty. An amount sufficient to pay such warrants is hereby appropriated out of any money in the Treasury not otherwise appropriated.

"(h) Upon application of any carrier to the commission, asking that during the guaranty period there may be advanced to it from time to time such sums, not in excess of the estimated amount necessary to make good the guaranty, as are necessary to enable it to meet its fixed charges and operating expenses, the commission may certify to the Secretary of the Treasury the amount of, and times at which, such advances, if any, shall be made. The Secretary of the Treasury, on receipt of such certificate, is authorized and directed to make the advances in the amounts and at the times specified in the certificate, upon the execution by the carrier of a contract, secured in such manner as the Secretary may determine, that upon final determination of the amount of the guaranty provided for by this section such carrier will repay to the United States any amounts which it has received from such advances in excess of the guaranty, with interest at the rate of 6 per cent per annum from the time such excess was paid. There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, a sum sufficient to enable the Secretary of the Treasury to make the advances referred to in this subdivision.

"(i) If the American Railway Express Co. shall, on or before March 15, 1920, file with the commission a written statement that it accepts all the provisions of this subdivision, the contract of June 26, 1918, between such company and the Director General of Railroads, as amended and continued by agreement dated November 21, 1918, shall remain in full force and effect during the guaranty period in so far as the same constitutes a guaranty on the part of the United States to such company against a deficit in operating income.

"In computing operating income, and any deficit therein, for the guaranty period for the purposes of this subdivision, the commission shall require the elimination and restatement of the operating expenses and revenues for the guaranty period, to the extent necessary to correct and exclude any disproportionate or unreasonable charge to such expenses or revenues for such period, or any charge to such expenses or revenues for such period which under a proper system of accounting is attributable to another period, and to exclude from operating expenses so much of the charge for payment for express privileges to carriers on whose lines the express traffic is carried as is in excess of 50.25 per cent of gross express revenue.

"For the guaranty period the American Railway Express Co. shall pay to every carrier which accepts the provisions of this section, as provided in subdivision (b) hereof, 50.25 per cent of the gross revenue earned on the transportation of all its express traffic on the carrier's lines, and every such carrier shall accept from the American Railway Express Co. such percentage of the gross revenue as its compensation. In arriving at the gross revenue on through or joint express traffic, the method of dividing the revenue between the carriers shall be that agreed upon between the carriers and such express company and approved by the commission.

"If for the guaranty period as a whole the American Railway Express Co. does not have a deficit in operating income, it shall forthwith pay the amount of its operating income for such period into the Treasury of the United States. The amount so paid shall be added to the funds made available under section 202 for the purposes indicated in such section.

"The commission shall, as soon as practicable after the expiration of the guaranty period, certify to the Secretary of the Treasury the amount necessary to make good the foregoing guaranty to the American Railway Express Co. The Secretary of the Treasury is hereby authorized and directed thereupon to draw warrants in favor of such company upon the Treasury of the United States for the amount shown in such certificate as necessary to make good such guaranty. An amount sufficient to pay such warrants is hereby appropriated out of any money in the Treasury not otherwise appropriated.

"Upon application of the American Railway Express Co. to the commission, asking that during the guaranty period there may be advanced to it from time to time such sums, not in excess of the estimated amount necessary to make good the guaranty, as are necessary to enable it to meet its operating expenses, the commission may certify to the Secretary of the Treasury the amount of, and times at which, such advances, if any, shall be made. The Secretary of the Treasury, on receipt of such certificate, is authorized and directed to make the advances in the amounts and at the times specified in the certificate, upon the execution by such company of a contract, secured in such manner as the Secretary may determine, that upon final determination of the amount of the guaranty provided for by this subdivision such company will repay to the United States any amounts which it has received from such advances in excess of the guaranty, with interest at the rate of 6 per cent per annum from the time such excess was paid. There is hereby appropriated out of any money in the Treasury not otherwise appropriated a sum sufficient to enable the Secretary of the Treasury to make the advances referred to in this subdivision.

"NEW LOANS TO RAILROADS.

"SEC. 210. (a) For the purpose of enabling carriers by railroad subject to the Interstate Commerce act properly to serve the public during the transition period immediately following the termination of Federal control, any such carrier may, at any time after the passage of this act and before the expiration of two years after the termination of Federal control, make application to the commission for a loan from the United States, setting forth the amount of the loan and the term for which it is desired, the purpose of the loan and the uses to which it will be applied, the present and prospective ability of the applicant to repay the loan and meet the requirements of its obligations in that regard, the character and value of the security offered, and the extent to which the public convenience and necessity will be served. The application shall be accompanied by statements showing such facts and details as the commission may require with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of granting the loan applied for and the ability of the applicant to make good the obligation, as the commission may deem pertinent to the inquiry.

"(b) If the commission, after such hearing and investigation, with or without notice, as it may direct, finds that the making, in whole or in part, of the proposed loan by the United States is necessary to enable the applicant properly to meet the transportation needs of the public, and that the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan, the commission may certify to the Secretary of the Treasury its findings of fact and its recommendations as to: the amount of the loan which is to be made; the time, not exceeding five years from the making thereof, within which it is to be repaid; the character of the security which is to be offered therefor; and the terms and conditions of the loan.

"(c) Upon receipt of such certificate from the commission, the Secretary of the Treasury, at any time before the expiration of 26 months after the termination of Federal control, is authorized to make a loan, not exceeding the maximum amount recommended in such certificate, out of any moneys in the revolving fund provided for in this section. All such loans shall bear interest at the rate of 6 per cent per annum, payable semiannually to the Secretary of the Treasury and to be placed to the credit of the revolving fund provided for in this section. The time, not exceeding five years from the making thereof, within which such loan is to be repaid, the security which is to be taken therefor, which shall be adequate to secure the loan, the terms and conditions of the loan, and the form of the obligation to be entered into, shall be prescribed by the Secretary of the Treasury.

"(d) The commission or the Secretary of the Treasury may call upon the Federal Reserve Board for advice and assistance with respect to any such application or loan.

"(e) There is hereby appropriated out of any moneys in the Treasury not otherwise appropriated the sum of $300,000,000, which shall be used as a revolving fund for the purpose of making the loans provided for in this section, and for paying the judgments, decrees, and awards referred to in subdivision (e) of section 206.

"(f) A carrier may issue evidences of indebtedness to the United States pursuant to this section without the authorization or approval of any authority, State or Federal, and without compliance with any requirement, State or Federal, as to notification.

"EXECUTION OF POWERS OF PRESIDENT.

"SEC. 211. All powers and duties conferred or imposed upon the President by the preceding sections of this act, except the designation of the agent under section 206, may be executed by him through such agency or agencies as he may determine.

"TITLE III.—DISPUTES BETWEEN CARRIERS AND THEIR EMPLOYEES AND SUBORDINATE OFFICIALS.

"SEC. 300. When used in this title—

"(1) The term 'carrier' includes any express company, sleeping car company, and any carrier by railroad, subject to the interstate commerce act, except a street, interurban, or suburban electric railway not operating as a part of a general steam railroad system of transportation;

"(2) The term 'adjustment board' means any railroad board of labor adjustment established under section 302;

"(3) The term 'labor board' means the railroad labor board;

"(4) The term 'commerce' means commerce among the several States or between any State, Territory, or the District of Columbia and any foreign nation, or between any Territory or the District of Columbia and any State, or between any Territory and any other Territory, or between any Territory and the District of Columbia, or within any Territory or the District of Columbia, or between points in the same State but through any other State or any Territory or the District of Columbia or any foreign nation; and

"(5) The term 'subordinate official' includes officials of carriers of such class or rank as the commission shall designate by regulation formulated and issued after such notice and hearing as the commission may prescribe, to the carriers, and employees and subordinate officials of carriers, and organizations thereof, directly to be affected by such regulations.

"SEC. 301. It shall be the duty of all carriers and their officers, employees, and agents to exert every reasonable effort and adopt every available means to avoid any interruption to the operation of any carrier growing out of any dispute between the carrier and the employees or subordinate officials thereof. All such disputes shall be considered and, if possible, decided in conference between representatives designated and authorized so to confer by the carriers, or the employees or subordinate officials thereof, directly interested in the dispute. If any dispute is not decided in such conference, it shall be referred by the parties thereto to the board which under the provisions of this title is authorized to hear and decide such dispute.

"SEC. 302. Railroad boards of labor adjustment may be established by agreement between any carrier, group of carriers, or the carriers as a whole, and any employees or subordinate officials of carriers, or organization or group of organizations thereof.

"SEC. 303. Each such adjustment board shall (1) upon the application of the chief executive of any carrier or organization of employees or subordinate officials whose members are directly interested in the dispute, (2) upon the written petition signed by not less than 100 unorganized employees or subordinate officials directly interested in the dispute, (3) upon the adjustment board's own motion, or (4) upon the request of the labor board whenever such board is of the opinion that the dispute is likely substantially to interrupt commerce, receive for hearing, and as soon as practicable and with due diligence decide, any dispute involving only grievances, rules, or working conditions, not decided as provided in section 301, between the carrier and its employees or subordinate officials, who are, or any organizations thereof which is, in accordance with the provisions of section 302, represented upon any such adjustment board.

"SEC. 304. There is hereby established a board to be known as the 'railroad labor board' and to be composed of nine members as follows:

"(1) Three members, constituting the labor group, representing the employees and subordinate officials of the carriers, to be appointed by the President, by and with the advice and consent of the Senate, from not less than six nominees whose nominations shall be made and offered by such employees in such manner as the commission shall by regulation prescribe;

"(2) Three members, constituting the management group, representing the carriers, to be appointed by the President, by and with the advice and consent of the Senate, from not less than six nominees whose nominations shall be made and offered by the carriers in such manner as the commission shall by regulation prescribe; and

"(3) Three members, constituting the public group, representing the public, to be appointed directly by the President, by and with the advice and consent of the Senate.

"Any vacancy on the labor board shall be filled in the same manner as the original appointment.

"SEC. 305. If either the employees or the carriers fail to make nominations and offer nominees in accordance with the regulations of the commission, as provided in paragraphs (1) and (2) of section 304, within 30 days after the passage of this act in case of any original appointment to the office of member of the labor board, or in case of a vacancy in any such office within 15 days after such vacancy occurs, the President shall thereupon directly make the appointment, by and with the advice and consent of the Senate. In making any such appointment the President shall, as far as he deems it practicable, select an individual associated in interest with the carriers or employees thereof, whichever he is to represent.

"SEC. 306. (a) Any member of the labor board who during his term of office is an active member or in the employ of or holds any office in any organization of employees or subordinate officials, or any carrier, or owns any stock or bond thereof, or is pecuniarily interested therein, shall at once become ineligible for further membership upon the labor board; but no such member is required to relinquish honorary membership in, or his rights in any insurance or pension or other benefit fund maintained by, any organization of employees or subordinate officials or by a carrier.

"(b) Of the original members of the labor board, one from each group shall be appointed for a term of three years, one for two years, and one for one year. Their successors shall hold office for terms of five years, except that any member appointed to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. Each member shall receive from the United States an annual salary of $10,000. A member may be removed by the President for neglect of duty or malfeasance in office, but for no other cause.

"SEC. 307. (a) The labor board shall hear, and as soon as practicable and with due diligence decide, any dispute involving grievances, rules, or working conditions, in respect to which any adjustment board certifies to the labor board that in its opinion the adjustment board has failed or will fail to reach a decision within a reasonable time, or in respect to which the labor board determines that any adjustment board has so failed or is not using due diligence in its consideration thereof. In case the appropriate adjustment board is not organized under the provisions of section 302, the labor board, (1) upon the application of the chief executive of any carrier or organization of employees or subordinate officials whose members are directly interested in the dispute, (2) upon a written petition signed by not less than 100 unorganized employees or subordinate officials directly interested in the dispute, or (3) upon the labor board's own motion if it is of the opinion that the dispute is likely substantially to interrupt commerce, shall receive for hearing, and as soon as practicable and with due diligence decide, any dispute involving grievances, rules, or working conditions which is not decided as provided in section 301 and which such adjustment board would be required to receive for hearing and decision under the provisions of section 303.

"(b) The labor board, (1) upon the application of the chief executive of any carrier or organization of employees or subordinate officials whose members are directly interested in the dispute, (2) upon a written petition signed by not less than 100 unorganized employees or subordinate officials directly interested in the dispute, or (3) upon the labor board's own motion if it is of the opinion that the dispute is likely substantially to interrupt commerce, shall receive for hearing, and as soon as practicable and with due diligence decide, all disputes with respect to the wages or salaries of employees or subordinate officials of carriers, not decided as provided in section 301. The labor board may upon its own motion within 10 days after the decision, in accordance with the provisions of section 301, of any dispute with respect to wages or salaries of employees or subordinate officials of carriers, suspend the operation of such decision if the labor board is of the opinion that the decision involves such an increase in wages or salaries as will be likely to necessitate a substantial readjustment of the rates of any carrier. The labor board shall hear any decision so suspended and as soon as practicable and with due diligence decide to affirm or modify such suspended decision.

"(c) A decision by the labor board under the provisions of paragraphs (a) or (b) of this section shall require the concurrence therein of at least five of the nine members of the labor board: *Provided*, That in case of any decision under paragraph (b), at least one of the representatives of the public shall concur in such decision. All decisions of the labor board shall be entered upon the records of the board and copies thereof, together with such statement of facts bearing thereon as the board may deem proper, shall be immediately communicated to the parties to the dispute, the President, each adjustment board, and the commission, and shall be given further publicity in such manner as the labor board may determine.

"(d) All the decisions of the labor board in respect to wages or salaries and of the labor board or an adjustment board in respect to working conditions of employees or subordinate officials of carriers shall establish rates of wages and salaries and standards of working conditions which in the opinion of the board are just and reasonable. In determining the justness and reasonableness of such wages and salaries or working conditions the board shall, so far as applicable, take into consideration among other relevant circumstances:

"(1) The scales of wages paid for similar kinds of work in other industries;

"(2) The relation between wages and the cost of living;

"(3) The hazards of the employment;

"(4) The training and skill required;

"(5) The degree of responsibility;
"(6) The character and regularity of the employment; and
"(7) Inequalities of increases in wages or of treatment, the result of previous wage orders or adjustments.

"SEC. 308. The labor board—
"(1) Shall elect a chairman by majority vote of its members;
"(2) Shall maintain central offices in Chicago, Ill., but the labor board may, whenever it deems it necessary, meet at such other place as it may determine;
"(3) Shall investigate and study the relations between carriers and their employees, particularly questions relating to wages, hours of labor, and other conditions of employment and the respective privileges, rights, and duties of carriers and employees, and shall gather, compile, classify, digest, and publish, from time to time, data and information relating to such questions to the end that the labor board may be properly equipped to perform its duties under this title and that the members of the adjustment boards and the public may be properly informed;
"(4) May make regulations necessary for the efficient execution of the functions vested in it by this title; and
"(5) Shall at least annually collect and publish the decisions and regulations of the labor board and the adjustment boards and all court and administrative decisions and regulations of the commission in respect to this title, together with a cumulative index-digest thereof.

"SEC. 309. Any party to any dispute to be considered by an adjustment board or by the labor board shall be entitled to a hearing either in person or by counsel.

"SEC. 310. (a) For the efficient administration of the functions vested in the labor board by this title, any member thereof may require, by subpœna issued and signed by himself, the attendance of any witness and the production of any book, paper, document, or other evidence from any place in the United States at any designated place of hearing, and the taking of a deposition before any designated person having power to administer oaths. In the case of a deposition the testimony shall be reduced to writing by the person taking the deposition or under his direction, and shall then be subscribed to by the deponent. Any member of the labor board may administer oaths and examine any witness. Any witness summoned before the board and any witness whose deposition is taken shall be paid the same fees and mileage as are paid witnesses in the courts of the United States.

"(b) In case of failure to comply with any subpœna or in case of the contumacy of any witness appearing before the labor board, the board may invoke the aid of any United States district court. Such court may thereupon order the witness to comply with the requirements of such subpœna, or to give evidence touching the matter in question, as the case may be. Any failure to obey such order may be punished by such court as a contempt thereof.

"(c) No person shall be excused from so attending and testifying or deposing, nor from so producing any book, paper, document, or other evidence on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing, as to which in obedience to a subpœna and under oath, he may so testify or produce evidence, documentary or otherwise. But no person shall be exempt from prosecution and punishment for perjury committed in so testifying.

"SEC. 311. (a) When necessary to the efficient administration of the functions vested in the labor board by this title, any member, officer, employee, or agent thereof, duly authorized in writing by the board, shall at all reasonable times for the purpose of examination have access to and the right to copy any book, account, record, paper, or correspondence relating to any matter which the board is authorized to consider or investigate. Any person who upon demand refuses any duly authorized member, officer, employee, or agent of the labor board such right of access or copying, or hinders, obstructs, or resists him in the exercise of such right, shall upon conviction thereof be liable to a penalty of $500 for each such offense. Each day during any part of which such offense continues shall constitute a separate offense. Such penalty shall be recoverable in a civil suit brought in the name of the United States, and shall be covered into the Treasury of the United States as miscellaneous receipts.

"(b) Every officer or employee of the United States, whenever requested by any member of the labor board or an adjustment board duly authorized by the board for the purpose, shall supply to such board any data or information pertaining to the administration of the functions vested in it by this title, which may be contained in the records of his office.

"(c) The President is authorized to transfer to the labor board any books, papers, or documents pertaining to the administration of the functions vested in the board by this title, which are in the possession of any agency, or railway board of adjustment in connection therewith, established for executing the powers granted the President under the Federal control act and which are no longer necessary to the administration of the affairs of such agency.

"SEC. 312. Prior to September 1, 1920, each carrier shall pay to each employee or subordinate official thereof wages or salary at a rate not less than that fixed by the decision of any agency, or railway board of adjustment in connection therewith, established for executing the powers granted the President under the Federal control act, in effect in respect to such employee or subordinate official immediately preceding 12.01 a. m. March 1, 1920. Any carrier acting in violation of any provision of this section shall upon conviction thereof be liable to a penalty of $100 for each such offense. Each such action with respect to any such employee or subordinate official and each day or portion thereof during which the offense continues shall constitute a separate offense. Such penalty shall be recoverable in a civil suit brought in the name of the United States, and shall be covered into the Treasury of the United States as miscellaneous receipts.

"SEC. 313. The labor board, in case it has reason to believe that any decision of the labor board or of an adjustment board is violated by any carrier, or employee or subordinate official, or organization thereof, may upon its own motion after due notice and hearing to all persons directly interested in such violation, determine whether in its opinion such violation has occurred and make public its decision in such manner as it may determine.

"SEC. 314. The labor board may (1) appoint a secretary, who shall receive from the United States an annual salary of $5,000; and (2) subject to the provisions of the civil-service laws, appoint and remove such officers, employees, and agents; and make such expenditures for rent, printing, telegrams, telephone, law books, books of reference, periodicals, furniture, stationery, office equipment, and other supplies and expenses, including salaries, traveling expenses of its members, secretary, officers, employees, and agents, and witness fees, as are necessary for the efficient execution of the functions vested in the board by this title and as may be provided for by Congress from time to time. All of the expenditures of the labor board shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the chairman of the labor board.

"SEC. 315. There is hereby appropriated for the fiscal year ending June 30, 1920, out of any money in the Treasury not otherwise appropriated, the sum of $50,000, or so much thereof as may be necessary, to be expended by the labor board, for defraying the expenses of the maintenance and establishment of the board, including the payment of salaries as provided in this title.

"SEC. 316. The powers and duties of the Board of Mediation and Conciliation created by the act approved July 15, 1913, shall not extend to any dispute which may be received for hearing and decision by any adjustment board or the labor board.

"TITLE IV.—AMENDMENTS TO INTERSTATE COMMERCE ACT.

"SEC. 400. The first four paragraphs of section 1 of the interstate commerce act, as such paragraphs appear in section 7 of the commerce court act, are hereby amended to read as follows:
"'(1) That the provisions of this act shall apply to common carriers engaged in—
"'(a) The transportation of passengers or property wholly by railroad, or partly by railroad and partly by water when both are used under a common control, management, or arrangement for a continuous carriage or shipment; or
"'(b) The transportation of oil or other commodity, except water and except natural or artificial gas, by pipe line, or partly by pipe line and partly by railroad or by water; or
"'(c) The transmission of intelligence by wire or wireless;—from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from one place in a Territory to another place in the same Territory, or from any place in the United States through a foreign country to any other place in the United States, or from or to any place in the United States to or from a foreign country, but only in so far as such transportation or transmission takes place within the United States.
"'(2) The provisions of this act shall also apply to such transportation of passengers and property and transmission of intel-

ligence, but only in so far as such transportation or transmission takes place within the United States, but shall not apply—

"'(a) To the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property, wholly within one State and not shipped to or from a foreign country from or to any place in the United States as aforesaid;

"'(b) To the transmission of intelligence by wire or wireless wholly within one State and not transmitted to or from a foreign country from or to any place in the United States as aforesaid; or

"'(c) To the transportation of passengers or property by a carrier by water where such transportation would not be subject to the provisions of this act except for the fact that such carrier absorbs, out of its port-to-port water rates or out of its proportional through rates, any switching, terminal, lighterage, car rental, trackage, handling, or other charges by a rail carrier for services within the switching, drayage, lighterage, or corporate limits of a port terminal or district.

"'(3) The term "common carrier" as used in this act shall include all pipe-line companies; telegraph, telephone, and cable companies operating by wire or wireless; express companies; sleeping-car companies; and all persons, natural or artificial, engaged in such transportation or transmission as aforesaid as common carriers for hire. Wherever the word "carrier" is used in this act it shall be held to mean "common carrier." The term "railroad" as used in this act shall include all bridges, car floats, lighters, and ferries used by or operated in connection with any railroad, and also all the road in use by any common carrier operating a railroad, whether owned or operated under a contract, agreement, or lease, and also all switches, spurs, tracks, terminals, and terminal facilities of every kind used or necessary in the transportation of the persons or property designated herein, including all freight depots, yards, and grounds, used or necessary in the transportation or delivery of any such property. The term "transportation" used in this act shall include locomotives, cars, and other vehicles, vessels, and all instrumentalities and facilities of shipment or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof, and all services in connection with the receipt, delivery, elevation, and transfer in transit, ventilation, refrigeration or icing, storage, and handling of property transported. The term "transmission" as used in this act shall include the transmission of intelligence through the application of electrical energy or other use of electricity, whether by means of wire, cable, radio apparatus, or other wire or wireless conductors or appliances, and all instrumentalities and facilities for and services in connection with the receipt, forwarding, and delivery of messages, communications, or other intelligence so transmitted, hereinafter also collectively called messages.

"'(4) It shall be the duty of every common carrier subject to this act engaged in the transportation of passengers or property to provide and furnish such transportation upon reasonable request therefor, and to establish through routes and just and reasonable rates, fares, and charges applicable thereto, and to provide reasonable facilities for operating through routes and to make reasonable rules and regulations with respect to the operation of through routes, and providing for reasonable compensation to those entitled thereto; and in case of joint rates, fares, or charges, to establish just, reasonable, and equitable divisions thereof as between the carriers subject to this act participating therein which shall not unduly prefer or prejudice any of such participating carriers.

"'(5) All charges made for any service rendered or to be rendered in the transportation of passengers or property or in the transmission of intelligence by wire or wireless as aforesaid, or in connection therewith, shall be just and reasonable, and every unjust and unreasonable charge for such service or any part thereof is prohibited and declared to be unlawful: *Provided*, That messages by wire or wireless subject to the provisions of this act may be classified into day, night, repeated, unrepeated, letter, commercial, press, Government, and such other classes as are just and reasonable, and different rates may be charged for the different classes of messages: *And provided further*, That nothing in this act shall be construed to prevent telephone, telegraph, and cable companies from entering into contracts with common carriers for the exchange of services.

"'(6) It is hereby made the duty of all common carriers subject to the provisions of this act to establish, observe, and enforce just and reasonable classifications of property for transportation, with reference to which rates, tariffs, regulations, or practices are or may be made or prescribed, and just and reasonable regulations and practices affecting classifications, rates, or tariffs, the issuance, form, and substance of tickets, receipts, and bills of lading, the manner and method of presenting, marking, packing, and delivering property for transportation, the facilities for transportation, the carrying of personal, sample, and excess baggage, and all other matters relating to or connected with the receiving, handling, transporting, storing, and delivery of property subject to the provisions of this act which may be necessary or proper to secure the safe and prompt receipt, handling, transportation, and delivery of property subject to the provisions of this act upon just and reasonable terms, and every unjust and unreasonable classification, regulation, and practice is prohibited and declared to be unlawful.'

"SEC. 401. The fifth, sixth, and seventh paragraphs of section 1 of the Interstate Commerce act, as such paragraphs appear in section 7 of the Commerce Court act, are hereby amended by inserting '(7)' at the beginning of such fifth paragraph, '(8)' at the beginning of such sixth paragraph, and '(9)' at the beginning of such seventh paragraph.

"SEC. 402. The paragraphs added to section 1 of the Interstate Commerce act by the act entitled 'An act to amend an act entitled "An act to regulate commerce," as amended, in respect of car service, and for other purposes,' approved May 29, 1917, are hereby amended to read as follows:

"'(10) The term "car service" in this act shall include the use, control, supply, movement, distribution, exchange, interchange, and return of locomotives, cars, and other vehicles used in the transportation of property, including special types of equipment, and the supply of trains, by any carrier by railroad subject to this act.

"'(11) It shall be the duty of every carrier by railroad subject to this act to furnish safe and adequate car service and to establish, observe, and enforce just and reasonable rules, regulations, and practices with respect to car service; and every unjust and unreasonable rule, regulation, and practice with respect to car service is prohibited and declared to be unlawful.

"'(12) It shall also be the duty of every carrier by railroad to make just and reasonable distribution of cars for transportation of coal among the coal mines served by it, whether located upon its line or lines or customarily dependent upon it for car supply. During any period when the supply of cars available for such service does not equal the requirements of such mines it shall be the duty of the carrier to maintain and apply just and reasonable ratings of such mines and to count each and every car furnished to or used by any such mine for transportation of coal against the mine. Failure or refusal so to do shall be unlawful, and in respect of each car not so counted shall be deemed a separate offense, and the carrier, receiver, or operating trustee so failing or refusing shall forfeit to the United States the sum of $100 for each offense, which may be recovered in a civil action brought by the United States.

"'(13) The commission is hereby authorized by general or special orders to require all carriers by railroad subject to this act, or any of them, to file with it from time to time their rules and regulations with respect to car service, and the commission may, in its discretion, direct that such rules and regulations shall be incorporated in their schedules showing rates, fares, and charges for transportation, and be subject to any or all of the provisions of this act relating thereto.

"'(14) The commission may, after hearing, on a complaint or upon its own initiative without complaint, establish reasonable rules, regulations, and practices with respect to car service by carriers by railroad subject to this act, including the compensation to be paid for the use of any locomotive, car, or other vehicle not owned by the carrier using it, and the penalties or other sanctions for nonobservance of such rules, regulations, or practices.

"'(15) Whenever the commission is of opinion that shortage of equipment, congestion of traffic, or other emergency requiring immediate action exists in any section of the country, the commission shall have, and it is hereby given, authority, either upon complaint or upon its own initiative without complaint, at once, if it so orders, without answer or other formal pleading by the interested carrier or carriers, and with or without notice, hearing, or the making or filing of a report, according as the commission may determine: (a) to suspend the operation of any or all rules, regulations, or practices then established with respect to car service for such time as may be determined by the commission; (b) to make such just and reasonable directions with respect to car service without regard to the ownership as between carriers of locomotives, cars, and other vehicles, during such emergency as in its opinion will best promote the service in the interest of the public and the commerce of the people, upon such terms of compensation as between the carriers as they may agree upon, or, in the event of their disagreement, as the commission may after subsequent hearing find to be just and reasonable; (c) to require such joint or common use of terminals, including main-line track or tracks for a reasonable distance outside of such terminals, as in its opinion will best meet

the emergency and serve the public interest, and upon such terms as between the carriers as they may agree upon, or, in the event of their disagreement, as the commission may after subsequent hearing find to be just and reasonable; and (d) to give directions for preference or priority in transportation, embargoes, or movement of traffic under permits, at such time and for such periods as it may determine, and to modify, change, suspend, or annul them. In time of war or threatened war the President may certify to the commission that it is essential to the national defense and security that certain traffic shall have preference or priority in transportation, and the commission shall, under the power herein conferred, direct that such preference or priority be afforded.

"'(16) Whenever the commission is of opinion that any carrier by railroad subject to this act is for any reason unable to transport the traffic offered it so as properly to serve the public, it may, upon the same procedure as provided in paragraph (15), make such just and reasonable directions with respect to the handling, routing, and movement of the traffic of such carrier and its distribution over other lines of roads, as in the opinion of the commission will best promote the service in the interest of the public and the commerce of the people, and upon such terms as between the carriers as they may agree upon, or, in the event of their disagreement, as the commission may after subsequent hearing find to be just and reasonable.

"'(17) The directions of the commission as to car service and to the matters referred to in paragraphs (15) and (16) may be made through and by such agents or agencies as the commission shall designate and appoint for that purpose. It shall be the duty of all carriers by railroad subject to this act, and of their officers, agents, and employees, to obey strictly and conform promptly to such orders or directions of the commission, and in case of failure or refusal on the part of any carrier, receiver, or operating trustee to comply with any such order or direction such carrier, receiver, or trustee shall be liable to a penalty of not less than $100 nor more than $500 for each such offense and $50 for each and every day of the continuance of such offense, which shall accrue to the United States and may be recovered in a civil action brought by the United States: *Provided, however*, That nothing in this act shall impair or affect the right of a State, in the exercise of its police power, to require just and reasonable freight and passenger service for intrastate business, except in so far as such requirement is inconsistent with any lawful order of the commission made under the provisions of this act.

"'(18) After 90 days after this paragraph takes effect no carrier by railroad subject to this act shall undertake the extension of its line of railroad, or the construction of a new line of railroad, or shall acquire or operate any line of railroad, or extension thereof, or shall engage in transportation under this act over or by means of such additional or extended line of railroad, unless and until there shall first have been obtained from the commission a certificate that the present or future public convenience and necessity require or will require the construction or operation, or construction and operation, of such additional or extended line of railroad, and no carrier by railroad subject to this act shall abandon all or any portion of a line of railroad, or the operation thereof, unless and until there shall first have been obtained from the commission a certificate that the present or future public convenience and necessity permit of such abandonment.

"'(19) The application for and issuance of any such certificate shall be under such rules and regulations as to hearings and other matters as the commission may from time to time prescribe, and the provisions of this act shall apply to all such proceedings. Upon receipt of any application for such certificate the commission shall cause notice thereof to be given to and a copy filed with the governor of each State in which such additional or extended line of railroad is proposed to be constructed or operated, or all or any portion of a line of railroad, or the operation thereof, is proposed to be abandoned, with the right to be heard as hereinafter provided with respect to the hearing of complaints or the issuance of securities; and said notice shall also be published for three consecutive weeks in some newspaper of general circulation in each county in or through which said line of railroad is constructed or operates.

"'(20) The commission shall have power to issue such certificate as prayed for, or to refuse to issue it, or to issue it for a portion or portions of a line of railroad, or extension thereof, described in the application, or for the partial exercise only of such right or privilege, and may attach to the issuance of the certificate such terms and conditions as in its judgment the public convenience and necessity may require. From and after issuance of such certificate, and not before, the carrier by railroad may, without securing approval other than such certificate, comply with the terms and conditions contained in or attached to the issuance of such certificate and proceed with the construction, operation, or abandonment covered thereby. Any construction, operation, or abandonment contrary to the provisions of this paragraph or of paragraph (18) or (19) of this section may be enjoined by any court of competent jurisdiction at the suit of the United States, the commission, any commission or regulating body of the State or States affected, or any party in interest; and any carrier which, or any director, officer, receiver, operating trustee, lessee, agent, or person, acting for or employed by such carrier, who knowingly authorizes, consents to, or permits any violation of the provisions of this paragraph or of paragraph (18) of this section, shall upon conviction thereof be punished by a fine of not more than $5,000 or by imprisonment for not more than three years, or both.

"'(21) The commission may, after hearing, in a proceeding upon complaint or upon its own initiative without complaint, authorize or require by order any carrier by railroad subject to this act, party to such proceeding, to provide itself with safe and adequate facilities for performing as a common carrier its car service as that term is used in this act, and to extend its line or lines: *Provided*, That no such authorization or order shall be made unless the commission finds, as to such extension, that it is reasonably required in the interest of public convenience and necessity, or as to such extension or facilities that the expense involved therein will not impair the ability of the carrier to perform its duty to the public. Any carrier subject to this act which refuses or neglects to comply with any order of the commission made in pursuance of this paragraph shall be liable to a penalty of $100 for each day during which such refusal or neglect continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

"'(22) The authority of the commission conferred by paragraphs (18) to (21), both inclusive, shall not extend to the construction or abandonment of spur, industrial, team, switching or side tracks, located or to be located wholly within one State, or of street, suburban, or interurban electric railways, which are not operated as a part or parts of a general steam railroad system of tansportation.'

"SEC. 403. The fifteenth and sixteenth paragraphs of section 1 of the interstate commerce act, added to such section by the act entitled 'An act to amend the act to regulate commerce, as amended, and for other purposes,' approved August 10, 1917, are hereby amended by inserting '(23)' at the beginning of such fifteenth paragraph and '(24)' at the beginning of such sixteenth paragraph.

"SEC. 404. Section 2 of the interstate commerce act is hereby amended to read as follows:

"'SEC. 2. That if any common carrier subject to the provisions of this act shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered, or to be rendered, in the transportation of passengers or property or the transmission of intelligence, subject to the provisions of this act, than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation or transmission of a like kind of traffic or message under substantially similar circumstances and conditions, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful.'

"SEC. 405. The first paragraph of section 3 of the interstate commerce act is hereby amended by inserting '(1)' after the section number at the beginning thereof.

"Section 3 of the interstate commerce act is hereby amended by adding after the first paragraph a new paragraph to read as follows:

"'(2) From and after July 1, 1920, no carrier by railroad subject to the provisions of this act shall deliver or relinquish possession at destination of any freight transported by it until all tariff rates and charges thereon have been paid, except under such rules and regulations as the commission may from time to time prescribe to assure prompt payment of all such rates and charges and to prevent unjust discrimination: *Provided*, That the provisions of this paragraph shall not be construed to prohibit any carrier from extending credit in connection with rates and charges on freight transported for the United States, for any department, bureau, or agency thereof, or for any State or Territory or political subdivision thereof, or for the District of Columbia.'

"The second paragraph of section 3 of the interstate commerce act is hereby amended to read as follows:

"'(3) All carriers, engaged in the transportation of passengers or property, subject to the provisions of this act, shall, according to their respective powers, afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding, and delivering of passengers or property to and from their several lines and those connecting therewith, and shall not discriminate in their rates, fares, and charges between such connecting lines, or unduly prejudice any such connecting line in the distribution of traffic that is not specifically routed by the shipper.

"'(4) If the commission finds it to be in the public interest and to be practicable, without substantially impairing the ability of a carrier owning or entitled to the enjoyment of terminal facilities to handle its own business, it shall have power to require the use of any such terminal facilities, including main-line track or tracks for a reasonable distance outside of such terminal, of any carrier, by another carrier or other carriers, on such terms and for such compensation as the carriers affected may agree upon, or, in the event of a failure to agree, as the commission may fix as just and reasonable for the use so required, to be ascertained on the principle controlling compensation in condemnation proceedings. Such compensation shall be paid or adequately secured before the enjoyment of the use may be commenced. If under this paragraph the use of such terminal facilities of any carrier is required to be given to another carrier or other carriers, and the carrier whose terminal facilities are required to be so used is not satisfied with the terms fixed for such use, or if the amount of compensation so fixed is not duly and promptly paid, the carrier whose terminal facilities have thus been required to be given to another carrier or other carriers shall be entitled to recover, by suit or action against such other carrier or carriers, proper damages for any injuries sustanied by it as the result of compliance with such requirement, or just compensation for such use, or both, as the case may be.'

"SEC. 406. Section 4 of the interstate-commerce act is hereby amended to read as follows:

"'SEC. 4 (1) That it shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation in the aggregate for the transportation of passengers, or of like kind of property, for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as a through rate than the aggregate of the intermediate rates subject to the provisions of this act, but this shall not be construed as authorizing any common carrier within the terms of this act to charge or receive as great compensation for a shorter as for a longer distance: *Provided*, That upon application to the commission such common carrier may in special cases, after investigation, be authorized by the commission to charge less for longer than for shorter distances for the transportation of passengers or property; and the commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section; but in exercising the authority conferred upon it in this proviso the commission shall not permit the establishment of any charge to or from the more distant point that is not reasonably compensatory for the service performed; and if a circuitous rail line or route is, because of such circuity, granted authority to meet the charges of a more direct line or route to or from competitive points and to maintain higher charges to or from intermediate points on its line, the authority shall not include intermediate points as to which the haul of the petitioning line or route is not longer than that of the direct line or route between the competitive points; and no such authorization shall be granted on account of merely potential water competition not actually in existence: *And provided further*, That rates, fares, or charges existing at the time of the passage of the amendatory act by virtue of orders of the commission or as to which application has theretofore been filed with the commission and not yet acted upon shall not be required to be changed by reason of the provisions of this section until the further order of or a determination by the commission.

"'(2) Wherever a carrier by railroad shall in competition with a water route or routes reduce the rates on the carriage of any species of freight to or from competitive points it shall not be permitted to increase such rates unless after hearing by the commission it shall be found that such proposed increase rests upon changed conditions other than the elimination of water competition.'

"SEC. 407. The first paragraph of section 5 of the interstate-commerce act is hereby amended to read as follows:

"'SEC. 5. (1) That, except upon specific approval by order of the commission as in this section provided, and except as provided in paragraph (16) of section 1 of this act, it shall be unlawful for any common carrier subject to this act to enter into any contract, agreement, or combination with any other common carrier or carriers for the pooling of freights of different and competing railroads, or to divide between them the aggregate or net proceeds of the earnings of such railroads, or any portion thereof; and in any case of an agreement for the pooling of freights as aforesaid each day of its continuance shall be deemed a separate offense: *Provided*, That whenever the commission is of opinion, after hearing upon application of any carrier or carriers engaged in the transportation of passengers or property subject to this act, or upon its own initiative, that the division of their traffic or earnings, to the extent indicated by the commission, will be in the interest of better service to the public, or economy in operation, and will not unduly restrain competition, the commission shall have authority by order to approve and authorize, if assented to by all the carriers involved, such division of traffic or earnings, under such rules and regulations, and for such consideration as between such carriers and upon such terms and conditions, as shall be found by the commission to be just and reasonable in the premises.

"'(2) Whenever the commission is of opinion, after hearing, upon application of any carrier or carriers engaged in the transportation of passengers or property subject to this act, that the acquisition, to the extent indicated by the commission, by one of such carriers of the control of any other such carrier or carriers either under a lease or by the purchase of stock or in any other manner not involving the consolidation of such carriers into a single system for ownership and operation, will be in the public interest, the commission shall have authority by order to approve and authorize such acquisition, under such rules and regulations and for such consideration and on such terms and conditions as shall be found by the commission to be just and reasonable in the premises.

"'(3) The commission may from time to time, for good cause shown, make such orders, supplemental to any order made under paragraph (1) or (2), as it may deem necessary or appropriate.

"'(4) The commission shall as soon as practicable prepare and adopt a plan for the consolidation of the railway properties of the continental United States into a limited number of systems. In the division of such railways into such systems under such plan, competition shall be preserved as fully as possible and wherever practicable the existing routes and channels of trade and commerce shall be maintained. Subject to the foregoing requirements, the several systems shall be so arranged that the cost of transportation as between competitive systems and as related to the values of the properties through which the service is rendered shall be the same, so far as practicable; so that these systems can employ uniform rates in the movement of competitive traffic and under efficient management earn substantially the same rate of return upon the value of their respective railway properties.

"'(5) When the commission has agreed upon a tentative plan, it shall give the same due publicity and upon reasonable notice, including notice to the governor of each State, shall hear all persons who may file or present objections thereto. The commission is authorized to prescribe a procedure for such hearings and to fix a time for bringing them to a close. After the hearings are at an end, the commission shall adopt a plan for such consolidation and publish the same; but it may at any time thereafter, upon its own motion or upon application, reopen the subject for such changes or modifications as in its judgment will promote the public interest. The consolidations herein provided for shall be in harmony with such plan.

"'(6) It shall be lawful for two or more carriers by railroad, subject to this act, to consolidate their properties or any part thereof, into one corporation for the ownership, management, and operation of the properties theretofore in separate ownership, management, and operation, under the following conditions:

"'(a) The proposed consolidation must be in harmony with and in furtherance of the complete plan of consolidation mentioned in paragraph (5) and must be approved by the commission;

"'(b) The bonds at par of the corporation which is to become the owner of the consolidated properties, together with the outstanding capital stock at par of such corporation, shall not exceed the value of the consolidated properties as determined by the commission. The value of the properties sought to be consolidated shall be ascertained by the commission under section 19a of this act, and it shall be the duty of the commission to proceed immediately to the ascertainment of such value for the properties involved in a proposed consolidation upon the filing of the application for such consolidation;

"'(c) Whenever two or more carriers propose a consolidation under this section, they shall present their application therefor to the commission, and thereupon the commission shall notify the governor of each State in which any part of the properties sought to be consolidated is situated and the carriers involved in the proposed consolidation, of the time and place for a public hearing. If after such hearing the commission finds that the public interest will be promoted by the consolidation and that the conditions of this section have been or will be fulfilled, it may enter an order approving and authorizing such consolidation, with such modifications and upon such terms and conditions as it may prescribe, and thereupon such consolidation may be effected, in accordance with such order, if all the carriers involved assent thereto, the law of any State or the decision or order of any State authority to the contrary notwithstanding.

"'(7) The power and authority of the commission to approve and authorize the consolidation of two or more carriers shall extend and apply to the consolidation of four express companies into the American Railway Express Co., a Delaware corporation, if application for such approval and authority is made to the commission within 30 days after the passage of this amendatory act; and pending the decision of the commission such consolidation shall not be dissolved.

"'(8) The carriers affected by any order made under the foregoing provisions of this section and any corporation organized to effect a consolidation approved and authorized in such order shall be, and they are hereby, relieved from the operation of the "antitrust law," as designated in section 1 of the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, and of all other restraints or prohibitions by law, State or Federal, in so far as may be necessary to enable them to do anything authorized or required by any order made under and pursuant to the foregoing provisions of this section.'

"SEC. 408. The paragraph of section 5 of the interstate commerce act, added to such section by section 11 of the act entitled 'An act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation and government of the Canal Zone,' approved August 24, 1912, is hereby amended by inserting '(9)' at the beginning thereof.

"The two paragraphs of section 11 of such act of August 24, 1912, which follow the paragraph added by such section to section 5 of the interstate commerce act, are hereby made a part of section 5 of the interstate commerce act. The first paragraph so made a part of section 5 of the interstate commerce act is hereby amended by inserting '(10)' at the beginning thereof, and the second such paragraph is hereby amended by inserting '(11)' at the beginning thereof.

"SEC. 409. Section 6 of the interstate commerce act is hereby amended by inserting '(1)' after the section number at the beginning of the first paragraph, '(2)' at the beginning of the second paragraph, '(3)' at the beginning of the third paragraph, '(4)' at the beginning of the fourth paragraph, '(5)' at the beginning of the fifth paragraph, '(6)' at the beginning of the sixth paragraph, '(7)' at the beginning of the seventh paragraph, '(8)' at the beginning of the eighth paragraph, '(9)' at the beginning of the ninth paragraph, '(10)' at the beginning of the tenth paragraph, '(11)' at the beginning of the eleventh paragraph, '(12)' at the beginning of the twelfth paragraph, and '(13)' at the beginning of the thirteenth paragraph.

"SEC. 410. The third paragraph of section 6 of the interstate commerce act is hereby amended by striking out the period at the end thereof and inserting in lieu thereof a colon and the following: '*Provided further*, That the commission is hereby authorized to make suitable rules and regulations for the simplification of schedules of rates, fares, charges, and classifications and to permit in such rules and regulations the filing of an amendment of or change in any rate, fare, charge, or classification without filing complete schedules covering rates, fares, charges, or classifications not changed if, in its judgment, not inconsistent with the public interest.'

"SEC. 411. The seventh paragraph of section 6 of the interstate commerce act is hereby amended by striking out the proviso at the end.

"SEC. 412. The two paragraphs under (a) of the thirteenth paragraph of section 6 of the interstate commerce act are hereby amended so as to be combined into one paragraph to read as follows:

"'(a) To establish physical connection between the lines of the rail carrier and the dock at which interchange of passengers or property is to be made by directing the rail carrier to make suitable connection between its line and a track or tracks which have been constructed from the dock to the limits of the railroad right of way, or by directing either or both the rail and water carrier, individually or in connection with one another, to construct and connect with the lines of the rail carrier a track or tracks to the dock. The commission shall have full authority to determine and prescribe the terms and conditions upon which these connecting tracks shall be operated, and it may, either in the construction or the operation of such tracks, determine what sum shall be paid to or by either carrier: *Provided*, That construction required by the commission under the provisions of this paragraph shall be subject to the same restrictions as to findings of public convenience and necessity and other matters as is construction required under section 1 of this act.'

"SEC. 413. Paragraph (c) of the thirteenth paragraph of section 6 of the interstate commerce act is hereby amended to read as follows:

"'(c) To establish proportional rates, or maximum, or minimum, or maximum and minimum proportional rates, by rail to and from the ports to which the traffic is brought, or from which it is taken by the water carrier, and to determine to what traffic and in connection with what vessels and upon what terms and conditions such rates shall apply. By proportional rates are meant those which differ from the corresponding local rates to and from the port and which apply only to traffic which has been brought to the port or is carried from the port by a common carrier by water.'

"SEC. 414. Section 10 of the interstate commerce act is hereby amended by inserting '(1)' after the section number at the beginning of the first paragraph, '(2)' at the beginning of the second paragraph, '(3)' at the beginning of the third paragraph, and '(4)' at the beginning of the fourth paragraph, and by inserting after the words 'transportation of passengers or property,' in the proviso in the first paragraph thereof, the words 'or the transmission of intelligence.'

"SEC. 415. Section 12 of the interstate commerce act is hereby amended by inserting '(1)' after the section number at the beginning of the first paragraph, '(2)' at the beginning of the second paragraph, '(3)' at the beginning of the third paragraph, '(4)' at the beginning of the fourth paragraph, '(5)' at the beginning of the fifth paragraph, '(6)' at the beginning of the sixth paragraph, and '(7)' at the beginning of the seventh paragraph.

"SEC. 416. Section 13 of the interstate commerce act is hereby amended by inserting '(1)' after the section number at the beginning of the first paragraph and '(2)' at the beginning of the second paragraph, and by adding at the end thereof two new paragraphs to read as follows:

"'(3) Whenever in any investigation under the provisions of this act, or in any investigation instituted upon petition of the carrier concerned, which petition is hereby authorized to be filed, there shall be brought in issue any rate, fare, charge, classification, regulation, or practice, made or imposed by authority of any State, or initiated by the President during the period of Federal control, the commission, before proceeding to hear and dispose of such issue, shall cause the State or States interested to be notified of the proceeding. The commission may confer with the authorities of any State having regulatory jurisdiction over the class of persons and corporations subject to this act with respect to the relationship between rate structures and practices of carriers subject to the jurisdiction of such State bodies and of the commission; and to that end is authorized and empowered, under rules to be prescribed by it, and which may be modified from time to time, to hold joint hearings with any such State regulating bodies on any matters wherein the commission is empowered to act and where the rate-making authority of a State is or may be affected by the action taken by the commission. The commission is also authorized to avail itself of the cooperation, service, records, and facilities of such State authorities in the enforcement of any provision of this act.

"'(4) Whenever in any such investigation the commission, after full hearing, finds that any such rate, fare, charge, classification, regulation, or practice causes any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other hand, or any undue, unreasonable, or unjust discrimination against interstate or foreign commerce, which is hereby forbidden and declared to be unlawful, it shall prescribe the rate, fare, or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, and the classification, regulation, or practice thereafter to be observed, in such manner as, in its judgment, will remove such advantage, preference, prejudice, or discrimination. Such rates, fares, charges, classifications, regulations, and practices shall be observed while in effect by the carriers parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding.'

"SEC. 417. Section 14 of the interstate commerce act is hereby amended by inserting '(1)' after the section number at the beginning of the first paragraph, '(2)' at the beginning of the second paragraph, and '(3)' at the beginning of the third paragraph.

"SEC. 418. The first four paragraphs of section 15 of the interstate commerce act are hereby amended to read as follows:

"'SEC. 15. (1) That whenever, after full hearing, upon a complaint made as provided in section 13 of this act, or after full hearing under an order for investigation and hearing made by the commission on its own initiative, either in extension of any pending complaint or without any complaint whatever, the commission shall be of opinion that any individual or joint rate, fare, or charge whatsoever demanded, charged, or collected by any common carrier or carriers subject to this act for the transportation of persons or property or for the transmission of messages as defined in the first section of this act, or that any individual or joint classification, regulation, or practice whatsoever of such carrier or carriers subject to the provisions of this act, is or will be unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this act, the commission is hereby authorized and empowered to determine and prescribe what will be the just and reasonable individual or joint rate, fare, or charge, or rates, fares, or charges, to be thereafter observed in such case, or the maximum or minimum, or maximum and minimum, to be charged (or, in the case of a through route where one of the carriers is a water line, the maximum rates, fares, and charges applicable thereto), and what individual or joint classification, regulation, or practice is or will be just, fair, and reasonable, to be thereafter followed, and to make an order that the carrier or carriers shall cease and desist from such violation to the extent to which the commission finds that the same does or will exist, and shall not thereafter publish, demand, or collect any rate, fare, or charge for such transportation or transmission other than the rate, fare, or charge so prescribed, or in excess of the maximum or less than the minimum so prescribed, as the case may be, and shall adopt the classification and shall conform to and observe the regulation or practice so prescribed.

"'(2) Except as otherwise provided in this act, all orders of the commission, other than orders for the payment of money, shall take effect within such reasonable time, not less than 30 days, and shall continue in force until its further order, or for a specified period of time, according as shall be prescribed in the order, unless the same shall be suspended or modified or set aside by the commission, or be suspended or set aside by a court of competent jurisdiction.

"'(3) The commission may, and it shall whenever deemed by it to be necessary or desirable in the public interest, after full hearing upon complaint or upon its own initiative without a complaint, establish through routes, joint classifications, and joint rates, fares, or charges, applicable to the transportation of passengers or property, or the maxima or minima, or maxima and minima, to be charged (or, in the case of a through route where one of the carriers is a water line, the maximum rates, fares, and charges applicable thereto), and the divisions of such rates, fares, or charges as hereinafter provided, and the terms and conditions under which such through routes shall be operated; and this provision, except as herein otherwise provided, shall apply when one of the carriers is a water line. The commission shall not, however, establish any through route, classification, or practice, or any rate, fare, or charge, between street electric passenger railways not engaged in the general business of transporting freight in addition to their passenger and express business, and railroads of a different character; nor shall the commission have the right to establish any route, classification, or practice, or any rate, fare, or charge when the transportation is wholly by water, and any transportation by water affected by this act shall be subject to the laws and regulations applicable to transportation by water.

"'(4) In establishing any such through route the commission shall not (except as provided in section 3, and except where one of the carriers is a water line), require any carrier by railroad, without its consent, to embrace in such route substantially less than the entire length of its railroad and of any intermediate railroad operated in conjunction and under a common management or control therewith, which lies between the termini of such proposed through route, unless such inclusion of lines would make the through route unreasonably long as compared with another practicable through route which could otherwise be established: *Provided*, That in time of shortage of equipment, congestion of traffic, or other emergency declared by the commission it may (either upon complaint or upon its own initiative without complaint, at once, if it so orders without answer or other formal pleadings by the interested carrier or carriers, and with or without notice, hearing, or the making or filing of a report, according as the commission may determine) establish temporarily such through routes as in its opinion are necessary or desirable in the public interest.

"'(5) Transportation wholly by railroad of ordinary live stock in carload lots destined to or received at public stockyards shall include all necessary service of unloading and reloading en route, delivery at public stockyards of inbound shipments into suitable pens, and receipt and loading at such yards of outbound shipments, without extra charge therefor to the shipper, consignee, or owner, except in cases where the unloading or reloading en route is at the request of the shipper, consignee, or owner, or to try an intermediate market, or to comply with quarantine regulations. The commission may prescribe or approve just and reasonable rules governing each of such excepted services. Nothing in this paragraph shall be construed to affect the duties and liabilities of the carriers now existing by virtue of law respecting the transportation of other than ordinary live stock, or the duty of performing service as to shipments other than those to or from public stockyards.

"'(6) Whenever, after full hearing upon complaint or upon its own initiative, the commission is of opinion that the divisions of joint rates, fares, or charges, applicable to the transportaton of passengers or property, are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers parties thereto (whether agreed upon by such carriers, or any of them, or otherwise established), the commission shall by order prescribe the just, reasonable, and equitable divisions thereof to be received by the several carriers, and in cases where the joint rate, fare, or charge was established pursuant to a finding or order of the commission and the divisions thereof are found by it to have been unjust, unreasonable, or inequitable, or unduly preferential or prejudicial the commission may also by order determine what (for the period subsequent to the filing of the complaint or petition or the making of the order of investigation) would have been the just, reasonable, and equitable divisions thereof to be received by the several carriers and require adjustment to be made in accordance therewith. In so prescribing and determining the divisions of joint rates, fares, and charges the commission shall give due consideration, among other things, to the efficiency with which the carriers concerned are operated, the amount of revenue required to pay their respective operating expenses, taxes, and a fair return on their railway property held for and used in the service of transportation, and the importance to the public of the transportation services of such carriers; and also whether any particular participating carrier is an originating, intermediate, or delivering line, and any other fact or circumstance which would ordinarily, without regard to the mileage haul, entitle one carrier to a greater or less proportion than another carrier of the joint rate, fare, or charge.

"'(7) Whenever there shall be filed with the commission any schedule stating a new individual or joint rate, fare, or charge, or any new individual or joint classification, or any new individual or joint regulation or practice affecting any rate, fare, or charge, the commission shall have, and it is hereby given, authority, either upon complaint or upon its own initiative without complaint, at once, and if it so orders without answer or other formal pleading by the interested carrier or carriers, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, charge, classification, regulation, or practice; and pending such hearing and the decision thereon the commission, upon filing with such schedule and delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, fare, charge, classification, regulation, or practice, but not for a longer period than 120 days beyond the time when it would otherwise go into effect; and after full hearing, whether completed before or after the rate, fare, charge, classification, regulation, or practice goes into effect, the commission may make such order with reference thereto as would be proper in a proceeding initiated after it had become effective. If any such hearing can not be concluded within the period of suspension, as above stated, the commission may extend the time of suspension for a further period not exceeding 30 days, and if the proceeding has not been concluded and an order made at the expiration of such 30 days the proposed change of rate, fare, charge, classification, regulation, or practice shall go into effect at the end of such period, but in case of a proposed increased rate or charge for or in respect to the transportation of property the commission may by order require the interested carrier or carriers to keep accurate account in

detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts are paid, and upon completion of the hearing and decision may by further order require the interested carrier or carriers to refund with interest to the persons in whose behalf such amounts were paid such portion of such increased rates or charges as by its decision shall be found not justified. At any hearing involving a rate, fare, or charge increased after January 1, 1910, or of a rate, fare, or charge sought to be increased after the passage of this act, the burden of proof to show that the increased rate, fare, or charge, or proposed increased rate, fare, or charge, is just and reasonable shall be upon the carrier, and the commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible.'

"SEC. 419. The fifth paragraph of section 15 of the interstate commerce act is hereby amended by inserting '(8)' at the beginning of such paragraph.

"SEC. 420. Section 15 of the interstate commerce act is hereby amended by inserting after the fifth paragraph two new paragraphs, to read as follows:

"'(9) Whenever property is diverted or delivered by one carrier to another carrier contrary to routing instructions in the bill of lading, unless such diversion or delivery is in compliance with a lawful order, rule, or regulation of the commission, such carriers shall, in a suit or action in any court of competent jurisdiction, be jointly and severally liable to the carrier thus deprived of its right to participate in the haul of the property, for the total amount of the rate or charge it would have received had it participated in the haul of the property. The carrier to which the property is thus diverted shall not be liable in such suit or action if it can show, the burden of proof being upon it, that before carrying the property it had no notice, by bill of lading, waybill or otherwise, of the routing instructions. In any judgment which may be rendered the plaintiff shall be allowed to recover against the defendant a reasonable attorney's fee to be taxed in the case.

"'(10) With respect to traffic not routed by the shipper, the commission may, whenever the public interest and a fair distribution of traffic require, direct the route which such traffic shall take after it arrives at the terminus of one carrier or at a junction point with another carrier, and is to be there delivered to another carrier.'

"SEC. 421. Section 15 of the interstate commerce act is hereby further amended by inserting '(11)' at the beginning of the sixth paragraph, '(12)' at the beginning of the seventh paragraph, '(13)' at the beginning of the eighth paragraph, and '(14)' at the beginning of the ninth paragraph.

"SEC. 422. The interstate commerce act is further amended by inserting after section 15 a new section to be known as section 15a and to read as follows:

"'SEC. 15a. (1) When used in this section the term "rates" means rates, fares, and charges, and all classifications, regulations, and practices, relating thereto; the term "carrier" means a carrier by railroad or partly by railroad and partly by water, within the continental United States, subject to this act, excluding (a) sleeping-car companies and express companies, (b) street or suburban electric railways unless operated as a part of a general steam railroad system of transportation, (c) interurban electric railways unless operated as a part of a general steam railroad system of transportation or engaged in the general transportation of freight, and (d) any belt-line railroad, terminal switching railroad, or other terminal facility, owned exclusively and maintained, operated, and controlled by any State or political subdivision thereof; and the term "net railway operating income" means railway operating income, including in the computation thereof debits and credits arising from equipment rents and joint facility rents.

"'(2) In the exercise of its power to prescribe just and reasonable rates the commission shall initiate, modify, establish or adjust such rates so that carriers as a whole (or as a whole in each of such rate groups or territories as the commission may from time to time designate) will, under honest, efficient and economical management and reasonable expenditures for maintenance of way, structures and equipment, earn an aggregate annual net railway operating income equal, as nearly as may be, to a fair return upon the aggregate value of the railway property of such carriers held for and used in the service of transportation: *Provided*, That the commission shall have reasonable latitude to modify or adjust any particular rate which it may find to be unjust or unreasonable, and to prescribe different rates for different sections of the country.

"'(3) The commission shall from time to time determine and make public what percentage of such aggregate property value constitutes a fair return thereon, and such percentage shall be uniform for all rate groups or territories which may be designated by the commission. In making such determination it shall give due consideration, among other things, to the transportation needs of the country and the necessity (under honest, efficient, and economical management of existing transportation facilities) of enlarging such facilities in order to provide the people of the United States with adequate transportation: *Provided*, That during the two years beginning March 1, 1920, the commission shall take as such fair return a sum equal to 5½ per cent of such aggregate value, but may, in its discretion, add thereto a sum not exceeding one-half of 1 per cent of such aggregate value to make provision in whole or in part for improvements, betterments or equipment, which, according to the accounting system prescribed by the commission, are chargeable to capital account.

"'(4) For the purposes of this section, such aggregate value of the property of the carriers shall be determined by the commission from time to time and as often as may be necessary. The commission may utilize the results of its investigation under section 19a of this act, in so far as deemed by it available, and shall give due consideration to all the elements of value recognized by the law of the land for rate-making purposes, and shall give to the property investment account of the carriers only that consideration which under such law it is entitled to in establishing values for rate-making purposes. Whenever pursuant to section 19a of this act the value of the railway property of any carrier held for and used in the service of transportation has been finally ascertained, the value so ascertained shall be deemed by the commission to be the value thereof for the purpose of determining such aggregate value.

"'(5) Inasmuch as it is impossible (without regulation and control in the interest of the commerce of the United States considered as a whole) to establish uniform rates upon competitive traffic which will adequately sustain all the carriers which are engaged in such traffic and which are indispensable to the communities to which they render the service of transportation, without enabling some of such carriers to receive a net railway operating income substantially and unreasonably in excess of a fair return upon the value of their railway property held for and used in the service of transportation, it is hereby declared that any carrier which receives such an income so in excess of a fair return, shall hold such part of the excess, as hereinafter prescribed, as trustee for, and shall pay it to, the United States.

"'(6) If, under the provisions of this section, any carrier receives for any year a net railway operating income in excess of 6 per cent of the value of the railway property held for and used by it in the service of transportation, one-half of such excess shall be placed in a reserve fund established and maintained by such carrier, and the remaining one-half thereof shall, within the first four months following the close of the period for which such computation is made, be recoverable by and paid to the commission for the purpose of establishing and maintaining a general railroad contingent fund as hereinafter described. For the purposes of this paragraph the value of the railway property and the net railway operating income of a group of carriers, which the commission finds are under common control and management and are operated as a single system, shall be computed for the system as a whole irrespective of the separate ownership and accounting returns of the various parts of such system. In the case of any carrier which has accepted the provisions of section 209 of this amendatory act the provisions of this paragraph shall not be applicable to the income for any period prior to September 1, 1920. The value of such railway property shall be determined by the commission in the manner provided in paragraph (4).

"'(7) For the purpose of paying dividends or interest on its stocks, bonds, or other securities, or rent for leased roads, a carrier may draw from the reserve fund established and maintained by it under the provisions of this section to the extent that its net railway operating income for any year is less than a sum equal to 6 per cent of the value of the railway property held for and used by it in the service of transportation, determined as provided in paragraph (6); but such fund shall not be drawn upon for any other purpose.

"'(8) Such reserve fund need not be accumulated and maintained by any carrier beyond a sum equal to 5 per cent of the value of its railway property determined as herein provided, and when such fund is so accumulated and maintained the portion of its excess income which the carrier is permitted to retain under paragraph (6) may be used by it for any lawful purpose.

"'(9) The commission shall prescribe rules and regulations for the determination and recovery of the excess income payable to it under this section, and may require such security and prescribe such reasonable terms and conditions in connection

therewith as it may find necessary. The commission shall make proper adjustments to provide for the computation of excess income for a portion of a year, and for a year in which a change in the percentage constituting a fair return or in the value of a carrier's railway property becomes effective.

"'(10) The general railroad contingent fund so to be recoverable by and paid to the commission and all accretions thereof shall be a revolving fund and shall be administered by the commission. It shall be used by the commission in furtherance of the public interest in railway transportation either by making loans to carriers to meet expenditures for capital account or to refund maturing securities originally issued for capital account, or by purchasing transportation equipment and facilities and leasing the same to carriers, as hereinafter provided. Any moneys in the fund not so employed shall be invested in obligations of the United States or deposited in authorized depositaries of the United States subject to the rules promulgated from time to time by the Secretary of the Treasury relating to Government deposits.

"'(11) A carrier may at any time make application to the commission for a loan from the general railroad contingent fund, setting forth the amount of the loan and the term for which it is desired, the purpose of the loan and the uses to which it will be applied, the present and prospective ability of the applicant to repay the loan and meet the requirements of its obligations in that regard, the character and value of the security offered, and the extent to which the public convenience and necessity will be served. The application shall be accompanied by statements showing such facts and details as the commission may require with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of granting the loan applied for and the ability of the applicant to make good the obligation, as the commission may deem pertinent to the inquiry.

"'(12) If the commission, after such hearing and investigation, with or without notice, as it may direct, finds that the making, in whole or in part, of the proposed loan from the general railroad contingent fund is necessary to enable the applicant properly to meet the transportation needs of the public, and that the prospective earning power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, and to meet its other obligations in connection with such loan, the commission may make a loan to the applicant from such railroad contingent fund, in such amount, for such length of time, and under such terms and conditions as it may deem proper. The commission shall also prescribe the security to be furnished, which shall be adequate to secure the loan. All such loans shall bear interest at the rate of 6 per cent per annum, payable semiannually to the commission. Such loan when repaid, and all interest paid thereon, shall be placed in the general railroad contingent fund.

"'(13) A carrier may at any time make application to the commission for the lease to it of transportation equipment or facilities, purchased from the general railroad contingent fund, setting forth the kind and amount of such equipment or facilities and the term for which it is desired to be leased, the uses to which it is proposed to put such equipment or facilities, the present and prospective ability of the applicant to pay the rental charges thereon and to meet the requirements of its obligations under the lease, and the extent to which the public convenience and necessity will be served. The application shall be accompanied by statements showing such facts and details as the commission may require with respect to the physical situation, ownership, capitalization, indebtedness, contract obligations, operation, and earning power of the applicant, together with such other facts relating to the propriety and expediency of leasing such equipment or facilities to the applicant as the commission may deem pertinent to the inquiry.

"'(14) If the commission, after such hearing and investigation, with or without notice, as it may direct, finds that the leasing to the applicant of such equipment or facilities, in whole or in part, is necessary to enable the applicant properly to meet the transportation needs of the public, and that the prospective earning power of the applicant is such as to furnish reasonable assurance of the applicant's ability to pay promptly the rental charges and meet its other obligations under such lease, the commission may lease such equipment or facilities purchased by it from the general railroad contingent fund, to the applicant for such length of time, and under such terms and conditions as it may deem proper. The rental charges provided in every such lease shall be at least sufficient to pay a return of 6 per cent per annum, plus allowance for depreciation determined as provided in paragraph (5) of section 20 of this act, upon the value of the equipment or facilities leased thereunder. All rental charges and other payments received by the commission in connection with such equipment and facilities, including amounts received under any sale thereof, shall be placed in the general railroad contingent fund.

"'(15) The commission may from time to time purchase, contract for the construction, repair and replacement of, and sell, equipment and facilities, and enter into and carry out contracts and other obligations in connection therewith, to the extent that moneys included in the general railroad contingent fund are available therefor, and in so far as necessary to enable it to secure and supply equipment and facilities to carriers whose applications therefor are approved under the provisions of this section, and to maintain and dispose of such equipment and facilities.

"'(16) The commission may from time to time prescribe such rules and regulations as it deems necessary to carry out the provisions of this section respecting the making of loans and the lease of equipment and facilities.

"'(17) The provisions of this section shall not be construed as depriving shippers of their right to reparation in case of overcharges, unlawfully excessive or discriminatory rates, or rates excessive in their relation to other rates, but no shipper shall be entitled to recover upon the sole ground that any particular rate may reflect a proportion of excess income to be paid by the carrier to the commission in the public interest under the provisions of this section.

"'(18) Any carrier, or any corporation organized to construct and operate a railroad, proposing to undertake the construction and operation of a new line of railroad may apply to the commission for permission to retain for a period not to exceed 10 years all or any part of its earnings derived from such new construction in excess of the amount heretofore in this section provided, for such disposition as it may lawfully make of the same, and the commission may, in its discretion, grant such permission, conditioned, however, upon the completion of the work of construction within a period to be designated by the commission in its order granting such permission.'

"SEC. 423. The first paragraph of section 16 of the interstate commerce act is hereby amended by inserting '(1)' after the section number at the beginning of such paragraph.

"SEC. 424. The second paragraph of section 16 of the interstate commerce act is hereby amended by inserting '(2)' at the beginning of such paragraph, and by striking out the last sentence thereof and inserting in lieu thereof the following as a new paragraph:

"'(3) All actions at law by carriers subject to this act for recovery of their charges, or any part thereof, shall be begun within three years from the time the cause of action accrues, and not after. All complaints for the recovery of damages shall be filed with the commission within two years from the time the cause of action accrues, and not after, unless the carrier, after the expiration of such two years or within ninety days before such expiration, begins an action for recovery of charges in respect of the same service, in which case such period of two years shall be extended to and including ninety days from the time such action by the carrier is begun. In either case the cause of action in respect of a shipment of property shall, for the purposes of this section, be deemed to accrue upon delivery or tender of delivery thereof by the carrier, and not after. A petition for the enforcement of an order for the payment of money shall be filed in the district court or State court within one year from the date of the order, and not after.'

"SEC. 425. The third, fourth, fifth, and sixth paragraphs of section 16 of the interstate commerce act are hereby amended by inserting '(4)' at the beginning of the third paragraph, '(5)' at the beginning of the fourth paragraph, '(6)' at the beginning of the fifth paragraph, and '(7)' at the beginning of the sixth paragraph.

"SEC. 426. The seventh paragraph of section 16 of the interstate commerce act is hereby amended to read as follows:

"'(8) Any carrier, any officer, representative, or agent of a carrier, or any receiver, trustee, lessee, or agent of either of them, who knowingly fails or neglects to obey any order made under the provisions of sections 3, 13, or 15 of this act shall forfeit to the United States the sum of $5,000 for each offense. Every distinct violation shall be a separate offense, and in case of a continuing violation each day shall be deemed a separate offense.'

"SEC. 427. The eighth and ninth paragraphs of section 16 of the interstate commerce act are hereby amended by inserting '(9)' at the beginning of the eighth paragraph and '(10)' at the beginning of the ninth paragraph.

"SEC. 428. The tenth paragraph of section 16 of the interstate commerce act is hereby amended to read as follows:

"'(11) The commission may employ such attorneys as it finds necessary for proper legal aid and service of the commission or its members in the conduct of their work, or for proper representation of the public interests in investigations made by it or cases or proceedings pending before it, whether at the commission's own instance or upon complaint, or to appear for or represent the commission in any case in court; and the expenses of such employment shall be paid out of the appropriation for the commission.'

"SEC. 429. The eleventh and twelfth paragraphs of section 16 of the interstate commerce act are hereby amended by inserting '(12)' at the beginning of the eleventh paragraph and '(13)' at the beginning of the twelfth paragraph.

"SEC. 430. Section 17 of the interstate commerce act is hereby amended by inserting '(1)' after the section number at the beginning of the first paragraph.

"SEC. 431. The second paragraph of section 17 of the interstate commerce act is hereby amended to read as follows:

"'(2) The commission is hereby authorized by its order to divide the members thereof into as many divisions (each to consist of not less than three members) as it may deem necessary, which may be changed from time to time. Such divisions shall be denominated, respectively, division 1, division 2, etc. Any commissioner may be assigned to and may serve upon such division or divisions as the commission may direct, and the senior in service of the commissioners constituting any of said divisions shall act as chairman thereof. In case of vacancy in any division, or of absence or inability to serve thereon of any commissioner thereto assigned, the chairman of the commission or any commissioner designated by him for that purpose, may temporarily serve on said division until the commission shall otherwise order.'

"SEC. 432. The third and fourth paragraphs of section 17 of the interstate-commerce act are hereby amended by inserting '(3)' at the beginning of the third paragraph, and '(4)' at the beginning of the fourth paragraph.

"The fifth and sixth paragraphs of such section are hereby repealed.

"The seventh paragraph of such section is hereby amended by inserting '(5)' at the beginning of such paragraph.

"SEC. 433. Section 18 of the interstate commerce act is hereby amended by inserting '(1)' after the section number at the beginning of the first paragraph, and '(2)' at the beginning of the second paragraph.

"Section 19a of the interstate commerce act is hereby amended by inserting '(a)' after the section number at the beginning of the first paragraph, '(b)' at the beginning of the second paragraph, '(c)' at the beginning of the seventh paragraph, '(d)' at the beginning of the eighth paragraph, '(e)' at the beginning of the ninth paragraph, '(f)' at the beginning of the tenth paragraph, '(g)' at the beginning of the eleventh paragraph, '(h)' at the beginning of the twelfth paragraph, '(i)' at the beginning of the thirteenth paragraph, '(j)' at the beginning of the fourteenth paragraph, '(k)' at the beginning of the fifteenth paragraph, and '(l)' at the beginning of the sixteenth paragraph.

"SEC. 434. Section 20 of the interstate commerce act is hereby amended by inserting '(1)' after the section number at the beginning of the first paragraph, '(2)' at the beginning of the second paragraph, '(3)' at the beginning of the third paragraph, and '(4)' at the beginning of the fourth paragraph.

"SEC. 435. The fifth paragraph of section 20 of the interstate-commerce act is hereby amended to read as follows:

"'(5) The commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to the provisions of this act, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of moneys. The commission shall, as soon as practicable, prescribe, for carriers subject to this act, the classes of property for which depreciation charges may properly be included under operating expenses, and the percentages of depreciation which shall be charged with respect to each of such classes of property, classifying the carriers as it may deem proper for this purpose. The commission may, when it deems necessary, modify the classes and percentages so prescribed. The carriers subject to this act shall not charge to operating expenses any depreciation charges on classes of property other than those prescribed by the commission, or charge with respect to any class of property a percentage of depreciation other than that prescribed therefor by the commission. No such carrier shall in any case include in any form under its operating or other expenses any depreciation or other charge or expenditure included elsewhere as a depreciation charge or otherwise under its operating or other expenses. The commission shall at all times have access to all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, and kept or required to be kept by carriers subject to this act, and the provisions of this section respecting the preservation and destruction of books, papers, and documents shall apply thereto, and it shall be unlawful for such carriers to keep any other accounts, records, or memoranda than those prescribed or approved by the commission, and it may employ special agents or examiners, who shall have authority under the order of the commission to inspect and examine any and all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, and kept or required to be kept by such carriers. This provision shall apply to receivers of carriers and operating trustees. The provisions of this section shall also apply to all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, kept during the period of Federal control, and placed by the President in the custody of carriers subject to this act.'

"SEC. 436. The sixth paragraph of section 20 of the interstate commerce act is hereby amended by inserting '(6)' at the beginning of such paragraph.

"The seventh paragraph of section 20 of the interstate commerce act is hereby amended by striking out 'Par. 7' at the beginning of such paragraph and inserting '(7)' in lieu thereof.

"The eighth to twelfth paragraphs, inclusive, of section 20 of the interstate commerce act are hereby amended by inserting '(8)' at the beginning of the eighth paragraph, '(9)' at the beginning of the ninth paragraph, '(10)' at the beginning of the tenth paragraph, '(11)' at the beginning of the eleventh paragraph, and '(12)' at the beginning of the twelfth paragraph.

"SEC. 437. The eleventh paragraph of section 20 of the interstate commerce act is hereby amended by inserting immediately before the first proviso thereof the following:

"'*Provided*, That if the loss, damage, or injury occurs while the property is in the custody of a carrier by water the liability of such carrier shall be determined by and under the laws and regulations applicable to transportation by water, and the liability of the initial carrier shall be the same as that of such carrier by water.'

"SEC. 438. The third proviso of the eleventh paragraph of section 20 of the interstate commerce act (not counting the proviso added by section 437 of this act) is hereby amended to read as follows:

"'*Provided further*, That it shall be unlawful for any such common carrier to provide by rule, contract, regulation, or otherwise a shorter period for giving notice of claims than 90 days, for the filing of claims than four months, and for the institution of suits than two years, such period for institution of suits to be computed from the day when notice in writing is given by the carrier to the claimant that the carrier has disallowed the claim or any part or parts thereof specified in the notice.'

"SEC. 439. The interstate commerce act is further amended by inserting therein a new section between section 20 and section 21, to be designated section 20a, and to read as follows:

"'SEC. 20a. (1) That as used in this section the term "carrier" means a common carrier by railroad (except a street, suburban, or interurban electric railway which is not operated as a part of a general steam railroad system of transportation) which is subject to this act, or any corporation organized for the purpose of engaging in transportation by railroad subject to this act.

"'(2) From and after 120 days after this section takes effect it shall be unlawful for any carrier to issue any share of capital stock or any bond or other evidence of interest in or indebtedness of the carrier (hereinafter in this section collectively termed "securities") or to assume any obligation or liability as lessor, lessee, guarantor, indorser, surety, or otherwise, in respect of the securities of any other person, natural or artificial, even though permitted by the authority creating the carrier corporation, unless and until, and then only to the extent that, upon application by the carrier, and after investigation by the commission of the purposes and uses of the proposed issue and the proceeds thereof, or of the proposed assumption of obligation or liability in respect of the securities of any other person, natural or artificial, the commission by order authorizes such issue or assumption. The commission shall make such order only if it finds that such issue or assumption (a) is for some lawful object within its corporate purposes and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the carrier of service

to the public as a common carrier, and which will not impair its ability to perform that service, and (b) is reasonably necessary and appropriate for such purpose.

"'(3) The commission shall have power by its order to grant or deny the application as made, or to grant it in part and deny it in part, or to grant it with such modifications and upon such terms and conditions as the commission may deem necessary or appropriate in the premises, and may from time to time, for good cause shown, make such supplemental orders in the premises as it may deem necessary or appropriate, and may by any such supplemental order modify the provisions of any previous order as to the particular purposes, uses, and extent to which, or the conditions under which, any securities so theretofore authorized or the proceeds thereof may be applied, subject always to the requirements of the foregoing paragraph (2).

"'(4) Every application for authority shall be made in such form and contain such matters as the commission may prescribe. Every such application, as also every certificate of notification hereinafter provided for, shall be made under oath, signed and filed on behalf of the carrier by its president, a vice president, auditor, comptroller, or other executive officer having knowledge of the matters therein set forth and duly designated for that purpose by the carrier.

"'(5) Whenever any securities set forth and described in any application for authority or certificate of notification as pledged or held unencumbered in the treasury of the carrier shall, subsequent to the filing of such application or certificate, be sold, pledged, repledged, or otherwise disposed of by the carrier, such carrier shall, within 10 days after such sale, pledge, repledge, or other disposition, file with the commission a certificate of notification to that effect, setting forth therein all such facts as may be required by the commission.

"'(6) Upon receipt of any such application for authority the commission shall cause notice thereof to be given to and a copy filed with the governor of each State in which the applicant carrier operates. The railroad commissions, public service or utilities commissions, or other appropriate State authorities of the State shall have the right to make before the commission such representations as they may deem just and proper for preserving and conserving the rights and interests of their people and the States, respectively, involved in such proceeding. The commission may hold hearings, if it sees fit, to enable it to determine its decision upon the application for authority.

"'(7) The jurisdiction conferred upon the commission by this section shall be exclusive and plenary, and a carrier may issue securities and assume obligations or liabilities in accordance with the provisions of this section without securing approval other than as specified herein.

"'(8) Nothing herein shall be construed to imply any guaranty or obligation as to such securities on the part of the United States.

"'(9) The foregoing provisions of this section shall not apply to notes to be issued by the carrier maturing not more than two years after the date thereof and aggregating (together with all other then outstanding notes of a maturity of two years or less) not more than 5 per cent of the par value of the securities of the carrier then outstanding. In the case of securities having no par value, the par value for the purposes of this paragraph shall be the fair market value as of the date of issue. Within 10 days after the making of such notes the carrier issuing the same shall file with the commission a certificate of notification, in such form as may from time to time be determined and prescribed by the commission, setting forth as nearly as may be the same matters as those required in respect of applications for authority to issue other securities: *Provided*, That in any subsequent funding of such notes the provisions of this section respecting other securities shall apply.

"'(10) The commission shall require periodical or special reports from each carrier hereafter issuing any securities, including such notes, which shall show, in such detail as the commission may require, the disposition made of such securities and the application of the proceeds thereof.

"'(11) Any security issued or any obligation or liability assumed by a carrier, for which under the provisions of this section the authorization of the commission is required, shall be void, if issued or assumed without such authorization therefor having first been obtained, or if issued or assumed contrary to any term or condition of such order of authorization as modified by any order supplemental thereto entered prior to such issuance or assumption; but no security issued or obligation or liability assumed in accordance with all the terms and conditions of such an order of authorization therefor as modified by any order supplemental thereto entered prior to such issuance or assumption, shall be rendered void because of failure to comply with any provision of this section relating to procedure and other matters preceding the entry of such order of authorization. If any security so made void or any security in respect to which the assumption of obligation or liability is so made void, is acquired by any person for value and in good faith and without notice that the issue or assumption is void, such person may in a suit or action in any court of competent jurisdiction hold jointly and severally liable for the full amount of the damage sustained by him in respect thereof, the carrier which issued the security so made void, or assumed the obligation or liability so made void, and its directors, officers, attorneys, and other agents, who participated in any way in the authorizing, issuing, hypothecating, or selling of the security so made void or in the authorizing of the assumption of the obligation or liability so made void. In case any security so made void was directly acquired from the carrier issuing it the holder may at his option rescind the transaction and upon the surrender of the security recover the consideration given therefor. Any director, officer, attorney, or agent of the carrier who knowingly assents to or concurs in any issue of securities or assumptions of obligation or liability forbidden by this section, or any sale or other disposition of securities contrary to the provisions of the commission's order or orders in the premises, or any application not authorized by the commission of the funds derived by the carrier through such sale or other disposition of such securities, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than $1,000 nor more than $10,000, or by imprisonment for not less than one year nor more than three years, or by both such fine and imprisonment, in the discretion of the court.

"'(12) After December 31, 1921, it shall be unlawful for any person to hold the position of officer or director of more than one carrier, unless such holding shall have been authorized by order of the commission, upon due showing, in form and manner prescribed by the commission, that neither public nor private interests will be adversely affected thereby. After this section takes effect it shall be unlawful for any officer or director of any carrier to receive for his own benefit, directly or indirectly, any money or thing of value in respect of the negotiation, hypothecation, or sale of any securities issued or to be issued by such carrier, or to share in any of the proceeds thereof, or to participate in the making or paying of any dividends of an operating carrier from any funds properly included in capital account. Any violation of these provisions shall be a misdemeanor, and on conviction in any United States court having jurisdiction shall be punished by a fine of not less than $1,000 nor more than $10,000, or by imprisonment for not less than one year nor more than three years, or by both such fine and imprisonment, in the discretion of the court.'

"SEC. 440. Section 24 of the interstate-commerce act is hereby amended to read as follows:

"'SEC. 24. That the commission is hereby enlarged so as to consist of 11 members, with terms of seven years, and each shall receive $12,000 compensation annually. The qualifications of the members and the manner of payment of their salaries shall be as already provided by law. Such enlargement of the commission shall be accomplished through appointment by the President, by and with the advice and consent of the Senate, of two additional Interstate Commerce Commissioners, one for a term expiring December 31, 1923, and one for a term expiring December 31, 1924. The terms of the present commissioners, or of any successor appointed to fill a vacancy caused by the death or resignation of any of the present commissioners, shall expire as heretofore provided by law. Their successors and the successors of the additional commissioners herein provided for shall be appointed for the full term of seven years, except that any person appointed to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed. Not more than six commissioners shall be appointed from the same political party. Hereafter the salary of the secretary of the commission shall be $7,500 a year.'

"SEC. 441. The interstate-commerce act is hereby further amended by adding at the end thereof three new sections, to read as follows:

"'SEC. 25. (1) That every common carrier by water in foreign commerce, whose vessels are registered under the laws of the United States, shall file with the commission, within 30 days after this section becomes effective and regularly thereafter as changes are made, a schedule or schedules showing for each of its steam vessels intended to load general cargo at ports in the United States for foreign destinations (a) the ports of loading, (b) the dates upon which such vessels will commence to receive freight and dates of sailing, (c) the route and itinerary such vessels will follow and the ports of call for which cargo will be carried.

"'(2) Upon application of any shipper a carrier by railroad shall make request for, and the carrier by water shall upon receipt of such request name, a specific rate applying for such sailing, and upon such commodity as shall be embraced in the inquiry, and shall name in connection with such rate, port charges, if any, which accrue in addition to the vessel's rates and are not otherwise published by the railway as in addition to or absorbed in the railway rate. Vessel rates, if conditioned upon quantity of shipment, must be so stated and separate rates may be provided for carload and less than carload shipments. The carrier by water, upon advices from a carrier by railroad, stating that the quoted rate is firmly accepted as applying upon a specifically named quantity of any commodity, shall, subject to such conditions as the commission by regulation may prescribe, make firm reservation from unsold space in such steam vessel as shall be required for its transportation and shall so advise the carrier by railroad, in which advices shall be included the latest available information as to prospective sailing date of such vessel.

"'(3) As the matters so required to be stated in such schedule or schedules are changed or modified from time to time, the carrier shall file with the commission such changes or modifications as early as practicable after such modification is ascertained. The commission is authorized to make and publish regulations not inconsistent herewith governing the manner and form in which such carriers are to comply with the foregoing provisions. The commission shall cause to be published in compact form, for the information of shippers of commodities throughout the country, the substance of such schedules, and furnish such publications to all railway carriers subject to this act, in such quantities that railway carriers may supply to each of their agents who receive commodities for shipment in such cities and towns as may be specified by the commission, a copy of said publication; the intent being that each shipping community sufficiently important, from the standpoint of the export trade, to be so specified by the commission shall have opportunity to know the sailings and routes, and to ascertain the transportation charges of such vessels engaged in foreign commerce. Each railway carrier to which such publication is furnished by the commission is hereby required to distribute the same as aforesaid and to maintain such publication as it is issued from time to time, in the hands of its agents. The commission is authorized to make such rules and regulations not inconsistent herewith respecting the distribution and maintenance of such publications in the several communities so specified as will further the intent of this section.

"'(4) When any consignor delivers a shipment of property to any of the places so specified by the commission, to be delivered by a railway carrier to one of the vessels upon which space has been reserved at a specified rate previously ascertained, as provided herein, for the transportation by water from and for a port named in the aforesaid schedule, the railway carrier shall issue a through bill of lading to the point of destination. Such bill of lading shall name separately the charge to be paid for the railway transportation, water transportation, and port charges, if any, not included in the rail or water transportation charge; but the carrier by railroad shall not be liable to the consignor, consignee, or other person interested in the shipment after its delivery to the vessel. The commission shall, in such manner as will preserve for the carrier by water the protection of limited liability provided by law, make such rules and regulations not inconsistent herewith as will prescribe the form of such through bill of lading. In all such cases it shall be the duty of the carrier by railroad to deliver such shipment to the vessel as a part of its undertaking as a common carrier.

"'(5) The issuance of a through bill of lading covering shipments provided for herein shall not be held to constitute "an arrangement for continuous carriage or shipment" within the meaning of this act.

"' SEC. 26. That the commission may, after investigation, order any carrier by railroad subject to this act, within a time specified in the order, to install automatic train-stop or train-control devices or other safety devices, which comply with specifications and requirements prescribed by the commission, upon the whole or any part of its railroad, such order to be issued and published at least two years before the date specified for its fulfillment: *Provided*, That a carrier shall not be held to be negligent because of its failure to install such devices upon a portion of its railroad not included in the order; and any action arising because of an accident happening upon such portion of its railroad shall be determined without consideration of the use of such devices upon another portion of its railroad. Any common carrier which refuses or neglects to comply with any order of the commission made under the authority conferred by this section shall be liable to a penalty of $100 for each day that such refusal or neglect continues, which shall accrue to the United States, and may be recovered in a civil action brought by the United States.

"'SEC. 27. That this act may be cited as the "interstate commerce act."'

"TITLE V.—MISCELLANEOUS PROVISIONS.

"SEC. 500. It is hereby declared to be the policy of Congress to promote, encourage, and develop water transportation, service, and facilities in connection with the commerce of the United States, and to foster and preserve in full vigor both rail and water transportation.

"It shall be the duty of the Secretary of War, with the object of promoting, encouraging, and developing inland waterway transportation facilities in connection with the commerce of the United States, to investigate the appropriate types of boats suitable for different classes of such waterways; to investigate the subject of water terminals, both for inland waterway traffic and for through traffic by water and rail, including the necessary docks, warehouses, apparatus, equipment, and appliances in connection therewith, and also railroad spurs and switches connecting with such terminals, with a view to devising the types most appropriate for different locations, and for the more expeditious and economical transfer or interchange of passengers or property between carriers by water and carriers by rail; to advise with communities, cities, and towns regarding the appropriate location of such terminals, and to cooperate with them in the preparation of plans for suitable terminal facilities; to investigate the existing status of water transportation upon the different inland waterways of the country, with a view to determining whether such waterways are being utilized to the extent of their capacity, and to what extent they are meeting the demands of traffic, and whether the water carriers utilizing such waterways are interchanging traffic with the railroads; and to investigate any other matter that may tend to promote and encourage inland water transportation. It shall also be the province and duty of the Secretary of War to compile, publish, and distribute, from time to time, such useful statistics, data, and information concerning transportation on inland waterways as he may deem to be of value to the commercial interests of the country.

"The words 'inland waterway' as used in this section shall be construed to include the Great Lakes.

"SEC. 501. The effective date on and after which the provisions of section 10 of the act entitled 'An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, shall become and be effective is hereby deferred and extended to January 1, 1921: *Provided*, That such extension shall not apply in the case of any corporation organized after January 12, 1918.

"SEC. 502. That if any clause, sentence, paragraph, or part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid such judgment shall not affect, impair, or invalidate the remainder of the act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment has been rendered."

And the Senate agree to the same.

ALBERT B. CUMMINS,
MILES POINDEXTER,
FRANK B. KELLOGG,
ATLEE POMERENE,
JOS. T. ROBINSON,
Managers on the part of the Senate.

JOHN J. ESCH,
E. L. HAMILTON,
SAMUEL E. WINSLOW,
Managers on the part of the House.

TREATY OF PEACE WITH GERMANY.

Mr. KING. As in open executive session, I offer a proposed amendment to the resolution of ratification of the German peace treaty, which I ask to have printed in the RECORD and lie on the table.

The proposed amendment was ordered to lie on the table and to be printed in the RECORD, as follows:

The United States understands that by article 10 the United States undertakes separately to respect the territorial integrity and existing political independence of each other member of the league, but that article 10 does not impose upon the United States the separate, sole, and singular duty to preserve the territorial integrity and existing political independence of all members of the league as against the external aggression of the other powers; but only that in case of such aggression or threat of the same the council will advise upon the means for preserving the territorial integrity and existing political independence of the member against which such aggression is exerted, and will recommend to members of the league the measures which it may

deem proper and necessary to protect the covenants of the league, and that the United States may consider such recommendations and take such action as Congress may in its discretion deem appropriate in such case.

HOUSE BILL REFERRED.

H. R. 12467. An act making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1921, and for other purposes, was read twice by its title and referred to the Committee on Military Affairs.

DEFICIENCY APPROPRIATIONS.

The VICE PRESIDENT. Morning business is closed.

Mr. WARREN. I ask unanimous consent to call up House bill 12046, the deficiency appropriation bill.

The VICE PRESIDENT. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 12046) making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1920, and prior fiscal years, and for other purposes, which had been reported from the Committee on Appropriations with amendments.

Mr. WARREN. I ask unanimous consent that we may omit the formal reading of the bill, that the bill may be read for amendments, the committee amendments to be first considered.

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

The Assistant Secretary proceeded to read the bill.

The first amendment of the Committee on Appropriations was, under the head of "Council of National Defense," on page 2, line 14, after the word "supplies," to strike out "including law books, books of reference, newspapers, and periodicals"; in line 15, after the word "travel," to strike out "including the expenses of members of the advisory commission, or subordinate bodies or other employees going to and attending meetings of the advisory commission or subordinate bodies"; and in line 20, after the words "Printing Office," to strike out "$50,000" and insert "$40,000," so as to make the clause read:

For expenses of the Council of National Defense; for the employment of a director, secretary, chief clerk, and other expert, clerical, and other assistance; equipment and supplies; and printing and binding done at the Government Printing Office, $40,000.

Mr. McKELLAR. Mr. President, I should like to ask the chairman of the committee a question in reference to the item for the Council of National Defense. Is not that work a mere duplication of work in other departments? As I understand, at the present time it is engaged purely in gathering together statistics and has no other purpose. Why should we not carry that in this bill and not have the work done by other departments of the Government?

Mr. WARREN. Possibly, what the Senator from Tennessee says may be true eventually, but at the present time there are unfinished matters before the council which should be finished. If the Senator will notice, the committee has reported to reduce the amount of the appropriation. The council asked for $150,000; that was the estimate; the other House allowed $50,000, and the Senate committee has recommended that the amount be reduced to $40,000. Furthermore, the committee has recommended the elimination of many of the items to which the appropriation may be applied, so that it shall extend only to the routine business until matters are finished. For instance, in connection with the affairs of the publicity bureau, the so-called Creel bureau, Mr. Ellsworth, of the council, states that there are sums to be paid and sums yet to be collected. So the committee has seen fit to allow $40,000 as a sum which is necessary to be appropriated now, whatever may become of the National Defense Council finally as an organization.

Mr. SMITH of Georgia. Will the Senator permit me to ask him a question?

Mr. WARREN. Yes.

Mr. SMITH of Georgia. I see this appropriation also carries the privilege of having printing and binding done at the Government Printing Office.

Mr. WARREN. Yes.

Mr. SMITH of Georgia. I thought we were going to stop that.

Mr. SMOOT. Mr. President, I will say to the Senator from Georgia that we are trying to stop as much of it as we can; but the law which appropriated the money for the settlement of the affairs of the publicity bureau—the so-called Creel bureau—provided that it should be done in a certain way. Not only that, but the reports of the Council of National Defense, if we are going to get anything out of them, have got to be printed. If we do not wish to print them, then let us knock out this $40,000 entirely.

While I am on my feet, I wish to express the hope that this may be the last request that will ever be made for an appropriation for the Council of National Defense.

Mr. SMITH of Georgia. Ought we not, at least, to limit the amount of the printing? If we turn them loose to print all they please at the Government Printing Office at the expense of the Government, how can we hope to avoid the evils which the Senator from Utah has been presenting to the attention of the Senate from time to time in the past?

Mr. SMOOT. I will say to the Senator from Georgia that under the $40,000 appropriation that can not be done, because the first requirement will be the payment of the salaries of the employees of the National Council of Defense; and I say that that is going to take most of the $40,000. That is why we cut the appropriation down to $40,000.

Mr. SMITH of Georgia. But they do not pay anything for the printing at the Government Printing Office, do they?

Mr. SMOOT. Oh, yes; it comes out of the $40,000, just the same as all other departments pay the Printing Office for the amount of printing done. In this case, the printing will come out of the $40,000.

Mr. McKELLAR. I should like to ask another question about this matter. This item provides an appropriation of $40,000 for expenses, and also "for the employment of a director, secretary, chief clerk, and other expert, clerical, and other assistance." Manifestly that amount will not do anything more than pay the salaries and keep certain men on the pay roll. I understand the council originally asked for $150,000, but that has now been reduced to an amount sufficient to keep these men in the Government employ at probably fairly good salaries under the circumstances. I think the appropriation ought to be eliminated entirely. I am advised—I do not know how accurately, and I am not willing to say how accurately, because I do not myself know—that, as a matter of fact, the work that is being done by these men is a duplication of work which is done in other departments. I think the Senator from Utah will probably know whether or not that is correct, and I should like for him to state to the Senate whether or not it is correct.

Mr. SMOOT. I will say as to the work of the Council of National Defense from now on that the remaining employees under that organization are doing work that no other department is doing. It is a summary of the work that has already been done. The reports are to be printed.

Mr. McKELLAR. I have noticed their printed report, and it seems to me to be largely a duplication of what is found in reports of other departments. I think the appropriation is unnecessary, and I hope it will be defeated. Indeed, in order to see whether we are going to have economy, I move to strike it out entirely, if that be now in order.

Mr. SMOOT. Before the Senator makes that motion I desire to say one other word. I am rather inclined to sympathize with the Senator's views; but if we strike this appropriation out entirely, what is to become of the winding up of the affairs of the publicity bureau which this council has in hand at the present time?

Mr. McKELLAR. Under the law that now exists the President has ample authority to turn that bureau over to other bureaus. There is no trouble about it in the least. He may transfer that bureau to other departments to which it ought to be transferred.

Mr. SMOOT. I wish I thought that that were possible.

Mr. McKELLAR. The Senator knows that the Overman Act, which is still in existence, provides that that may be done.

Mr. SMOOT. I am aware of the existence of that act.

Mr. McKELLAR. There is no doubt in the world about the President's authority.

Mr. SMOOT. It seems to me the other departments to which the work of that bureau might be transferred would immediately apply to Congress for additional employees, for they do not now have the work in hand, and it would involve a greater expense than to make this appropriation for the completion of the work of the bureau, which I think Congress agrees should be completed.

Mr. McKELLAR. All I have to say in answer to that is that if that argument were used at each successive Congress we should have these bureaus until the end of time.

Mr. SMOOT. I have expressed the hope that this would be the last appropriation that would ever be made for the Council of National Defense.

Mr. WARREN. Mr. President, I hope this item will not be stricken out. The Council of National Defense is provided for by law, and we are proceeding under the law in proposing this appropriation of $40,000 for the work of the council up to the 30th of June next. As to future appropriations, that is a matter which rests, of course, with Congress; but if the council is to be discontinued there must be a change in the law, for, as I have said, it is now provided for by law.

The Secretary of War expressed anxiety enough about this matter to appear before the House committee to supplement the statements of those connected directly with the council, and there are in the hearings many pages setting forth the reasons why the appropriation should be made. Furthermore, the Secretary of War requested that he might come before the subcommittee of the Senate Committee on Appropriations, and when he appeared before the subcommittee this was the only item that he wished to bring to our attention, as he considered the other matters of less importance.

Mr. McKELLAR. Mr. President, if the Senator will yield there, do I understand the Senator to say that if this item is agreed to as it appears in its amended form there will be no more appropriations for succeeding years? If I do so understand, I am perfectly willing that the matter shall take that course. I am willing to make any sort of an arrangement that will effectually do away with this service, which is merely, I repeat, a duplication of the work of other departments, in my judgment.

Mr. WARREN. I do not say that it is a mere matter of carrying it on until then, for if the existing law is not repealed, there will be other appropriations made necessary.

Mr. CHAMBERLAIN. Mr. President, I wish to suggest that I hope the Senator from Wyoming, the chairman of the Committee on Appropriations, will not make the promise that is now asked of him.

Mr. WARREN. I have no intention of doing so.

Mr. CHAMBERLAIN. Because the Council of National Defense proved itself of great use during the war in getting together statistics that were availed of by all of the bureaus of the War Department. I do not think it ought to be abolished; I think it ought to be retained as a permanent institution.

Mr. HITCHCOCK. Mr. President, I should like to ask the Senator what the law is to which he refers?

Mr. WARREN. Just a moment; I was about to tell the Senator, and I will do so now. The Council of National Defense was created in the Army appropriation bill of 1916, and the most excellent chairman of the committee at that time has alluded to the value of the services rendered by it. It is an advisory board, composed of six members of the Cabinet. The law also authorizes the President upon recommendation to appoint an advisory commission designed to bring into the service of the Government, on a volunteer basis, six or seven men of great distinction and expertness in the industrial and commercial activities of the country, so that the advice of men of affairs may be brought to the aid of the council and be made available to the Government. The council brings together the War, Navy, Interior, Agriculture, Commerce, and Labor Departments. As the Senator from Nebraska is aware, the chairman of the council is the Secretary of War, and other members of the Cabinet are members. The council also has a director and a corps of assistants.

The matter to which I referred a moment ago in regard to winding up the affairs of the so-called Creel bureau is in charge of a Mr. Ellsworth, who is the assistant director. Since he has taken hold of that work he has turned into the Treasury, in the first place, a million dollars, and since then something over $300,000, and there is possibly as much more in the way of unsettled accounts which, while it may not be turned into the Treasury, will at least be collected and used to pay such obligations as may exist.

Instead of the $150,000 asked for and the $50,000 allowed by the House, the Senate Committee on Appropriations recommends an appropriation of $40,000, and the items to which that amount shall be applied have been restricted as closely as the subcommittee and later the full committee thought it was proper to do.

As to the future of this council, it is a matter for Congress to decide whether it shall or shall not be continued. This appropriation has nothing whatsoever to do with that feature of the question, and is designed merely to furnish the small sum which will be necessary to conduct its business from now until the 30th day of June.

Mr. HITCHCOCK. The 30th day of next June?

Mr. WARREN. The 30th day of next June.

Mr. HITCHCOCK. I should like to ask the Senator what force the Council of National Defense now employs? What does the pay roll amount to?

Mr. WARREN. I have not the pay roll before me, but I think it can be procured for the Senator in a moment. The council has a director, an assistant director, and the usual quota of stenographers and clerks.

Mr. HITCHCOCK. I must confess that my impression was that the Council of National Defense was only to exist during the emergency with which the country was then confronted.

Mr. WARREN. That was not the intention of the law. However, I shall see if I can answer the Senator's inquiry. In connection with the estimate of $150,000, the question was asked—

How much a force have you now?

The reply was "63 all together."

Mr. HITCHCOCK. That strikes me as a great extravagance. I can not see any possible use for that number of employees on the pay roll of the Council of National Defense. I do not know anybody who reads their reports, and, while it may be desirable to keep a small organization together for the sake of coordinating the work of various departments of the Government, there certainly is no use for keeping in existence a great bureau like that with 63 people employed.

Mr. WARREN. Let me say that during the war the employees of the Council of National Defense amounted to 295, but the number has been reduced, and under the appropriation which the committee has allowed they will not be able to retain 63, but only a portion of that number.

Mr. HITCHCOCK. What number can be kept under the appropriation proposed by the Committee on Appropriations?

Mr. WARREN. I do not know that I am prepared to answer the question specifically, because I do not know just how extensive the duties devolved upon the council are and what inquiries they receive.

Mr. HITCHCOCK. Can the Senator state how he arrives at the figures $40,000? I should like to know how it is proposed to spend the money.

Mr. WARREN. The way it is arrived at is this: As I have stated to the Senator, an estimate was submitted in the regular way for $150,000. The House thought $50,000 would be sufficient, and the Senate committee, after a hearing and examining the list of employees, believed that the council could pull through with $40,000. In the meantime it is presumed that this matter will be taken up in connection with other legislation and properly provided for.

Mr. HITCHCOCK. In fixing $40,000 there must have been some estimate that the committee made in order to arrive at that conclusion. How many employees are provided for in the estimate?

Mr. WARREN. Oh, Mr. President, in that case it is necessary to know the salary each employee receives and what the contingent expenses are. That is a refinement of analysis that no committee of the Senate can possibly have the time to make, for we have to consider hundreds of subjects. We sometimes have to make assumptions.

Mr. SMOOT. Mr. President, the committee thought that $150,000 was altogether too much money to appropriate for the Council of National Defense up to June 30 of this year. The council has 63 employees at this time. The duties required of the council ought to be completed by one-third the number of employees now on the roll of the council, or by slightly more than 20 employees. The payments to the twenty-odd employees until June 30 and the estimate as to the amount of printing that will be required do not exceed $40,000, and therefore the committee agreed upon $40,000.

Mr. McKELLAR. Mr. President, will the Senator tell us what salary the director receives?

Mr. SMOOT. I have not the figures before me, but it would not surprise me if his salary were $10,000.

Mr. McKELLAR. Does not the Senator think that in the case of the director of a bureau expending $40,000 and employing twenty-odd clerks the payment of that much salary is rather topheavy?

Mr. SMOOT. I will remind the Senator that this is a deficiency appropriation.

Mr. McKELLAR. I will ask the Senator another question. As I recall the act authorizing the creation of the Council of National Defense, it provides that it must be a voluntary association. Can the Senator give the number of volunteers now connected with the council? If the act provides that the services shall be voluntary, or largely so, what I want to know is how many are on the pay roll and how many are volunteers?

Mr. SMOOT. I think the only volunteers are the Cabinet appointments, including the Secretary of War, the Secretary of the Navy, the Secretary of the Interior, and, if I remember correctly, the Secretary of Labor. Of course, they are not paid for their services in connection with the work of the Council of National Defense; but they are not the men who do the work; the men who do the actual work, as enumerated in the amendment, are the director, the secretary, the chief clerk, and other expert and clerical assistants. They have always drawn salaries, and are doing so now.

Mr. McKELLAR. My judgment is that this item should go out and that the business of the council should be closed.

Mr. MYERS. Mr. President, I should like to ask the chairman of the committee a question.

Mr. WARREN. I wish to say, on the matter of salary, that while it may have been $10,000 during the war, my understanding is that it is less than that sum at the present time.

Mr. SMOOT. I did not say it was $10,000. I only expressed the opinion, because that was the salary that has been paid to the directors of nearly all the small bureaus that have been created.

Mr. McKELLAR. Who fixes the salary, and at what figure is it fixed?

Mr. WARREN. We have sent for the act that was passed, to show what the salary is.

Mr. McKELLAR. Then it is not left to the people in charge to fix their own salaries?

Mr. WARREN. We shall determine that when we get the law.

Mr. MYERS. Mr. President, I should like to ask the chairman of the committee a question. I should like to know if the appropriation at the top of page 2, the first item on the page, is for the payment of the expenses of the commission which has been sitting in this city for the purpose of adjusting the wages of coal miners?

Mr. WARREN. I understand this to be for the commission that is now in charge of the affairs that have been submitted to them by the President.

Mr. MYERS. That item is for the payment of the expenses of that commission?

Mr. WARREN. I so understand.

Mr. MYERS. Is there any item in the bill for the payment of the expenses of the first industrial conference, so-called, which sat here last fall during the steel strike, and accomplished nothing?

Mr. WARREN. An appropriation was asked for, and one was made. Whether or not that is sufficient, we have not yet been informed.

Mr. MYERS. Is there any item in this bill for the further payment of the expenses of that conference?

Mr. WARREN. There is not.

Mr. MYERS. Is there any item in this bill for the payment of the expenses of the second industrial conference which is now sitting in the city to consider every dispute between labor and capital?

Mr. WARREN. I will say to the Senator that there is. We shall come to that in a little while.

Mr. MYERS. I am opposed to these numerous commissions and conferences to discuss every dispute between labor and capital. I think they only encourage strikes. I am sure the commission which is now sitting, the expenses of which this item is intended to pay, will decree a further increase in the wages of coal miners, over and above the 14 per cent which has already been allowed them, and all of which, there is evidence to show, is now coming out of the public. I think it was a foregone conclusion when this commission met that it would grant a still further increase, and the public will have to bear that, and I think these numerous commissions to arbitrate every dispute about wages simply encourage workmen to strike. I think they reason in this way: "We will go on a strike, and it will be referred to some Government commission. The Government will interfere, and appoint a commission to arbitrate the matter, and if we do not get all that we demand, still we will get a part of it"; and it comes out of the public, invariably.

I am not in favor of the plan, but I simply ask for information as to the nature of the item.

Mr. WARREN. I will say to the Senator that I agree with many things he has said regarding these commissions. Of course, it becomes the duty of the Appropriations Committee under the law to recommend appropriations when requested by the proper departments, if the committee thinks the appropriations should be made. In fact, it is a duty. There must be some very good reason why they do not do it if they do their duty.

As to the first commission, they asked for some two hundred and odd thousand dollars. We provided in an appropriation bill for some sixty or seventy thousand dollars, but all of it was not used, and we have provided no more in this bill for that commission.

As to the second industrial conference, the House put in a matter, as I remember, of some $20,000. It was stricken out on a point of order, and we have not reinstated it, so that it is not contained in this bill.

As to the coal matter, I think the Senator is right. I think the 14 per cent, and perhaps more, will be paid by the Senator and by me and others who have to buy coal; but here is a commission appointed in due course by the President of the United States. They are honorable gentlemen—at least, we have no reason to doubt it—they are tendering their services, and it would seem that we must in this case provide some compensation, at least, for their clerks and their other incidental expenses.

Mr. MYERS. I thank the Senator for his information. I just wanted to be informed.

I said a minute ago that I did not think the first industrial conference, which assembled here last fall, resulted in anything; but I will correct that. I think it did have one result. I think it resulted in the steel strike, which was then in existence, being prolonged very much longer than it would have lasted if that industrial conference had not assembled.

Mr. FRELINGHUYSEN. Mr. President, I presume that there is an obligation upon the Senate to appropriate this money for the expenses of this commission which was created by the President under the authority of the Lever Act. I have no confidence in this commission, in the results which it will obtain.

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

Mr. FRELINGHUYSEN. Yes.

Mr. MYERS. Is not the Senator confident that it will result in an increase of wages which the public will have to bear?

Mr. FRELINGHUYSEN. I am not prepared at the present time to make that statement, but I feel that the interests of the public are not being conserved by this commission. I feel that the commission was constituted to settle a wage dispute between the miners and the operators, and that they are devoting their attention to that problem, and that the interests of the public at the present time are not being considered by the commission.

When the commission was constituted, the President in his letter, I think to the miners, stated that the 14 per cent advance recommended by Dr. Garfield should be borne by the operators; that the public should not be compelled to pay an increased price for their coal. That statement was reinforced by the statement of Dr. Garfield, and further by the statement of the Attorney General in a telegram which was not sent to the head of the miners' union, but which appeared in the hearings before a subcommittee of the Interstate Commerce Committee, in which the Attorney General stated that the 14 per cent was to be borne by the operators. Now, testimony yesterday given by the public-service corporations of the United States showed that 80 per cent of the bituminous coal consumed in the country is under contract, and that in all of the contracts there is a labor provision which provides for an increased price of coal should the wages of the miners be increased, and, therefore, automatically the increase of 14 per cent imposed upon these public-service corporations a burden of 80 per cent of $170,000,000 added to the cost of the commodity. This is on top of $450,000,000 added to the cost of the commodity during the war by reason of the 58 per cent added to the wages of the miners by Dr. Garfield in his so-called Washington agreement.

The public at the present time is under the impression, by reason of these public statements, that the operators are going to bear this 14 per cent advance; but that is an erroneous and an inaccurate and an untruthful statement, because at the present time the public-service corporations are paying it, and indirectly, through them, the consumers, because they must increase the price of electricity, of gas, and of transportation by reason of the increased cost of the coal which they consume.

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

Mr. FRELINGHUYSEN. I yield.

Mr. WOLCOTT. Is it not true that the operators likewise agreed with the statement that the 14 per cent increase would be absorbed by them and not passed on to the public?

Mr. FRELINGHUYSEN. I so read the statement made by the operators in accepting the terms laid down by Dr. Garfield in their answer, which I think was addressed to the President.

Mr. WOLCOTT. I so understand their statement myself; so is not this the situation—that every party to the settlement which resulted in setting up this commission agreed upon the proposition that the 14 per cent increase would be absorbed by the operators, the operators being a party to that agreement. And if the 14 per cent increase is now being passed on to the public, as charged by the Senator, and as I believe is true, because I think the Senator's information is correct, is it not true that the operators are breaching their agreement? And is it fair in any wise to blame the commission that is investigating the subject for that situation? Is it not rather fair to assume that the commission, having before it the agreement

of the operators that they will not pass on the 14 per cent, in the settlement will require the operators to carry the 14 per cent?

Mr. FRELINGHUYSEN. It is quite true that there is an obligation upon the operators to pay this advance, but on the face of the contracts already made with the public-service corporations they are imposing it upon the public-service corporations and the consumers. The commission which is investigating the wage question, with powers to increase or decrease the wages, or readjust them, has the power to impose an additional burden on the public, but it has not the power to bring relief to the consumers by compelling the operators to assume this burden, and that is why I am complaining of the one-sidedness of this matter. At the present time there is no Fuel Administrator.

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

Mr. FRELINGHUYSEN. When I finish my statement I shall be very glad to yield. Before Dr. Garfield's resignation certain of his powers were transferred to the Director General of Railroads, but those powers were limited to the distribution of coal. Other powers were transferred to this commission to settle the wage dispute; but as to the power of readjusting this question, of compelling the operators to assume that burden, and giving the public-service corporations a ruling to the effect that they had a right to protest and compel the operators to assume this added cost, there is no power in the Government at the present time, except in the President of the United States, to correct that injustice against the public until and unless the President sees fit to appoint a fuel administrator to act in that capacity or acts himself.

Mr. WOLCOTT. Mr. President, I should like to suggest to the Senator that his exception answers all that he has said. It is true that if this commission determines that the increased wage cost shall be borne by the operators, there is power to-day to see to it that that settlement, if not voluntarily accepted by the coal operators, as I believe perhaps they agreed in advance to accept it, shall be accepted by compulsion as long as the Lever Act is in effect. Therefore, why does the Senator say that this commission can do nothing but pass a burden on to the public, and has no power and there is no power anywhere in the Government to relieve the public from undue burdens?

Mr. FRELINGHUYSEN. There is power in the President's hands, or in the hands of an agent appointed by him.

Mr. WOLCOTT. Why does the Senator assume that if a wrong is being done to the public by the coal operators the President of the United States will not call forth his power and correct the wrong? The Senator is rather in advance of the time. He does not know what will be done. He is assuming the worst. He is assuming that the President will not do his duty in the situation and will not transfer the power to those who can effectively correct the wrong.

Mr. FRELINGHUYSEN. I am not running in advance of the times. The Senator himself is. The burden is imposed upon the public. Three months have transpired, and the public is bearing the burden. At the present time there is no relief in sight, and there has been no power conferred upon any agency of the Government by the President or anyone else to relieve the public, and this commission has not the power.

I simply rose to make a protest against this kind of a commission. While I am going to vote for this item, because I intend to support the committee, I believe that the proper method to be pursued in order to give justice would have been to appoint an impartial commission, not connected with the industry, composed of men who could administer justice to the public as well as to the miners and the operators, a commission like the Gray commission, with which the Senator probably is familiar, which made a study of the anthracite problem, which composed those differences, and which has resulted in industrial peace in the anthracite region ever since, instead of a commission composed of operators and miners, who sit down in agreement and between themselves arrange to increase the wages without giving the public hearings.

Mr. WOLCOTT. Mr. President, I am sure the Senator wants to be fair. He describes this commission as composed of miners and operators. Is not the Senator aware of the fact that there is a representative of the public on the commission, who is in no wise connected with the coal industry? If that be true, why does the Senator state that this is a commission set up by miners and operators alone, people who are interested only—the one in securing bigger profits out of the public and the other in securing bigger wages? There is a representative of the public on the commission.

Mr. FRELINGHUYSEN. There is a so-called representative of the public on the commission, it is true; but the very fact that there is $170,000,000 imposed upon the public to-day in the way of increased cost of coal, and the public believe that the operators are paying it, and this commission has no power to compel the operators to pay it, shows that the public are not being served by that commission.

Mr. HARRISON. Mr. President, I wish to ask the Senator a question. He is familiar with this subject. Is there not some committee of the Senate now investigating the coal situation or the coal strike under a resolution passed by the Senate?

Mr. FRELINGHUYSEN. The coal situation, but not the coal strike.

Mr. HARRISON. It was some months ago, as I recall, when the resolution was passed.

Mr. FRELINGHUYSEN. Yes.

Mr. HARRISON. Who is chairman of that committee?

Mr. FRELINGHUYSEN. I am.

Mr. HARRISON. Has there been any report made to the Senate?

Mr. FRELINGHUYSEN. Not yet. The committee is continuing hearings, and only yesterday developed the fact that notwithstanding the public statement of the President and Dr. Garfield and the Attorney General that the 14 per cent was to be borne by the operators, the public-service corporations and indirectly through them the people were bearing the increased cost by reason of the nature of the contracts that the operators have with the public-service corporations.

Mr. HARRISON. Can the Senator give us any idea when that committee will make a report?

Mr. FRELINGHUYSEN. I can not. We have some investigations yet to make in the anthracite fields, and we also have the question of considering recommendations to Congress for legislation which we hope will relieve many of the problems that now exist.

The committee has been continuously conducting hearings, and I believe that they accomplished something in cooperating with the Director General in relieving the car shortage in the fall, which I think resulted in an increased supply of coal which tided us over the one month of the strike. The committee will be able to report, I hope, within a month.

There are other subjects which the committee wish to take up. We suspended our hearings owing to the fact that members of the committee were engaged on other important committees, but we resumed them yesterday and contemplate completing them and making a report to Congress.

Mr. KING. Will the Senator permit me to ask a question in the nature of a suggestion?

Mr. FRELINGHUYSEN. I am very glad to do so.

Mr. KING. I suggest to the Senator and to the committee of which he is chairman that if the coal operators have added the 14 per cent to the selling price, there is such a combination manifest upon its face that it would seem that they were violating the terms of the Sherman antitrust law. I think it would be a good idea for the chairman of the committee to challenge the attention of the Department of Justice to this apparent violation of law and have some of the coal operators indicted. They ought to be prosecuted.

Mr. FRELINGHUYSEN. I thank the Senator for the suggestion.

The VICE PRESIDENT. The question is on agreeing to the first amendment reported by the committee.

Mr. KING. Mr. President, I should like to ask the chairman of the committee by what authority this commission created a deficit of $40,000? They knew, as I understand, the limit of the appropriation which was carried by the general appropriation act to take care of the commission until the 30th of June, 1920. If, in the teeth of the law, they incurred a deficit, it would seem as if somebody was liable to punishment, as many other officials of the Government are who, in the face of the statute, create large deficits.

Mr. WARREN. The Senator's inquiry is a very pertinent one, and could be made with reference to almost any item. This item, however, was created in this way: We made no appropriation in 1919 except to reappropriate what had been appropriated the year before and what they had not expended. That was not sufficient, of course, to carry them through this year, and it requires this much, as we believe, in order to carry the commission to the end of the fiscal year.

Mr. KING. Did the committee understand, when they reappropriated the amount to which the Senator refers, that that amount would be inadequate to carry the commission through until the close of the fiscal year?

Mr. WARREN. It was not considered as to sufficiency, because it was there and reappropriated, assuming that it would go as far as it could. As the Senator knows, during these war times we have been besieged with a constant flow of de-

ficiencies, some of them perhaps erroneous, but most of them created in a natural way. We believed, of course, that they would cut down, and they have cut down, from 295 employees to 63 employees. So we simply reappropriated that sum, which otherwise would have gone back into the Treasury and left them without funds.

Mr. McKELLAR. Mr. President, will the chairman state whether he has received any information with reference to the salaries connected with this commission? For instance, how much is the salary of the director?

Mr. WARREN. The members of the council draw no salary.

Mr. McKELLAR. I understand that, but I am speaking of the director.

Mr. WARREN. The director during the heavy press has had $200 a week.

Mr. McKELLAR. That is $10,400 a year.

Mr. WARREN. The clerks have had from $3,000 down through the usual civil-service payments.

Mr. McKELLAR. Does the director receive the same salary since the war is over?

Mr. WARREN. I can not tell the Senator what his salary is at the present moment, but I understand it has been cut down. Of course, it is from a lump-sum appropriation, as the Senator knows.

Mr. McKELLAR. My understanding is that it is $10,400 a year. It does seem to me that it is not proper to fix a salary like that out of a lump-sum appropriation.

Mr. WARREN. The Senator must not overlook the fact that we were asked for $150,000, of which we are only giving $40,000, or about one-fourth the amount requested. The Senator must see that they had to be cut down in order to exist.

The amendment was agreed to.

The next amendment was, under the head of "District of Columbia," subhead "Public schools," on page 2, line 23, after the word "from," to strike out "February" and insert "March," so as to make the clause read:

Teachers: For 68 teachers from March 1 to June 30, 1920, inclusive, at minimum rates of salary, as follows.

Mr. KING. Mr. President, I desire to ask the chairman of the committee if in the general appropriation act which carried the appropriations for the District for educational purposes there was not appropriated the required amount to take care of the schools for the current year?

Mr. WARREN. I will say to the Senator that the committee did not give the amount asked for nor did it give them the number of teachers that were asked for. Furthermore, from our best information, the necessities are for more teachers than they asked for and more than they have had. They now ask for 139 teachers in addition to the present force, and we are giving them 68, which I think is entirely proper. We took out the word "February" and inserted the word "March," because the month of February is nearly past.

Mr. HARRISON. Mr. President, I wish to make an inquiry regarding this item. I notice that the appropriation is reduced on page 3, in the next committee amendment which we will take up, from $28,966.67 to $23,173.33. I take it that is because the month of February was stricken out of the bill?

Mr. WARREN. Yes.

Mr. HARRISON. I understood the chairman to say that there had been a request for a good many more teachers than the committee allowed.

Mr. WARREN. More than the committee on the House side allowed, and the Senate committee did not consider it proper at this time to increase the number beyond what the House had provided.

Mr. HARRISON. I have just read the hearings before the Senate committee, and I do not find there that a representative of the school system of the District was before the Senate committee.

Mr. WARREN. We had no one from the District of Columbia before the committee on that and other items, because they were all heard before the House committee quite extensively. In fact, no one asked us for a hearing regarding the District of Columbia items. It was the conclusion of the Senate committee to abide by what the House had done. The cutting down of the amount of money, as the Senator will readily perceive, is simply cutting off the one month.

Mr. HARRISON. That is what I thought. I wish to ask the chairman of the committee if there was any increase in the salary of teachers in the District of Columbia during the last year?

Mr. WARREN. There was last year.

Mr. HARRISON. How much?

Mr. WARREN. I can turn to the law and ascertain.

Mr. HARRISON. I should like to get from the committee information as to just what increase the teachers have had in the last two or three years. Has the increase been proportionately as large as to Government employees generally?

Mr. SMOOT. I will say to the Senator that the increase to the teachers of the District of Columbia was larger than the bonus given to Government employees, particularly as to the lower-salaried teachers in the District. In fact some of the lower-salaried teachers were raised as much, I think, as 50 per cent.

Mr. WARREN. The increase was extended to 1,986 teachers, and the amount of the increase was $189,010.

Mr. HARRISON. The reason that prompted me to ask the question is that I have noticed that the superintendent of schools in this city is making speeches all the time before great crowds and complaining about the lack of teachers in the city of Washington and the small pay of teachers in this city. If the condition he depicts is true Congress ought to remedy the situation.

Mr. WARREN. If the Senator will allow me, I shall give him the amount of the increases extended to the teachers. The thousand-dollar teachers were given $1,060; the nine-hundred-and-fifty-dollar teachers were increased to $1,000; those at $800 to $900; class 3 and class 2 from $750 to $800; class 1 from $750 to $850. The special beginner teachers were increased from $800 to $900.

Mr. HARRISON. That was for last year, if I understood the Senator correctly?

Mr. WARREN. It was in last year's appropriation act for the present fiscal year.

Mr. HARRISON. The Senator from Utah stated that in some instances the increase has been as large as 50 per cent?

Mr. SMOOT. That only applied to the low-salaried teachers.

Mr. HARRISON. What is the information of the chairman of the committee as to whether there is a sufficient number of teachers in the District of Columbia to adequately take care of the situation?

Mr. WARREN. First, I wish to say that they have asked for higher salaries, and that matter is being considered by the proper subcommittee of the House in the annual appropriation bill for the fiscal year 1921. Perhaps I might read a few words from Mr. Thurston's testimony before the House committee on the subject about which the Senator has made inquiry:

The CHAIRMAN. I had supposed that you were more crowded for building facilities than for teachers.

This was where they were asking for an increased number of teachers.

Mr. THURSTON. We are crowded, and the only way we can take care of these classes is by early and late hours.

He had mentioned those we had provided teachers for.

We can begin early in the morning and let some of the students have their instruction and then have others come in and have the use of the classrooms for recitation purposes; by that means we get the use of certain classrooms for an additional number of pupils, and it enables us to extend the use of our laboratories, auditoriums, and facilities of that kind. Of course, when we go on those shifts we, so far as possible, cut out the study hours; the student studies more outside and he gets just as much instruction under that plan as he gets under the other. We do everything to save space or increase the space we can use.

All those matters are being considered in the forthcoming annual bill.

Mr. HARRISON. There is an item on page 3 of the bill providing for 16 teachers at a thousand dollars each. That means at the rate of a thousand dollars a session?

Mr. WARREN. It means a thousand dollars per annum.

Mr. HARRISON. Of course, that means nine months, and they have the other three months in which to do whatever they desire.

Mr. WARREN. It means 10 months subject to vacation. It means that January and February have passed and there are 10 months for which they will receive the pay, unless there is some deduction for lost time.

Mr. HARRISON. I understand it is in that proportion.

Mr. WARREN. Yes, and they are allowed that salary, which was increased in the last bill, as I informed the Senator.

Mr. HARRISON. I wish to inquire of the chairman with reference to "two principals of junior high schools, at $2,500 each." Then the bill provides:

Group A of class 6, 25 at $1,060 each.

Then classes 5, 4, 2, and 1 are provided for. What are the requisites for each particular class?

Mr. WARREN. The teachers are supposed to be classed according to their education and ability. Furthermore, they are classed as to the kind of students they have. As the Senator well knows, the proper teachers are selected to instruct the students in the kindergarten class and up through the grades of the schools. Teachers with lesser education, perhaps, though

with special training, go to the kindergarten classes and the ones of higher education to the high schools, and so forth.

Mr. HARRISON. What is there in the assertion that many of the school-teachers, because of lack of pay, are resigning positions, and there is now a shortage of school-teachers in the District, and the children are suffering thereby?

Mr. WARREN. That is true in all Government lines. The teachers, the dear things, will get married when they have an opportunity, as they ought to do, and sometimes they get better compensation in other lines. That is a matter of flow, like the waters that flow down under the bridge. We can not stop it. It is not a matter of salaries.

Mr. HARRISON. I will say to the chairman of the committee that this matter has been called to my attention because of personal contact in that I have several children going to school. I notice that very often in the wintertime the children go to school, and when they get to the school they find that, either because they have no janitor or the janitor has not performed his duties, the building is not properly heated, or it may be because the building is not so that it can be heated properly. The children are sent back home, oftentimes trudging through the snow, and they are told to report back at a certain time in the afternoon.

Can the Senator give us any information with reference to who is at fault about that matter? Have any complaints of that kind come to his attention?

Mr. WARREN. Sometimes it may be the striking coal miners and shortage of coal. It may be that occasionally they may have a janitor who for a day or so may not be attentive. We hope that with certain legislation which has been had of a restrictive nature in the last year there will be fewer intervals of nonattention on the part of employees. I think there is no unusual lack of attention such as the Senator mentions.

Mr. HARRISON. I do not think the Senator from Wyoming can lay that fact to the coal miners. It might be that they can truthfully be charged with a great deal, but I can not believe, with inefficient service or bad buildings here in the city that can not be properly heated, that the coal miners can be justly charged with that condition.

Mr. WARREN. Possibly not.

Mr. HARRISON. Something is wrong.

Mr. WARREN. But the Senator knows that we have had times here when it has been extremely difficult to get coal.

Mr. HARRISON. I understand that; but it does seem to me that Government officials whose duty it is to see that the schools are maintained, that the children may be educated, should see that they have sufficient coal to keep the buildings warm. It seems to me that somebody is at fault with reference to that situation. I do not know whether it is the superintendent of the city schools or not. I do not know even who he is. I understood the Senator to say his name is Preston.

Mr. KING. His name is Thurston.

Mr. HARRISON. He and the men under him are charged with the duty of at least seeing that janitors are employed and that coal is provided and with seeing that these buildings are sufficiently warm so that the children should not be compelled to go to school in the cold and then be sent back home in the cold and snow simply because there is no coal there or because the building is not properly heated. Somebody is at fault in that respect, and I know of no way to elicit the information except by asking the chairman or members of the committee who are in charge of the duty of investigating those conditions and who recommend the appropriations to the Senate.

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

Mr. HARRISON. Certainly.

Mr. KING. Rev. Dr. Van Schaick is president of the school board. Not satisfied with that important position, his name is before us now for confirmation or rejection as a member of the Board of Commissioners of the District of Columbia. I fancy the president of the school board would have something to do with the conditions to which the Senator refers.

Mr. HARRISON. I do not know who is at fault, but I do believe that the condition should be looked into, and it should be remedied. Personally I feel that if there is a dearth of school-teachers in the District of Columbia, and they are inadequately paid and are leaving those positions to go into other employment, the Congress of the United States is charged with the duty of appropriating a sufficient amount of money to increase the salaries in order to get good teachers in the schools of the District.

Mr. SMOOT. Mr. President, will the Senator yield to me at that point?

Mr. HARRISON. Certainly.

Mr. SMOOT. I think perhaps it will be proper at this time to call the attention of the Senate to the fact that the salaries provided for in this bill, beginning on page 3, do not cover all of the compensation which the teachers in each of the grades receive. Take the first one, "Group A of class 6, 25 at $1,060 each." Under legislative enactments relating to the school system of the District of Columbia there is given to each teacher of that grade or group of teachers longevity pay of $100 for each year of service up to and including the eighth year. So, if a teacher in group A of class 6, with a salary of $1,060, remains in the schools of the District of Columbia as a teacher for eight years, the salary of that teacher will be $1,860.

In the last District of Columbia appropriation bill the total appropriation for the teachers of the schools of the District of Columbia amounted to $1,925,260. For longevity pay for the same teachers we appropriated $450,000; so that, taking all of the teachers together, the longevity pay provided an increase of nearly 24 per cent over the amount which was appropriated for the salaries.

I will say to the Senator that the salaries provided for here are the salaries for any teachers who enter de novo each of the groups and classes. As the Senator from Wyoming [Mr. WARREN] has stated, teachers are grouped after an examination as to their qualifications and fitness for teaching the various grades to which the pupils are assigned. However, there is not a teacher in the District of Columbia who does not receive for nine months' service in the schools the wage that has been stated by the Senator from Wyoming. Those teachers, I will say, were appropriated for as follows:

Assistant supervisor of manual training, $1,300.
Heads of departments in high and manual-training high schools in group B of class 6, 14 at $1,900 each.
Normal, high, and manual-training high schools, promoted for superior work, group B of class 6, 28 at $1,900 each.
Group A of class 6, including 7 principals of grade manual-training schools, 334 at $1,060 each.
Class 5, 136 at $1,000 each, including vocational and trade instructors.
Class 4, 498 at $900 each.
Class 3, 543 at $860 each.
Class 2, 364 at $860 each.
Class 1, 90 at $860 each.

Then there was a proviso that no amount should be paid from the appropriation to any teacher for the teaching of German in the schools. So, Mr. President, the Senator will notice that instead of the minimum wage now paid in the District of Columbia to teachers being $550 per annum, with the longevity pay added yearly it is $860. That, as I stated when I first answered the Senator, is an increase of nearly 50 per per cent over the former wage that was paid before the passage of the last District of Columbia appropriation bill.

Mr. HARRISON. Mr. President, the information which the Senator from Utah gives me is quite interesting and new to me. I had prepared and had intended offering an amendment to increase the pay of the teachers in the District of Columbia by 15 per cent, but, due to the fact that their salaries have been increased, as the Senator from Wyoming and the Senator from Utah have stated, and the further fact that there is a subcommittee, I think, of the House Committee on the District of Columbia working on the matter, with a view of equalizing the salaries of teachers and adjusting the whole situation, I shall not propose the amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment reported by the committee.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, on page 3, line 7, after the word "teachers," to strike out "$28,966.67" and insert "$23,173.33," so as to make the clause read:

In all for teachers, $23,173.33.

The amendment was agreed to.

The next amendment was, on page 3, line 11, after "$25,000," to insert: "*Provided*, That payment is authorized to all employees who served in the night schools during the period from February 16, 1920, to the date of approval of this act, both inclusive, at the rate of pay they were receiving on February 15, 1920, this payment to be in addition to the nominal sum of $1 which such employees received for the service rendered."

The amendment was agreed to.

Mr. McKELLAR. I ask unanimous consent to recur to line 20, on page 2, for the purpose of offering an amendment to the committee amendment.

Mr. WARREN. Mr. President, the Senator from Tennessee will have ample time to do that before we finish the bill.

Mr. McKELLAR. We have just been discussing that matter, and it will take but a moment or two. I think the Senator will probably agree to the amendment I desire to offer.

Mr. WARREN. I prefer not to turn back in that way at the present time.

Mr. McKELLAR. Of course, if the Senator objects, I shall wait and offer the amendment at the proper time.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, under the head of "Federal Board for Vocational Education," on page 4, line 15, after the word "periodicals," to strike out "$12,000,000" and insert "$10,000,000," so as to make the clause read:

Vocational rehabilitation: For an additional amount for carrying out the provisions of the act entitled "An act to provide for the vocational rehabilitation and return to civil employment of disabled persons discharged from the military or naval forces of the United States, and for other purposes," approved June 27, 1918, as amended, including personal services in the District of Columbia and elsewhere, funeral and other incidental expenses (including transportation of remains) of deceased trainees of the board, printing and binding to be done at the Government Printing Office, law books, books of reference, and periodicals, $10,000,000: *Provided*, That the salary limitation placed upon the appropriation for vocational rehabilitation by the sundry civil appropriation act approved July 19, 1919, shall apply to the appropriation herein made.

The amendment was agreed to.

The next amendment was, on page 4, after line 19, to strike out:

The Secretary of War shall have authority to transfer to the Federal Board of Vocational Education, without compensation therefor, certain surplus machine tools and other equipment belonging to the War Department and now in possession of the Federal board and being used by that board as equipment in schools for vocational education controlled by the board. Property so transferred shall be dropped from the records of the War Department on the filing with the War Department of an itemized receipt for the articles thus transferred.

Mr. McKELLAR. Will the chairman of the committee explain why the language beginning in line 20, on page 4, down to line 6, on page 5, is reported by the committee to be stricken out?

Mr. WARREN. The committee proposes to strike out that language so that we can take the matter to conference and reframe the provision so as to make it correspond with similar provisions contained in bills which we have already passed, one of them being for the particular institution referred to and another for other schools, so that while exactly carrying out the spirit there shall be a little more responsibility about the matter. It is desired that the tools and other equipment referred to in the amendment may not be sold or transferred, without leave, to other schools. There is no intention to take them away from the Vocational Education Board; in fact, they are there now and they are all in use.

Mr. McKELLAR. That is my understanding; and I see no reason in the world why the War Department should make any objection, for it seems to me the best possible use that these surplus machine tools can be put to. I think the provision ought to remain in the bill. Of course I understand, if the Senator desires to deal with the other House regarding it, the matter can be put in in conference by striking the language out; but I hope the Senator will assure the Senate that the substance of the provision will be retained in the conference report.

Mr. WARREN. Mr. President, let me assure the Senator from Tennessee, first, that the board has the surplus machine tools, that they are using them as was intended, and that they have been so used for a long time; and, second, that it is my intention to have the provision in fully as useful form as it is now and to have the transfer of the tools and equipment guarded, as the Military Affairs Committee has seen fit to provide in the case of one lot to this same institution and other lots to other institutions.

Mr. POMERENE. Mr. President, I do not know that what I am going to say is entirely pertinent to the portion of the bill with regard to the vocational education of returned soldiers, but in this bill a substantial sum is being voted to this cause—and I am in entire sympathy with the cause—and I wanted to direct the attention of the Senate to a special case that came to my attention some days ago. A young soldier in the aviation branch of the Army served on the battle line for nearly a year. He was from my State. On his return to this country he was sent to Camp Sherman for the purpose of demobilization, and while there, in the course of his service, was engaged in some work about an airplane. While so engaged another soldier, by accident, fired a gun, the bullet from which struck the first soldier in the elbow and took away a part of the bone, so that he is permanently crippled. In the rating which was given to him he was marked 100 per cent disabled so far as that arm was concerned, yet under the construction which has been given to the law by the War Department he is not permitted to have the benefit of the vocational education act. If he had been wounded while on duty at the front he could have had the benefits of that act, but under the strained construction given to it, although he was still a soldier and performing duty as a soldier, he is not even now permitted to have the benefit of the payment provided by the act, to which, I think, all Senators at least thought any soldier under such circumstances would be entitled. If that construction of the law is right, the law should be amended.

Soldiers coming back from the service suffering from tuberculosis are given treatment. It is not inquired as to whether they contracted the disease while along the battle line or elsewhere; it is sufficient if they were in the service of their country. I simply wanted to call attention to this phase of the law, because I feel that it is working very great injustice if it is being properly construed.

Mr. SMOOT. Mr. President, it is a fact that a soldier suffering from tuberculosis is allowed to enter a hospital proper, but is the Senator sure that a tubercular patient can enter a vocational training school?

Mr. POMERENE. I did not mean that that inference should be drawn from what I said. I meant to say that a soldier suffering from tuberculosis receives benefits from the Government.

In this connection there is another very strange proposition, as I understand, which was called to my attention the other day. They examine the tubercular patients, and if they think they are curable within six months they send them to a hospital, but if they are totally disabled and are likely to die or can not be cured in six months they are sent adrift.

Mr. SMOOT. That is something I had not heard of.

Mr. POMERENE. At least that is the information I get from my correspondence. I do not understand such a proceeding.

Mr. SMOOT. Mr. President, in relation to the rating of the soldier to whom the Senator from Ohio referred, did I understand him to say that because of the wound in one arm he was rated 100 per cent disabled?

Mr. POMERENE. That is, as I recall the case, so far as the one arm was concerned. I am not familiar with the technical terms which are implied, but he only has one or two slight motions of that arm because of the wound received.

Mr. SMOOT. I think the rating is correct as to the one arm, but 100 per cent disability, the Senator having used that expression, would mean that not only was he disabled in that one arm but that he was totally disabled from doing any kind of manual labor or earning compensation from work of any character.

Mr. POMERENE. He can not do any manual work with that arm. That is the impression that I intended to leave with the Senate when I referred to the matter.

Mr. McKELLAR. Mr. President, if I understand the Senator from Ohio, the young man was injured, though not during the war, and for that reason, because he was not injured during the war, he was refused admittance to one of the vocational-training schools.

Mr. POMERENE. That is as I am informed.

Mr. McKELLAR. I think, then, that the act should be amended so as to cover soldiers hurt after the conclusion of the war.

The VICE PRESIDENT. The question is on agreeing to the amendment reported by the committee.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, under the head of "Department of State," subhead "Foreign intercourse," on page 6, after line 8, to insert:

For the salary of an envoy extraordinary and minister plenipotentiary to Finland at the rate of $10,000 per annum from February 1 to June 30, 1920, inclusive, $4,166.66.

Mr. SMOOT. Mr. President, I wish to ask the Senator from Wyoming if the envoy extraordinary and minister plenipotentiary to Finland has already been appointed?

Mr. WARREN. I am unable to tell the Senator with definiteness regarding that, but I think he has. The appropriation contained in the bill, however, is authorized and estimated for, and the salary has been fixed by law.

Mr. SMOOT. The reason I ask the question is that the appropriation is from February 1 to June 30, 1920. I think it was about February 1 that the law was passed creating this office, and I wondered whether the appointment had been made. If not, of course the amount that was appropriated could be cut down accordingly.

Mr. WARREN. Of course the salary is on a per annum basis, as the Senator will notice.

Mr. SMOOT. Yes; but the provision reads "from February 1 to June 30, 1920."

Mr. WARREN. It is, of course, to cover the period until next June. If, however, the minister should not enter upon the duties of the office until March or April the full amount from February would not be paid him.

Mr. SMOOT. Of course the full amount would not be paid him in that event.

The VICE PRESIDENT. The question is on agreeing to the amendment reported by the committee.

The amendment was agreed to.

The reading of the bill was resumed and continued to line 20, on page 9, the last paragraph read being as follows:

OFFICE OF THE COAST GUARD.

For additional employees from February 1 to June 30, 1920, inclusive, at annual rates of compensation, as follows: Topographical draftsman, at $1,500; chief accountant, at $2,000; clerks—8 of class 4, 8 of class 3, 15 of class 2, 9 of class 1; assistant messenger, at $720; in all, $26,341.67.

Mr. SMOOT. Mr. President, would it not be better to strike out "February" and put in "March," and reduce the amount one-fifth, the same as we did with the employees provided for in the case of the public schools? We are appropriating here for the full amount, from February 1 to June 30.

Mr. WARREN. In what line is that?

Mr. SMOOT. On page 9, line 15. I think it would be very much better to strike out "February" and put in "March 1 to June 30," and then take out just one-fifth of the amount of the appropriation. That would cover all that it would be possible to pay, even if they got every one of these employees on the 1st day of March.

Mr. WARREN. They may already have given employment to these people; but if the Senator suggests that amendment, I have no objection to it.

Mr. SMOOT. I move to strike out "February," in line 15, page 9, and to insert "March."

The VICE PRESIDENT. The amendment will be stated.

The ASSISTANT SECRETARY. On page 9, line 15, it is proposed to strike out "February" and to insert "March."

The amendment was agreed to.

Mr. SMOOT. Then I move to correct the total amount appriated, a memorandum of which I will hand to the Secretary in a few moments.

The VICE PRESIDENT. The Secretary will make that change.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, under the head of "Treasury Department," subhead "Coast Guard," on page 11, after line 5, to insert:

Officers and enlisted men of the Coast Guard shall be permitted to purchase quartermaster supplies from the Army, Navy, and Marine Corps at the same price as is charged the officers and enlisted men of the Army, Navy, and Marine Corps.

The amendment was agreed to.

The next amendment was, under the subhead "Bureau of Internal Revenue," on page 11, after line 12, to strike out:

Enforcement of the "National prohibition act": For the necessary expenses in preventing violations of the "National prohibition act," $1,000,000—

And insert—

Enforcement of the "National prohibition act": For the employment of additional officers, traveling and other necessary miscellaneous expenses to guard intoxicating liquors in bonded and other warehouses, and prevent violations of the "National prohibition act," $1,000,000.

The amendment was agreed to.

The next amendment was, under the subhead "Public buildings," on page 12, line 15, after the word "roof," to strike out "$20,000" and insert "$25,000," so as to make the clause read:

Philadelphia, Pa., Mint Building: For new roof, $25,000.

The amendment was agreed to.

The next amendment was, on page 13, after line 5, to insert:

CUSTOMS SERVICE.

For enforcing the laws governing the importation and exportation of intoxicating liquors by the Customs Service, $1,000,000.

The amendment was agreed to.

The next amendment was, under the subhead "Public Health Service," on page 13, line 20, after the word "hospital," to strike out "$4,000,000" and insert "$3,000,000," so as to read:

For medical, surgical, and hospital services and supplies for war-risk insurance patients and other beneficiaries of the Public Health Service, including necessary personnel, regular and reserve commissioned officers of the Public Health Service, clerical help in the District of Columbia and elsewhere, maintenance, equipment, leases, fuel, lights, water, printing, freight, transportation and travel, maintenance and operation of passenger motor vehicles, and reasonable burial expenses (not exceeding $100 for any patient dying in hospital), $3,000,000.

The amendment was agreed to.

The next amendment was, on page 14, after line 2, to insert:

Hereafter officers of the Public Health Service may purchase subsistence supplies and articles of serviceable property for the use of themselves and their families from the Army, Navy, and Marine Corps at the same price as is charged officers of the Army, Navy, and Marine Corps.

Mr. SMOOT. Mr. President, may I ask the Senator if the amendment just stated is in the usual wording? I notice, on line 4, these words:

Hereafter officers of the Public Health Service may purchase subsistence supplies and articles of serviceable property.

What is meant by "articles of serviceable property"?

Mr. WARREN. I take it to be food, and such things as that.

Mr. SMOOT. "Subsistence supplies" covers that.

Mr. WARREN. I understand; but this, as the Senator knows, is the language sent up by the department, and, of course, there are other things aside from subsistence supplies. For instance, a surgeon might want a scalpel or other instrument, or he might want certain incidental supplies which the Army and Navy buy in large quantities, and these officers simply want the privilege of taking them at cost price. This is the way the estimate came to us from the Secretary, and I can not see any objection to it.

Mr. SMOOT. The officers of the Public Health Service, I suppose, should be granted the privilege of purchasing their subsistence supplies in the same way as the officers of the Army or the Navy; but it seems to me that adding the words "serviceable property" means that every officer of the Public Health Service can buy anything he wants in the way of operating instruments, scientific instruments, or anything else that he may desire to purchase. I do not know how far that would go.

Mr. WARREN. The Senator knows that there is no money lost in it. It is a question of whether we wish to oblige those officers by granting them the powers of officers of the other departments in buying supplies of this kind.

Mr. SMOOT. Yes; I know that there is not any loss to the Government in it, other than this: If this practice were extended to a wide range, whatever profit might otherwise be made by the merchants in selling these goods to the officers of the Public Health Service, the Government would at least get its taxes from that profit, and, of course, under this condition of affairs it would not get them, because whatever profit the merchant ordinarily makes goes to the officer of the Public Health Service upon all those items.

Mr. WARREN. Mr. President, if the Senator wishes to amend that by putting in the language of the other provision, I have not the slightest objection to it.

Mr. SMOOT. What I wanted was this: I should like to have the wording of this privilege to the officers of the Public Health Service just like the wording of the privilege to the officers of the Army, the Navy, and the Marine Corps. I will look up the wording and have it inserted here.

Mr. WARREN. I will ask the Senator to look it up.

The VICE PRESIDENT. Is this amendment agreed to now?

Mr. SMOOT. Let it be passed over.

The VICE PRESIDENT. The amendment on page 11 reads:

Shall be permitted to purchase quartermaster supplies.

That would seem to cover the matter referred to on page 14.

Mr. SMOOT. The wording on page 11 would cover the provision for the Public Health Service.

Mr. WARREN. The Senator should leave out the words "enlisted men" there.

Mr. SMOOT. Mr. President, in order to make it conform to all of the other privileges granted, I move to strike out the words "subsistence supplies and articles of serviceable property for the use of themselves and their families" and insert "quartermaster supplies for the Army, Navy, and Marine Corps, at the same price as is charged the officers of the Army, Navy, and Marine Corps."

The VICE PRESIDENT. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, on page 14, after line 7, to insert:

Officers of the Public Health Service shall be credited with service in the Army, Navy, Marine Corps, and the Coast Guard in computing longevity pay.

The amendment was agreed to.

The next amendment was, on page 14, after line 19, to insert:

Prevention of epidemics: To enable the President, in case only of threatened or actual epidemic of cholera, typhus fever, yellow fever, smallpox, bubonic plague, Chinese plague or black death, trachoma, influenza, or infantile paralysis, to aid State and local boards, or otherwise, in his discretion, in preventing and suppressing the spread of the same, and in such emergency in the execution of any quarantine laws which may be then in force, $100,000: *Provided*, That a detailed report of the expenditures hereunder shall annually hereafter be submitted to Congress.

Mr. RANSDELL. Mr. President, I move to amend this amendment by striking out the figures "$100,000" in line 3, page 5, and

inserting in lieu thereof "$250,000." This amendment has been urged very strongly by the Secretary of the Treasury, and it is an emergency if there ever was one.

Mr. WARREN. The Senator, as I understand, offers to amend the amendment.

The VICE PRESIDENT. Yes.

Mr. WARREN. Mr. President, this matter was brought up before the subcommittee and considered with a great deal of care. We heard from the Public Health Service concerning it, and it came up to the full committee, and was very carefully considered there. We thought that the amount of $100,000 which we had appropriated was sufficient. Just as we were taking up the bill and without time to consult with my colleagues, my attention was called to the report of the Health Service that the plague raging at New Orleans and the country reached through that port had become more violent than at the time the report was before us.

If the Senator will make the amount $200,000 instead of $250,000, I shall not personally object to it. I have no right to accept it on the part of the committee, not having conferred with the other members of the committee.

Mr. RANSDELL. I am not sure that $200,000 will be sufficient, but I accept the suggestion of the chairman of the committee, if that is agreeable. I am not sure that they can get along with a cent less than $250,000. The health department think they need every cent of that amount.

Mr. SMOOT. Mr. President, if this amount of money is to be expended for all the threatened epidemics named in the amendment, of course it would be entirely inadequate, but the money will all be spent for one purpose, and that is for the eradication of the bubonic plague.

Mr. RANSDELL. Will the Senator permit me to read just a paragraph from a letter received from the Chief of the Public Health Service, sent to me this morning on this very point, at my request? He says:

> In view of the fact that the expenditures under the epidemic fund at this time are necessarily $70,000 a month, of which $50,000 are required for the continuation of plague-suppressive measures in New Orleans and $20,000 for other urgent activities carried on under this fund in other parts of the United States, without relief in the form of the deficiency appropriation operations at New Orleans would have to be discontinued not later than March 15, 1920. The appropriation of $100,000 will only provide for the continuance of this work until April 30.

The VICE PRESIDENT. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which is Senate bill 1699.

Mr. STERLING. Assuming that the consideration of the pending bill will not take very long, I am willing that the unfinished business shall be temporarily laid aside, and I ask unanimous consent for that purpose.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is temporarily laid aside.

Mr. SMOOT. Mr. President, I recognize the fact that if I should go to the Public Health Service and state that there had been $20,000 expended in the State of Utah for the eradication of a plague and that it would require $200,000 more to finish the work, the chief of that service would immediately write to me and state that the work would have to be suspended unless an additional appropriation was made.

I also admit that there ought to be an appropriation made for the purpose of assisting the people of Louisiana to eradicate the plague that is there at the present time, caused, I think, by infection of rats. The Senator from Louisiana will know to what extent the plague is spreading better than I, but I remember that we have made appropriations for this purpose many times in the past. I call to my mind now an instance where there had been a rat or two discovered, and the first thing that the Public Health Service asked for was an appropriation of an immense amount of money.

There will be the regular appropriation bill in the Senate appropriating money for this very purpose for the next fiscal year. Before this $100,000 is expended we will know whether the plague is of a character that it is going to need more money from the Government or not. At that time we can decide whether there is a greater appropriation needed than $100,000.

The Senator from Louisiana knows just as well as I know, and as every other Senator knows, that if we made the amount $500,000 every cent of it would be expended and if we made it $1,000,000 every cent of it would be expended. There can not be a question of doubt about it. If we are ever going to cease expending money extravagantly it ought to begin now.

I wish to say to the Senator from Louisiana that if $100,000 is not sufficient to check the plague in Louisiana within the next two months, I, for one, will support any request for an appropriation that he may ask to continue the work. But let us not at this time make an undue appropriation when we know that it will be spent, no matter what the amount may be.

I have not any inclination whatever to stop the work there. I do not want to interfere at all with the assistance that the Government is giving at the present time, but I desire to say to the Senator now that if we appropriate $200,000, or $500,000, or $1,000,000, the Public Health Service will immediately see that every cent of it is spent within the time limit provided in the measure. Why not let the appropriation of $100,000 go? According to the letter which the Senator has just read that would carry on the work they are now doing for two months, and in the meantime we will know whether the plague is going to spread or not.

Let us act with the Government money just the same as if we were spending our own money. If we were looking at the situation and were responsible and our children should ask us to assist them in case of a calamity, the same as the children of Uncle Sam in Louisiana are asking now for the Government of the United States to assist them on account of a plague, we would not tell them, "Here, you shall have $100,000, or you shall have $500,000, or $1,000,000." We would tell them to go to work and stop the plague and we would do the best we could for them, not grant an amount that may be necessary.

Mr. RANSDELL. Will the Senator answer a question? The Senator says that we might get an additional appropriation if the plague is not destroyed within two months. What assurance have we that we will have another general appropriation bill within two months?

Mr. SMOOT. I have not any doubt of it in the least. I will say to the Senator that the legislative appropriation bill will be reported to-day or to-morrow to the House, and I do not think it is going to take very long to pass that bill. Following that will be the sundry civil appropriation bill, in which such items always appear and always should appear. The only reason why it is in this deficiency bill is because of the fact that we realize that it is to meet an emergency. It is not a deficiency, I will say to the Senator, and it should not be in the deficiency bill for any other cause than that which I have just stated. However, I am not going to object to an item of this kind going into a deficiency bill when the Senator from Louisiana stands upon the floor, backed by the Public Health Service, and says that there is use for the money to stay the plague that has started in Louisiana.

Mr. RANSDELL. Mr. President, I am sorry to say that it is a very serious deficiency. The Senator knows I am not in the habit of asking for appropriations of this kind. It is no pleasure to me to have to tell my colleagues in the Senate that in the great city of my State, of which I am so proud, there are to-day a great many rats infected with the plague virus.

Dr. McLaughlin, who has charge of this work in the Public Health Service, testified before the Appropriations Committee on the 11th of this month that there are a great many of these infested rats, and that they are brought into his board at the rate of 1,000 to 1,800 a day. They are being caught by his employees, and many of them are found to be infected. There have been very few cases of human infection, though a few, and following a precedent established some time ago by the Public Health Service and the local health service of Louisiana full and due publicity was given to it. We have not tried to keep back anything of the kind.

I wish further to say to the Senator that in an attempt to completely eradicate the plague several years ago the people of this city spent a great many million dollars. I have not the facts at hand as to how much, but 80 to 90 per cent of the buildings in the city of New Orleans were rat-proofed so as to prevent any further continuance of plague. Some of the railroad buildings in the city and some of the public wharves and docks on the river front unfortunately were not rat-proofed at that time, and the infection in some way has gotten into the rat population.

It takes a long time to eradicate this plague. It can not be done hastily. The work must be carried on persistently and consistently and constantly. It took 18 months to drive the plague infection out of the city of San Francisco. It took a number of months, when we had the same rat infection in New Orleans before, to drive it out.

I am appealing not alone for my own State; I am appealing for the Nation. New Orleans is the second port in America. In the volume of its foreign commerce, imports and exports, it is exceeded only by the great city of New York. It has the closest kind of commercial relations with all its sister States in the South and by rail and water with every State in the Union. It has very close relations with all the commercial nations of the world, and those commercial nations and our sister States know we are going to trade with them,

and know we are going to treat them honestly and fairly in regard to this plague. We have told them that we are going to stamp it out. We have prevented the disease from extending to more than a very few human beings.

Now, sir, we are spending a great deal of money ourselves. We are seeking the direction in a scientific way of the National Government, but the millions being expended to rat-proof the public facilities are all paid by the local people. We do not ask the Government to do that. What we ask is for the Government to carry on the work at a rate of about $50,000 per month for the next six months as the scientists say, until there is not a single infected rat in the city of New Orleans. They assure us that they must carry on the work for that length of time. If there be one infected rat in the city, it is liable to infect a great many others, and when we have a great many rats infected human beings become infected, and it will spread from that city to other cities in the land.

I wish to read a letter just received from the Public Health Service. It is very brief. I do not want to take up much of the time of the Senate. It is addressed to me and written at my request.

TREASURY DEPARTMENT,
BUREAU OF PUBLIC HEALTH SERVICE,
Washington, February 18, 1920.

Hon. JOSEPH E. RANSDELL,
United States Senate, Washington, D. C.

MY DEAR SENATOR RANSDELL: Allow me to invite your attention to the fact that the deficiency appropriation, H. R. 12046, as reported by the Senate Committee on Appropriations, contains an item of but $100,000 for plague-suppressive measures in New Orleans instead of $250,000 which was requested by the Public Health Service for this purpose.

I will state that that was requested in a letter from the Treasury Department, dated February 2, sent to the Senate committee.

In view of the fact that the expenditures under the epidemic fund at this time are necessarily $70,000 a month, of which $50,000 are required for the continuation of plague-suppressive measures in New Orleans and $20,000 for other urgent activities carried on under this fund in other parts of the United States, without relief in the form of the deficiency appropriation, operations at New Orleans would have to be discontinued not later than March 15, 1920. The appropriation of $100,000 will only provide for the continuance of this work until April 30.

The facts in regard to the plague situation in New Orleans are briefly as follows: The plague was found to be extensively prevalent in the rodent population about November 1, 1919, and to such an extent that human cases were already occurring. Upon the discovery of the existence of plague among rats the Public Health Service immediately instituted vigorous measures against rodents and to prevent the spread of the disease to the human population. It is only by the vigorous prosecution of such measures that such extension to the human population and the general spread of the disease from New Orleans as a focus to other parts of the United States can be prevented. As a result of these vigorous measures and the confidence which State health authorities and foreign consular officers have in the Public Health Service, no quarantine has as yet been declared against New Orleans, and commerce proceeds through this port unimpeded.

I will interrupt myself to say that there really has been substantially a quarantine declared by the Republic of Haiti, though that is under certain regulations, and business is going on.

In the event, however, of the discontinuance of the active measures carried out by the Public Health Service two eventualities seem probable:

1. The plague will spread from the rats to the human population.
2. Quarantine will be declared against New Orleans by adjoining States and foreign countries.

In order to prevent either of these eventualities it would seem of the utmost importance to continue the active suppressive measures in New Orleans up to the end of the present fiscal year.

In view of your interest in the matter, may I ask you to place these facts before the Senate for appropriate action in the premises?

In conclusion I may add that the whole question is not so much to assist the State and local authorities in combating local epidemics as to prevent the spread of the infection to other ports of the United States.

Cordially, yours,
J. C. PERRY,
Acting Surgeon General.

Now, Mr. President, for the sake of a small sum like we are asking here—I say "we," I mean the Public Health Service, and I am voicing it as one of the Senators from the State of Louisiana—are we going to jeopardize the commerce of the second port in the United States? Are we going to jeopardize the health of 400,000 citizens of New Orleans, and of the vast number of people who have such close business and social relations with that great center of the South?

I wish to say just one word more about the expenditure of money by the Public Health Service, as to whether they need it or not. These questions were asked Dr. McLaughlin when he was testifying before the Senate Committee on Appropriations on the 11th of this month:

The CHAIRMAN. What is your general fund?
Dr. MCLAUGHLIN. $400,000, and that is exhausted.
The CHAIRMAN. Do you allocate that fund to different things, or do you keep it for emergencies like this?
Dr. MCLAUGHLIN. No; in normal times the unused part of the fund is turned back. Last year we turned back $208,000.

That is very amusing, I know, to the Senator from Utah [Mr. SMOOT]. It is rather remarkable for a Government department to turn money back to the Treasury, but that is what Dr. McLaughlin said:

Last year we turned back $208,000; but when there is an epidemic, such as the outbreak of the plague in New Orleans, the $400,000 is never adequate. It was not adequate in 1914.

In conclusion, Mr. President—I do not wish to make a speech, though I could talk for an hour—I appeal to the Senator to permit this amendment of mine to be agreed to. The money will certainly not be used there if it is not needed. I say to the Senator in the most solemn manner that I have investigated it; I believe that we have a very serious infection, at least, of the rat population of the city of New Orleans, and I believe the repressive measures of the Public Health Service must be carried on for at least five or six months longer, and that can not be done successfully without this appropriation.

Mr. SMITH of Maryland. Mr. President, do I understand that the people of the city have spent a large amount of money on their own part to eradicate this trouble? Did not the Senator state that the city had appropriated about $3,000,000 for wharf purposes and things of that kind?

Mr. RANSDELL. Several years ago a very much larger sum than that was expended. Practically all the property of the city was rat-proofed. I made a statement, which I repeat, that under the ordinances of the city commission government a number of poor people were obliged to mortgage their property in order to get money to rat-proof their houses. The city is now prepared to expend a good large sum of money to finish the rat-proofing of the railroad warehouse and the warehouses on the river front. I can not state the exact amount.

Mr. SMOOT. Mr. President, I do not believe that the rat plague will ever cease in Louisiana so long as the old wooden wharves remain in New Orleans. I do believe it will cease as soon as the new wharves are completed; and I understand there is a movement on foot to replace the old wooden wharves with cement wharves. When that time arrives I doubt whether there will ever be any more rat plagues in Louisiana.

Mr. RANSDELL. Mr. President, with the Senator's permission, I desire to interrupt at that point to say that I think the Senator from Utah is substantially correct in that statement. The city authorities of New Orleans have recently obtained a loan from the banks of the city to go ahead with the rat-proofing, and the legislature, which meets early in May, I understand, is going to be called upon to permit the dock board to issue bonds for the thorough and complete finishing of those wharves. I do not think they will build them of cement, but they will be built either of cement or iron.

Mr. SMOOT. Either one, I will say to the Senator, would obviate the serious difficulty that the city has experienced in the past. Appropriations which were made during war time nobody questioned; we gave whatever was asked. A billion dollars were given just as freely as 5 cents would have been given. All the departments of the Government had to do was to ask, and simply say that the amount asked was for war purposes, and "everything went."

Just think that in the fiscal year 1917–18 there were $21,000,000,000 appropriated by the Government and, including the appropriations of the next fiscal year—1919—$27,000,000,000 were appropriated by Congress! It is true that all of the $27,000,000,000 was not expended, because the armistice was signed before the end of the year, and there was a great part of that money proposed by act of Congress to be returned to the Treasury. It had never really been in the Treasury, but there was a legislative act to turn the money back into the Treasury. However, it simply meant that we did not have to sell bonds to put the money into the Treasury in order to take it out to meet the appropriations.

If any such thing ever happened as the Public Health Service turning $208,000 back into the Treasury, I am going to take the time to look it up, for I want to know when any such thing happens on the part of any of the departments of our Government. If it did happen, it was because they had more money than they really could spend for the suppression of the plague or other epidemics.

Mr. President, only the other day the Public Health Service had introduced into this body a bill asking for $5,000,000 for the study and investigation of the influenza. The Senate, in its wisdom, decided to give them a tithe of that amount, and appropriated $500,000 for the purpose. I believe if there had not been one 5-cent piece appropriated, the influenza situation in the United States would have been exactly as it is to-day. I do not think a dollar of that money spent anywhere in the United States has helped the situation.

I want the Senator from Louisiana to understand that I am not complaining about the Government of the United States

expending $50,000, if that is necessary to do away with the rat plague in Louisiana, but the letter which has been read itself says that if $100,000 is appropriated it will carry them until June 30.

Mr. RANSDELL. I beg pardon. The letter says with the hundred thousand dollars which is carried in the bill, if that goes in, they can work until April 30.

Mr. SMOOT. I mean April 30. By the time April 30 shall have arrived, I say now that not only will the legislative bill have passed the House of Representatives, but I think it will also have passed the Senate, and that the sundry civil bill also will be before this body. How often in such bills are appropriations made as to which it is specifically provided that certain portions of the appropriations shall be immediately available? That can be done in this case.

Allow me to plead with Senators now to keep appropriations down just as much as we can. I make that request not in opposition to an appropriation for this specific purpose, for I think the appropriation and its object are a thousand times better than some other appropriations which are found in appropriation bills.

Mr. RANSDELL. I am glad the Senator from Utah feels that way about it. I desire to ask the Senator this question: Would it be appropriate and in order to put an appropriation of this kind on the legislative bill?

Mr. SMOOT. Certainly, I will say to the Senator.

Mr. RANSDELL. But it would certainly be subject to a point of order, I should think.

Mr. SMOOT. Not at all. There is not a legislative appropriation bill which has ever passed this body that I know anything about but that what may be termed general legislation has been carried on it. What I desire to do is this: Not to appropriate a single dollar more of the people's money than is absolutely necessary. If it is necessary to provide an appropriation in order to protect the lives and the health of the people of Louisiana, there is no Senator on this floor who will grant that help any quicker than will I.

Mr. RANSDELL. I thank the Senator from Utah for that statement.

Mr. SMOOT. I know that if my city were afflicted with a rat plague as is New Orleans, and if the city could not handle the situation, and the State could not take care of it, I should want the Government of the United States to assist. That is my position. I think the committee has acted wisely in deciding to name $100,000. Then, if that is not sufficient, we shall have ample opportunity to make a further appropriation for this purpose.

Mr. RANSDELL. Just one word. I want to say that I am entirely satisfied to adopt the suggestion of the chairman of the committee and to make my amendment provide for $200,000 instead of $250,000.

Mr. GAY. Just one word, Mr. President. I think the Senator from Utah [Mr. SMOOT] realizes full well that if such a provision as this should be included in the legislative bill, it would not become effective until the end of the fiscal year.

Mr. SMOOT. Oh, no, Mr. President. The Senator is wrong when he makes a statement like that. The Senator knows that on every appropriation bill which is passed here—the legislative, the sundry civil, and other appropriation bills—provision is made that certain appropriations shall become immediately available. That is just as usual as it is to make appropriations. That is what would be done in this case.

Mr. GAY. I desire to say, Mr. President, that this is an emergency, and one in relation to which the Senate should not procrastinate. The Senator from Utah spoke of not desiring to delay the rat-proofing which was necessary. I desire to tell him that it will require a certain amount of money to do this work effectively. The State of Louisiana and the city of New Orleans have appropriated large sums of money—they contemplate an expenditure of between twelve and fourteen million dollars—for the purpose of rat-proofing the wharves of the city of New Orleans, not only for the protection of the city of New Orleans and of the State of Louisiana but for the protection of the entire Mississippi Valley and all sections of the United States that have commercial relations with the great city of New Orleans. This matter is of vital importance; it is a function of the Government to assist along this line and to furnish the money that has been requested by the Public Health Service.

My colleague has thoroughly covered the question. I hope that the Senate, in its wisdom, will see fit to adopt the suggestion of the chairman of the committee and that $200,000 will now be appropriated for this purpose.

Mr. KING. Mr. President, as I understand the situation, an epidemic threatens New Orleans and the country growing out of the recrudescence of the bubonic plague.

Mr. RANSDELL. That is true. It exists there to-day among the rats, but not among human beings.

Mr. KING. And this appropriation is for the purpose of meeting that contingency?

Mr. RANSDELL. That is exactly right, sir.

Mr. KING. Why should not the appropriation, then, be limited to an expenditure for the extirpation of the bubonic plague?

Mr. RANSDELL. I will say to the Senator that, if I am informed correctly, the general fund for that purpose has practically all been expended in New Orleans and is not available to carry on the work which must be carried on in other parts of the Nation to the extent of about $20,000 a month, and therefore I do not want to limit it.

Mr. KING. Does the Senator know whether there has been expended in New Orleans substantially all of the appropriations carried in the former bills for the items mentioned in line 20 on page 14 down to line 5 on page 15 of the pending bill?

Mr. RANSDELL. That was stated in substance by Dr. McLaughlin, representing the Public Health Service, in his testimony before the committee on the 11th day of this month. He said substantially that they had expended the greater part of the fund and would be entirely out of money by the 15th of next month if they did not get an additional appropriation. Dr. Perry says in his letter to me, which I read a few moments ago:

If we do not get $100,000, the work must cease on April 30.

Mr. KING. Mr. President, with the information which the Senator has given I am inclined to vote for his amendment; but I take this occasion to submit an observation or two with respect to the Public Health Service, as well as other executive agencies of the Government.

The Public Health Service, as I have before stated upon the floor of the Senate, has an ambitious program. I do not know how many thousand employees are in the Public Health Service, but I have been told, upon what I regard as good authority, that there are more than 3,000 physicians in that service, and, in addition to that number, there are thousands of employees, attachés, clerical help, stenographers, printers, typewriters, functionaries, and supernumeraries which characterize so many of the executive departments of the Government.

Mr. RANSDELL. Mr. President——

Mr. KING. I yield.

Mr. RANSDELL. I merely wish to suggest to the Senator that we give to the Agricultural Department, which takes care of the diseases of plant life and of animals and matters of that kind, something like $31,000,000 or $32,000,000 a year. The Public Health Service is the only branch of the Government which takes care of human health, and we are nothing like as generous with them as we are with the branch of the Government which investigates and studies animal and vegetable life.

Mr. KING. Mr. President, a few years ago, when I had the honor to represent my State in the House of Representatives, the Agricultural bill, as I remember, carried $4,000,000 or $5,000,000, but we have by leaps and bounds gone from that modest sum to what the Senator states now, namely, thirty-odd million dollars. Let me say to the Senator that last year we appropriated for the Agricultural Department more than $40,000,000, and, as I recall, the year before the appropriation for this department was nearer $50,000,000. The officials of the Agricultural Department would have rejoiced if they could have obtained $100,000,000; and if we had given it to them, they would have expended it. There is no limit to the voracious appetite of the departments and bureaus and executive agencies of the Government. They seem to have an absolute disregard of the interest of the public; they carry on extensive propagandas to secure appropriations and are never satisfied. They seem to be eager to spend and exhibit no desire to conserve. It is pitiful to witness the scrambles for appropriations for executive agencies, and it is a sorry page which records the wasteful expenditures of the Federal Government.

The executive departments of the Government close their eyes and write checks for millions, and then expect Congress to abjectly place its O. K. thereon, and then impose burdens and taxes upon the people to meet them. Federal appropriations are increasing at an alarming rate, and there seems to be no spirit of economy or effort to reduce the burdens which extravagance imposes. Unfortunately many of the people join in appeals for appropriations which in many cases are not only not warranted but which are in contravention of law and the theory of our form of government.

This is not, Mr. President, a partisan matter; Democratic officials are as culpable in these expenditures as are Republican officials. There is something that gets into the blood of many executive officials when they are invested with authority so that

they want to extend their power and aggrandize themselves or their departments or their bureaus regardless of the cost to the Government or the burden to be imposed upon the people. It is frequently said that a Republic can not be efficient or give to the people economical administration. I do not care to enter into a discussion of this charge; it is manifest, however, that we have not fully learned the lesson of economy or efficiency in this Republic. Our Government costs too much.

This is true of municipal and State administrations. Our annual expenses for governmental purposes are increasing far more rapidly than is the increase in population. With the tremendous burdens which the war laid upon us, with the billions of national debt, we are not admonished to pursue a course of thrift and economy, but keep the mad pace which the war developed. We are not yet sobered, but spend and contrive schemes to spend until it seems as though we were determined to squander the savings of the past and imperil the safety of the Nation.

Mr. President, our task is not ended when we pass appropriation bills; we must then save the credit of the Nation by providing the funds to meet the appropriations. Many who are making demands upon Congress for extravagant appropriations never seem to appreciate the fact that we must become debtors and borrow money—issue interest-bearing bonds of the Government therefor, or impose taxes upon the people which will prove more or less onerous and perhaps bear so heavily upon them as to prevent financial advancement—general prosperity. And where are these taxes to come from? Prohibition has closed one fountain that yielded a large revenue. We may have reached the limit in income and excess-profits taxes. The people will resent increased internal taxation. We can not for several years hope for so large a foreign trade as we have enjoyed during the war. Indeed, what it will be during the next few years no one can determine. Europe's condition is such that her exports to the United States will be limited for some time to come. If Europe can not export, she can not buy, unless we take such securities as she can offer. There will be a slowing down in our foreign commerce. It is apparent what the effect will be upon the receipts of the United States Treasury. And a diminishing foreign market for our products will materially affect the prosperity of the American people, and that in turn will reduce the income and excess-profits taxes which they pay to the Government. That situation will call for new sources of taxation, and that, of course, will add to the burdens of the people. And let it not be forgotten that in the end the taxes fall upon the farmer and the wage earner and the ultimate consumer.

We have indulged in a discussion of "our merchant marine." We can not compete with other nations in ocean-traffic rates. We can carry our own commerce in our own ships, but we will not, I am afraid, secure much of the commerce of other nations. Our merchant marine must, then, depend upon our own foreign commerce—upon our own exports and imports. Unless we have foreign trade and commerce, Mr. President, our merchant marine will rot in the docks. If prohibitive tariffs cut off our trade with the world, we will have a sort of "Coney Island merchant marine"; our ships will be plying between New York and Coney Island and from domestic port to domestic port. We must have foreign trade in order to have a merchant marine, and foreign trade and commerce are imperative to our prosperity.

Unless we are prosperous, there will be a lean Treasury and a frequent issue of bonds, unless the most rigid and Spartan economy is practiced.

The demands which are daily being made upon the Treasury can not be met, in my opinion, unless we increase the taxes or issue millions of bonds.

I repeat, where is the money coming from to meet these great demands that are being made by the executive departments of the United States? Everybody knows that the next fiscal year will witness a considerable slacking up in the business of the United States. Profits will be less, business will be less, the earnings of the people will be less in the aggregate than during the present fiscal year. Perhaps the aggregate earnings of the people for the latter year were $50,000,000,000. It is obvious that the next fiscal year will not realize that amount as the gross earnings of the American people. Perhaps they will be $40,000,000,000, and with that reduction, of necessity, there will be greater difficulty in realizing funds with which to meet the imperative demands of the Government.

Our Republican friends claim that their party is pledged to economy. Some of us, knowing the past record of the party, are rather skeptical. But I want to assure any Republican who does honestly believe in economy that he will find upon this side of the Chamber Senators desirous of aiding him in every legitimate and proper way to reduce the expenses of the Government.

It takes some time to react from the condition in which we found ourselves during the war to the normal conditions of peace. The psychology of war projects itself into the future for an indefinite period and affects the judgment of most people; but we must at the earliest possible moment emancipate ourselves from the somewhat hysterical and unbalancing influence which the World War produced and get down to the hard, stubborn facts and realities of this biting world before us and practice the economies of real, genuine, patriotic American citizenship. We must cut down the expenses of the Government, reduce personal expenses, practice economies in our daily lives, and insist upon rigid economies in all governmental agencies and activities. This is a time to learn what "hardpan" is; we must learn that we can spend savings and capital, but that when we do we are on the road to national bankruptcy; that spending does not necessarily mean prosperity, but often means ruin.

While it is true that the Public Health Service is an old service as a branch of one of the departments of the Government, it has taken on a swollen growth, if I may be permitted that expression, of late. I repeat that it is not satisfied with what I conceive to be its legitimate and proper sphere of activity. It, like many other of the departments of the Government, seeks to increase its power and authority by inducing the States to cooperate with it. This is a favorite method of some Federal agencies—to spend some little money in the States and then urge the latter to induce Congress to make large Federal appropriations, provided the States make like appropriations. Of course, in many instances departments of the Federal Government send their representatives into States where some beneficial service is rendered. But the service is such as the States should perform and which in time they would perform. But representations are made that Congress will do the work if it is sufficiently besieged and "bedeviled," so a strong propaganda is commenced, and Congress is petitioned and then "required" to make large appropriations to carry out the work prescribed by Federal agencies.

This plan is seductive and sinister and will destroy State pride and State honor if persisted in and the people do not awaken to the demoralizing effects of this policy. Some of the States have not seen what the effects will be, but I believe that they will in the near future reject these proffered gifts which can not prove other than harmful to the Nation. The States are willing to assume whatever obligations rest upon them, and more and more they are taking upon their shoulders the responsibilities which are connected with progressive and developing Commonwealths. Many officials in the Federal service are faddists, cranks, "uplifters," dreamers, visionaries, doctrinaires, failures in the practical walks of life, and finally they find refuge in some soft berth in the departments of the Government, and there, protected by civil service and life positions, they indulge in their fads and fancies and dreams and visions, and seek the extension of their powers and covet opportunities to project the General Government into the States and into the purely domestic affairs of the people.

An official is assigned to a humble position, but one of merit, with the duties defined by law, and he immediately conceives the idea of making it a big position by the usurpation of authority. He is assigned one clerk, and he immediately conceives the idea of having two. Some friend of his in some other department has a dozen clerks and three or four stenographers and a cloud of employees under his control, and he conceives the idea that his work is just as important as his friend's, and he demands that there shall be a large increase in the personnel of the agency or bureau of which he is the head.

It is the cellular growth. The cell expands and multiplies until there is a tremendously complex organism; and then this organism or agency or bureau swells and increases, and numerous persons within the bureau fancy that their great abilities entitle them to high positions and to bureaus of their own, and so other fractures ensue and new bureaus result. One bureau, starting as a cell, becomes multicellular, and breaks up into many parts and into many bureaus, and so, by a process of procreation and breeding, these bureaus multiply until their numbers are countless.

Why, Mr. President, if the French and some of these alleged decadent nations could get some idea of the processes of fecundity which are exhibited in the departments of the Government and apply them to the biological field, it might remove one of the serious matters which now concern the French leaders.

This Public Health Service organization has increased in power and in personnel and in expenditures. The more money we appropriate to it the larger it becomes. Governmental departments grow upon the money which they get out of the Federal Treasury. If they receive a million dollars for scientific research, the first thing that is done is to get enlarged quarters, thousands and tens of thousands of dollars for the

paraphernalia of the office, and then the greater part of the appropriation is expended in paying the salaries and the compensation of the officials. If one examines the thousands of appropriations which are made to many of these departments it will be found that many of them are swallowed up by increased salaries, by the enlarged personnel, and by the nameless expenditures for which no showing can be made.

It is claimed that the Public Health Service now is seeking to go into States to discharge there the duties and responsibilities which devolve alone upon the States. Some officials want to take supervision of practically every phase of the public health of the people of the States and to plan extensively for rural sanitation. Why, the Public Health Service will soon be furnishing employees to go upon the farms of the farmers and direct them in their labors, into the homes of the people and tell them how to live and think and act, and become directors of the activities of all the States and communities.

Soon they will insist that the Federal Government, by its officials, examine the teeth and eyes of the people, prescribe for all their physical and mental ills, and subject everyone to a physical examination, and place all the people under the supervision of the executive agencies of the United States.

Of course, it is a commendable thing to care for the health of the people; but we did not organize the Federal Government in order to make it the parent and the overlord of the individuals and of the States.

There must be a recrudescence of that splendid individualism and personal independence that has made this Nation the glory of the world. The idea of this growing and tyrannous bureaucracy is that it shall look after the needs and welfare of the people. That was the idea of all despots and bureaucrats. The people were not capable of governing themselves, so a paternalism was necessary. The new federalism is to preserve for the people, teach them how to run their own business, and place a Government functionary in every home. The farmers must be taught how to run their farms and dairies and conduct their business—how to plow their land and plant their crops.

The Federal Government is to look after our roads and bridges, our schools and our health and our persons, our lives and our property, and doubtless these centralizationists and bureaucrats will soon tell us what we shall wear and what we shall eat. Already the Federal Government tells us what we shall not drink and may soon legislate for or regulate our appetites. May we not expect this paternalism to extend to the homes of the people, and the Federal Government displace the authority of the father over his family and the home life. Bureaucracy is so insinuating that the internal affairs of the States are coming under its control, and the badge of the Federal official may soon destroy home authority and parental responsibility.

I was surprised the other day to receive a communication from my State stating that there were literally hundreds of Federal employees therein. There are thousands of them traveling from Washington at an expense to the Government of millions of dollars annually to investigate everything, great and small, which is related to the lives of the people. I venture the assertion that there are from two or three hundred thousand Federal employees—up to half a million—traveling through the United States at an expense of millions of dollars to the Federal Government, looking into the internal affairs of the States and the domestic affairs and lives of the people and into their business activities; work which if necessary to be done should come under the cognizance of the people themselves or under the cognizance and jurisdiction of the States.

It has seemed to me that there has been a subsidence of individual spirit and of State spirit and pride during the past few years. It was gratifying to many to read the excellent letter recently written by the Vice President challenging attention to the spirit of democracy—not a partisan democracy, but a democracy which meant individualism and personal initiative and liberty, which meant the assertion of the right of the individual to govern himself, which demanded that the Federal Government should keep its hands off from the people and off from the States with respect to matters which come under their own cognizance and within their own jurisdiction. In this hour of confused voices and uncertain creeds we need some great political prophet who will point the way to safety and plant our feet upon solid American ground, the ground occupied by the fathers and consecrated by their patriotic services. Upon this ground we must stand if the perpetuity of this Republic shall be assured.

I want to protest now, as I have in the past, against this constant and persistent invasion by the executive departments of the rights of the States and of the fields of activity in which the people themselves should alone enter.

I hope that Senators will reduce the expenditures for the executive departments to the minimum and restrain their efforts at usurpation. The Federal departments and agencies are not partisan. I venture the assertion that a majority of those within the departments belong to the opposite political faith from that to which I belong; but it makes no difference whether they are Republicans or whether they are Democrats, there are many officials when they get in the departments plan and plot to increase the authority and power of the departments and bureaus and divisions and agencies and officials and to increase the number of employees of the Government.

There were brought into the city of Washington during the war tens of thousands of employees. They have not been discharged yet. You can not get them out of office. The only way we will ever get them out of office is to legislate them out by refusing to make appropriations.

Bills come before us—one recently came before the Judiciary Committee, and I shall ask that the committee be discharged from its consideration, and that the bill be referred to the Committee on Appropriations—asking for the repeal of a law which forbade employees of the Government from going from one department to another. They want it repealed, so that if one department should possibly be compelled to discharge a few employees, they may be immediately absorbed in some other department of the Government. There is a determination that nobody shall be separated from the service. We are going to keep the thousands and tens of thousands of employees here, if it can be done; and if the Appropriations Committee and the other committees that have to do with these things do not set their faces like flint against this demand, instead of there being a diminution in the number of employees over that obtaining during the war there will be an increase.

Now, coming to this appropriation, I think the suggestion made by my colleague [Mr. SMOOT] was the wise one. I would have preferred to leave it as it is, and then, if the $100,000 is legitimately and properly expended and it proves inadequate, we are in session and a further appropriation can be made; we will stay in session here, in my opinion, at least until the political conventions meet, and I hope we will not adjourn because they convene. We will be here in session for months, and we can meet any legitimate demand that may be submitted.

There are other items in this bill to which I shall call attention later, but I felt like submitting these observations in connection with the Public Health Service demand.

The PRESIDING OFFICER (Mr. POMERENE in the chair). The question is on the amendment of the Senator from Louisiana [Mr. RANSDELL] to the amendment of the committee.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The reading of the bill was continued to line 2 on page 16, the last paragraph read being as follows:

To enable the Secretary of the Treasury to continue in effect the provisions of section 2 of the act entitled "An act to authorize the Secretary of the Treasury to provide hospital and sanatorium facilities for discharged sick and disabled soldiers, sailors, and marines," approved March 3, 1919, $500,000, to be expended at the following hospitals and in not to exceed the following amounts, respectively: Alexandria, La., $25,000; Deming, N. Mex., $20,000; Houston, Tex., $10,000; Perryville, Md., $75,000; Greenville, S. C., $75,000; Cape May, N. J., $10,000; Hoboken, Pa., $10,000; Dansville, N. Y., $10,000; St. Louis, Mo., $5,000; New Haven, Conn., $25,000; West Roxbury, Mass., $50,000; Helena, Mont., $100,000; Boise, Idaho, $75,000; East Norfolk, Mass., $10,000: *Provided further*, That the sum of $20,000 of the appropriation of $150,000 contained in section 6 of the above-named act is made available for such repair work and remodeling as may be necessary to adapt the hospital at Corpus Christi, Tex., to the needs of the Public Health Service.

Mr. KING. Mr. President, I should like to ask the Senator from Wyoming what is the occasion for these appropriations? My recollection is that not only in the general appropriation bills dealing with vocational training, but in several special bills, emergency or deficiency bills, further appropriations were made. Are these deficiencies? Is it the plan to keep hospitals or sanitariums at each of these places? Are these permanent structures? Are they permanent hospitals and permanent sanitariums? Do they belong to the War Department? Are they under the control of the War Department?

I have asked a number of questions in order that the Senator may give us such information as will enable us to understand exactly the extent of the appropriations.

Mr. WARREN. Mr. President, many of these belong to the War Department and many of them do not, but have to have some extensions and refitting. The Senator will remember that when the first deficiency bill—deficiency bill No. 1, this being No. 2—was being considered on the floor the Sweet bill had passed, during the consideration of which in committee it developed that while the entire deficiency bill had only $3,000,000 and a little over, we had to add $30,000,000 because of the so-

called Sweet bill, and we would have to add still further amounts. It is in order to take care of the soldiers who were injured in the war that we are compelled to spend these amounts in the hospitals named.

Mr. KING. Do I understand the Senator to mean that the Sweet bill increased the number that would have the right to enter these various sanitariums and hospitals?

Mr. WARREN. It provided not only for that, but it provided for extra pay and extra accommodations. I will say to the Senator that my colleague on the committee, and the Senator's colleague in the Senate [Mr. SMOOT], had charge of the Sweet bill, and I shall ask him to make a statement accordingly as to the effect of that measure.

Mr. SMOOT. Mr. President, the so-called Sweet bill increased from $30 per month to $80 per month the pay of soldiers in hospitals who were disabled. As I stated upon the floor of the Senate when the bill was under consideration, it carried an increased expenditure of $81,000,000 per annum. The annual appropriation required over and above the appropriations that were required under the $30 per month provision of the then existing law amounted to $81,000,000 per annum.

Mr. KING. For how long?

Mr. SMOOT. For years to come, I will say to the Senator. In other words, the amount that will be required from now on to pay $80 per month and expenses attached to caring for disabled soldiers in our hospitals is $169,000,000 per annum.

The Senator will remember that in the Sweet Act there was an appropriation made of only $30,000,000. That was to take care of the back pay provided for in that bill for the disabled soldiers up to, I think, the 1st day of April, but I am not quite sure as to that. However, it is near the 1st day of April. This appropriation is absolutely necessary to meet the requirements of the legislation passed known as the Sweet bill. I gave notice at the time when the bill was passed that it carried only a temporary appropriation to take care of the immediate needs, but that the full amount required for the fiscal year ending June 30, 1920, would be $81,000,000.

Mr. WARREN. I think the Senator is a little too close on that figure. As I remember, it was $91,000,000, and the pending bill carries on the next page, as it came from the House, $55,000,000, which, added to the $30,000,000, would be $85,000,000. The House did not allow the amount asked for. I am sure it was $91,000,000, and possibly $93,000,000.

Mr. SMOOT. I am quite sure that the first estimate that was given was something over $90,000,000, but there were changes made in the bill that reduced it to $81,000,000, as I have already stated. I will state that there is no question about the $55,000,000. It has to be appropriated.

Mr. KING. I should like to ask my colleague a question. The appropriation which was carried in the former bill to which he refers was to cover the payment to the soldiers themselves, as I understood him?

Mr. SMOOT. Yes.

Mr. KING. Why would increasing their compensation increase the demands of these various hospitals and sanitariums?

Mr. SMOOT. I did not know that the Senator's question had reference to this bill.

Mr. KING. Yes.

Mr. SMOOT. The reason for the increase in the different hospitals and sanitariums comes from the fact that the number of soldiers who are entering the hospitals is increasing every day. In other words, the Vocational Board had been very slow indeed in passing upon the cases of the different soldiers throughout the country who have made application for entrance into the hospitals up to the time of the passage of the Sweet bill, but the numbers have increased in a greater proportion to those who made application in the last two months than it had before that time because of the better functioning of the Vocational Board. I will say to my colleague that the reason for these additional appropriations is to take care of the expenses that are incurred by the additional soldiers who have entered the hospitals and sanitariums.

Mr. KING. While my colleague has the floor I should like to ask him if there is any further explanation that can be made with respect to the $55,000,000?

Mr. SMOOT. No.

Mr. KING. In other words, the explanation just made covers all that may be said in respect to that amount?

Mr. SMOOT. I have stated, I think, about all that could be said in relation to the $55,000,000. The appropriation must be made, because the Congress has passed a law requiring the money to be paid.

I will say to the Senator having the bill in charge that on page 16, lines 3, 4, 5, 6, and 7, there is something to which I wish to call his attention. I had not read it carefully until just now. It reads:

> Appropriations herein or hereafter made for the Public Health Service shall not be expended for advertising in newspapers, magazines, or periodicals for any purpose other than the procurement of necessary services, supplies, materials, and equipment.

Mr. President, I am a little fearful of that language, and I wish to state why. Government publications in the different posts and throughout the country have been, in many cases, turned into advertising mediums, and there have been certain complaints brought to the attention of the Joint Committee on Printing through advertisements in the Government publications at the different posts. In other words, charges have been made direct that no merchant who does not advertise in those papers stands a ghost of a show of selling goods to the Government of the United States. So the Joint Committee on Printing, under the authorization given them by law, concluded to issue an order that in such publications there should be no advertisements inserted, and they are strictly prohibited by the order of your Joint Committee on Printing.

It seems to me that this paragraph has been put into the bill for the very purpose of overriding the order issued by the Joint Committee on Printing, so that the Public Health Service can insert advertisements in the magazines and periodicals if they are for the purpose of procuring necessary services, supplies, materials, and equipment. That is all the advertisements ever were for——

Mr. WARREN. Will the Senator yield a moment?

Mr. SMOOT. Certainly.

Mr. WARREN. I will say that in the House they put in certain claims of certain newspapers to be paid. They went out on a point of order. We did not put them in for the very reason the Senator has mentioned, but the Senator upon a moment's reflection will understand that in letting contracts for making purchases the law provides that they must advertise for bids.

Mr. SMOOT. I have no objection to that.

Mr. WARREN. So we have provided here that—

> Appropriation herein or hereafter made for the Public Health Service shall not be expended for advertising in newspapers, magazines, or periodicals for any purpose other than the procurement of necessary services, supplies, materials, and equipment—

Which, under the law, they will have to do.

Mr. SMOOT. Then there is no need for this provision if the law requires it. If it applies to newspapers or magazines or periodicals outside of the newspapers and magazines and periodicals issued by the Government, then I have no interest in it at all, because the law requires bids shall be asked for in such papers.

Mr. WARREN. That is put in to check them, so that they can only advertise that and not do as they have been doing. If we strike that out, they may take these same liberties again. This is really a check and not a permission. It checks them so that they can not spend the money except for these necessities. They did it heretofore.

Mr. SMOOT. Does not the Senator believe that with this language the Public Health Service can advertise in the post papers and post magazines and post periodicals?

Mr. WARREN. I think they can only advertise for bids, as I say. They may do that. As to what they may do unauthorized and what they may not do under the law, we shall have to reach them in some other way. I would dislike to have the Senator strike out the restriction, because the restriction is in there to accomplish the very purpose about which the Senator is talking.

Mr. SMOOT. That is what I want to accomplish. I want the Public Health Service and every other department of the Government to be prevented from publishing advertisements in the Government publications printed at the different posts of the country, and also in the Indian school publications that are issued under the direction of the Government and paid for by the Government.

Mr. POMERENE. If I understood him correctly, the Senator said that the Joint Committee on Printing had issued an order prohibiting the insertion of these advertisements in these magazines.

Mr. SMOOT. Yes.

Mr. POMERENE. I have never examined the law, but I wondered whether there was any doubt about the authority of the committee to do that. I am in entire sympathy with what the committee has done in that behalf.

Mr. SMOOT. There is no doubt whatever.

Mr. POMERENE. If those advertisements have been subjected to the use which the Senator suggests, it never ought to have been done.

Mr. SMOOT. There is no question of it, I will say to the Senator, and there is no department that has ever questioned the authority of the committee under the act that was passed in one of the deficiency appropriation bills of the last session of Congress.

I wish to say in passing that under that law the Joint Committee on Printing have stopped the publication of I can not tell how many periodicals and magazines that were printed by the Government of the United States. Right here I do want to call attention to this fact——

Mr. WARREN. May I ask the Senator to allow me to insert, in support of just what he is saying, something from the RECORD?

Mr. SMOOT. Very well.

Mr. WARREN. While the matter was being considered as to what we have left out of the bill, Representative GOOD said:

Mr. GOOD. The situation in regard to these newspaper advertisements is this: There was about $10,000 or $12,000 of the million dollars appropriated to combat influenza used for newspaper advertisements. In all cases excepting these the Secretary of the Treasury approved the bills or the contracts for inserting these advertisements. They were display advertisements of a page or half page—I have forgotten the exact space. But in these cases the Secretary did not approve of the plan and the expenditure until after the advertisements were inserted. Therefore under the ruling they had no authority to pay for them. These advertisements were not paid for, and the others were paid for. That is the reason why this item is carried here as legislation in this bill. There is no question about its being subject to a point of order.

Mr. SMOOT. I am in full sympathy with the legislation as understood by that statement. What I am fearful of is that the Public Health Service will take advantage of this provision and will advertise again in Government periodicals and magazines that are published at the different posts.

To show the Senate how some of the departments act, I wish to call attention to what took place after the Joint Committee on Printing had issued the order that at certain posts there should not be more than one magazine or periodical issued by the Government. Some of the posts were printing two and some of the Indian schools were printing two, and magazines of more costly paper than if they had been printed at Harvard University. So we decided that there should not be more than one of those Government publications printed at any of the posts and schools. What happened? We have just learned.

The printing by the printing press of the publications was discontinued. The law said "printing," and so what did they do? I find that one of the publications that was stopped is lithographed. [Exhibiting.] We thought we were going to prevent the waste of print paper. I find here a better grade of paper, and the whole contents of the magazine run off on the typewriter and then lithographed and issued as it was before, except that it was lithographed instead of printed. I hold samples of other periodicals in my hand which instead of being printed were run off on the typewriter and mimeographed. Has it saved any paper? Has it saved any money? Why, no; it would have been much better if they were going to be published at all to have them printed because of the fact that it could be done with less paper and for less money.

But what do the departments care for the laws that are passed by Congress? They do not care what laws Congress enacts if a way can be found to avoid them, particularly if it is a case of spending the people's money.

As far as I was concerned, I knew nothing about this matter until some of the other departments, seeing what was being done, asked whether the mimeographing of these magazines was printing or not, and wanted a decision upon it.

What I am afraid of is that if this language stays in the bill the way it is, the Public Health Service will simply go to work and advertise in these very periodicals that the order has been issued by the Joint Committee on Printing to discontinue.

Mr. WARREN. Mr. President, if the Senator will permit me, one of my colleagues on the committee, the Senator from North Dakota [Mr. GRONNA], calls my attention to an amendment which would certainly fix that so as to make it positive, and that is in line 6, after the word "of," to insert the words "bids for," so it would read, "the procurement of bids for necessary services, supplies, materials, and equipment." That would limit it to bids for something that it is necessary to purchase.

Mr. SMOOT. I do not think that will make any difference, and I am perfectly willing to let the provision go as it is now, with the statement that I have made upon the floor of the Senate. I wish to say now that if the authorization is abused by the Public Health Service, and the abuse is called to my attention, I am going to ask Congress to pass a law which I think will be so worded that it can not be abused in the future. I recognize that this is a limitation on the department advertising in the general newspaper and periodical press of the country, and that is a splendid thing; I should agree with the provision if that was as far as it went. I am going to allow my statement to stand to-day, so that if the provision in the bill is used for the purpose to which I have called attention, I repeat I am going to ask for a special act of Congress to see that it is prevented in the future.

Mr. MCKELLAR. I ask unanimous consent to offer an amendment to the bill, on page 2, line 20, which I desire that the Secretary shall read.

Mr. WARREN. Mr. President, while that is out of order, as the Senator from Tennessee desires to leave the Chamber I am willing to consent to his request. In order that he may offer his amendment to the committee amendment, at the point he indicates, it will be necessary to reconsider the vote by which the committee amendment was adopted.

Mr. MCKELLAR. I ask unanimous consent to reconsider the vote by which the committee amendment to the paragraph on page 2, under the head of "Council of National Defense," was agreed to, and I offer the amendment which I send to the desk.

The PRESIDING OFFICER. Is there objection? There being none, the vote whereby the committee amendment was agreed to is reconsidered. The Secretary will now state the amendment to the amendment proposed by the Senator from Tennessee.

The READING CLERK. On page 2, line 20, after the numerals "$40,000," it is proposed to insert:

Provided, however, That no salary shall be paid to any officer or employee of the council in excess of $4,000 per annum.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Tennessee to the amendment reported by the committee.

Mr. SMOOT. Mr. President, I have no objection to the amendment. I simply desire to say, however, for the RECORD, if the Senator from Tennessee will permit me, that in answer to a question which he asked me as to what the Director of the Council of National Defense was paid, I stated that his salary would reach at least $10,000 per annum. After looking the matter up I find the amount that I named was not quite high enough. The amount paid has been $200 a week or $10,400 per annum.

Mr. MCKELLAR. I think under the small appropriation which is here provided, and the necessary diminution of the number of employees and the importance of the work of the bureau, that a $4,000 salary is ample; and I hope my amendment to the committee amendment may be adopted.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Tennessee to the amendment of the committee.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. KING. Mr. President, I ask my colleague's attention to the matter which he has just been discussing, and I also desire the attention of the Senator from North Dakota [Mr. GRONNA]. It seems to me that the amendment which has been suggested by the Senator from North Dakota would make the matter a little clearer and might tend to prohibit the flagrant abuse which has been described by my colleague. However, I suggest that this would be a better amendment: After the word "equipment," in line 7, on page 16, strike out the period and add the words "where the law requires advertisement." It would be clear then that no advertisement could be inserted in any newspaper or magazine other than for the procurement of necessary supplies, materials, and equipment where the law requires advertisement.

Mr. WARREN. I am afraid that that, perhaps, would give them too much liberty, but I have no objection to the restriction.

Mr. KING. From what has been said I supposed that the law required that in the procurement of certain supplies they must advertise, and I thought my amendment would restrict them to advertising only where the law compels them to advertise.

Mr. WARREN. The amendment proposed by the Senator from North Dakota, however, would make it, I think, more emphatic and restrict them to advertising for bids only.

Mr. KING. If that satisfies the chairman of the committee, it will be entirely satisfactory to me.

Mr. GRONNA. I think the suggestion which I made—I did not propose it as an amendment—would limit them absolutely to bids.

Mr. KING. I think the Senator from North Dakota should offer that as an amendment, and I shall be glad to support it.

Mr. WARREN. Very well, I suggest the amendment now, that on line 6, page 16, after the word "of" the words "bids for" be inserted.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Wyoming.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, under the head of "War Department," on page 16, after line 12, to insert:

CONTINGENT EXPENSES.

For rent of buildings in the District of Columbia for the use of the War Department and its bureaus and offices, fiscal year 1919, $620.42.

Mr. KING. Mr. President, I desire to ask the chairman of the committee, or my colleague, who has been giving attention to the question of the reassignment of the various bureaus to space in the public buildings, whether this item will cover all claims for rent for the fiscal year 1920?

Mr. WARREN. Before the Senator from Utah [Mr. SMOOT] answers his colleague's question, I will say that this is for buildings which have been used; it is to close an account; it has gone to the board of appraisement and they have made the tender, which is really, one might say, a judgment.

Mr. SMOOT. I will say to my colleague that this amount ought to be paid. In further answer I will say that the building commission is taking the Government employees out of the rented buildings just as fast as it is possible to do so. I have not a doubt that the commission has saved on rent alone in the District of Columbia since its creation at least $500,000.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, on page 16, after line 16, to insert:

ADJUTANT GENERAL'S OFFICE.

So much of the appropriation of $3,500,000 not necessary for the care and custody of the draft records and for the employment of clerical assistance for the purpose of furnishing to adjutants general of States statements of service of soldiers who served in the war with Germany shall be available for the employment of clerical assistance necessary for the purpose of furnishing such information from the records of the demobilized army as may be properly furnished to public officials, former soldiers, and other persons entitled to receive it.

Mr. KING. Mr. President, I should be glad to have the chairman of the committee explain this item. Before doing so I desire to ask him whether or not the amendment permits employment of additional clerical help? The Senator will keep in mind that the War Department now has more than 20,000 employees in the District of Columbia. I think many of them are wholly unnecessary. Recently a survey was made by officials of the Government who were authorized to make such survey, and I am credibly informed that in merely one branch of the War Department economies were recommended in the matter of personnel which would have saved $1,000,000. The recommendations were not carried out; and yet we are giving now, as I understand, by this amendment, to the same department—and it is The Adjutant General's office to which I am now alluding——

Mr. WARREN. If the Senator will permit me to make a statement, I think he will continue his remarks with a little more information than he now has.

The amendment is really in the line of economy. It proposes to take a fund from a branch where they do undertake to save and use it in another branch where it is required to enable the work to be carried on. For instance, the appropriations made in general form have been allocated, and we do not wish to appropriate any further now. They are getting out the records as fast as possible; first, of the demobilization of the Army; and second, the records as to the draft, which by law we have required shall go to all of the States and be furnished to individuals and soldiers. They are two different propositions; but what they propose, in order to save expense, is while the demobilization sheets are being prepared, in so far as they can, that they shall be passed right over and be worked on for the other purpose. It is plain now that there is not enough, and it is impossible to take enough out of the present appropriations to complete the draft records, which are required by law and which later are to be furnished to the States.

The Adjutant General promises—and he is very earnest about it—that he will be able, without the appointment of extra clerks, simply by using the clerks he now has, and with what he might save on the other item, to carry forward and complete the necessary work required under the law.

As to the clerks, a very great number has been employed in the War Department during the war and since to a lesser extent. The office of The Adjutant General, of course, has a large amount of work accruing after the war, as in the case of the draft records, which must be completed, although that work has no reference to actual operations in the field. So while the work of The Adjutant General's office has increased, the number of clerks has been greatly reduced.

This matter was considered——

Mr. KING. Mr. President——

Mr. WARREN. If the Senator will bear with me one moment further, they asked for an appropriation, in the first place, on the first deficiency bill. The request was discussed very earnestly by The Adjutant General, the Secretary of War, and myself, and more particularly by the chairman of the Committee on Appropriations of the other House. The item was kept out of that bill on the understanding that they might make application for its insertion in this bill, to see whether they could not bring about this economy, and whether, as they proceeded with the work and arranged the affairs of the office, by carrying them forward together they could not effect this economy. They have concluded that that is quite possible, and they desire to proceed along that line. The Secretary of War has now indorsed what he was about ready to indorse at that time, and he seems to have the same confidence The Adjutant General has that what they desire can be done, so that no further appropriation will be required to execute that work.

Mr. KING. Mr. President, perhaps my observation may have conveyed an erroneous idea. I stated that the conditions to which I refer existed in The Adjutant General's office, but I want to acquit The Adjutant General of a failure to carry into effect the economies to which I have referred. My information is that he desired to do so, and that the failure to do so is not attributable at all to The Adjutant General. I agree with the Senator, and if this money is to be expended by The Adjutant General and he is given a free hand I shall be entirely satisfied. The Senator assures us that there will be no increase in the clerical force of other branches of the War Department. I wish to say in passing that I am not so well satisfied that some other branch of the War Department will reduce its clerical force.

Mr. WARREN. The clerical force has been largely reduced in The Adjutant General's office.

Mr. SHERMAN. Mr. President, if the committee amendment remains in the bill at all I should like to offer an amendment. I believe it is in order now to offer an amendment to the committee amendment, and I send to the Secretary's desk an amendment which I ask may be stated, it to be inserted after the last word in line 2 on page 17.

The PRESIDING OFFICER. The amendment proposed by the Senator from Illinois to the amendment reported by the committee will be stated.

The READING CLERK. On page 17, line 2, after the word "it" it is proposed to insert the following proviso:

Provided, That one copy of the draft record in any individual case shall be furnished to any Member of Congress in any record or papers relating to the draft in the State in which such Member resides on his application therefor.

Mr. SHERMAN. Mr. President, I offer this amendment to the committee amendment in order to secure to Members either of the House of Representatives or of the Senate the right to one copy of the draft record in any individual case arising in his own State. I do not insist, of course, that one has or ought to have any lawful right to have such record except in the case of his own immediate constituents in the State where he lives. In the case of a Senator the right extends to the record for the entire State, but no evil can result from giving the right to a Member of the House to secure a copy of any record of the draft arising in any of the districts in his own State, although outside of the district which he represents.

The amendment only secures, as a matter of right, that which is now a matter of grace. A Senator or Representative may make application to either read or see any of the draft records relating to a particular case, and it may be denied him at the pleasure of the head of the War Department or any subordinate having the custody or care of the paper he desires to see. I undertake to say that no Member of Congress now can go to the War Department, and, upon the sole merit of his application, outside of any influence that he may have of a personal or political character, be enabled to see any part of the draft records either as affecting his own State or any other State.

While it is proposed in the amendment reported by the committee to give to public officials such records, the proposal is limited by the language, beginning in line 22 of page 16:

Shall be available for the employment of clerical assistance necessary for the purpose of furnishing such information from the records of the demobilized army as may be properly furnished to public officials, former soldiers, and other persons entitled to receive it.

A Member of Congress does not belong to any one of the three enumerated classes; a Member of Congress is not a public official, as the courts have decided several times. He is not a public official in the sense that he is in the class with those on the pay roll in any of the executive departments, in any appointive office in the judicial department of the Government, or any of the employees or clerical help of the judiciary. As it is

now worded, the provision is left open to interpretation. The interpretation might possibly, in some event, if litigation resulted, be furnished by judicial decision, but more likely it would be furnished by some subordinate in the War Department or in whatever department these records may hereafter be found. That discretion, resting in the mind of an appointive official, is not exercised under any known rule. It is an unbridled discretion. It puts in the hands of an appointee, or the head of some department or bureau, or some one at the desk having charge of the matter, complete discretionary power either to grant or to refuse, as he pleases. It, in fact, has been exercised in that way.

A Member of Congress, I say, unless he is accompanied by personal or political influence, if he goes to The Adjutant General's office and sees him in person, or any subordinate, or communicates with the head of the War Department, has no assurance whatever that he will be permitted to see a solitary one of the papers paid for by this appropriation and sought to be covered by any part of the money appropriated in this amendment. There is no assurance of that kind at all; and I know of actual applications made, under conditions that rendered it proper for the applicant to see the record and read it, and to make a copy himself if he desired, where questions have arisen in the district where the draft records originally were made, where the men drafted have come back from the service beyond seas or in the camps in this country, where some controversy has arisen making it desirable for the returned soldier, or his family in case he is dead, to have access to the draft records sent up by the local board, in order to establish the accuracy of a statement; and access to those records, or the right to read them, has been denied to Members of Congress.

Of course, we are long-suffering in it. Anybody that derides or ridicules or rebuffs or repulses or tramples upon a Member of Congress, either of the House or of the Senate, has a right to believe that it is justified by immemorial usage long acquiesced in and universally commended. No wonder the departments look upon us with contempt. We have invited it, we have helped create it, and we deserve every rebuff that a Senator or a Representative gets in a department. There is no such thing as legislative discretion in making an appropriation, especially for a deficiency bill. It does not make any difference what administration it is, whether it is the President and his appointees, the heads of departments and Cabinet members, in one political party or the other; it is the same insufferable, arrogant, narrow snob in place under any administration you find. They have no constituents. Many of them are under civil service. Their principal occupation is to clamor for an increase in salary and to treat with contempt every elective officer that has a constituency to which he must appeal every two or six years, as the case may be. The long-continued practice of Members of Congress has led them to believe they can do this with impunity, and they generally do.

On Saturday last I heard the senior Senator from Michigan [Mr. TOWNSEND] make some proper strictures upon the course of business in this Chamber. It is found in the CONGRESSIONAL RECORD of that date. It, no doubt, is worthy of perusal, and ought to have been made at the time. However, the burden of the criticism was that the civil-service retirement bill was pending and had been pending all that afternoon and that the entire afternoon had been occupied in considering and discussing everything else except the retirement bill. The criticism was well merited, because that was the course of business on that afternoon. It has been the course of business here for many years; and while the criticism is merited, yet the course of affairs in the Senate justifies the procedure taken on last Saturday at the pleasure of any Member of this body.

There is no such thing as parliamentary law in this Chamber. There is some in the House of Representatives. Parliamentary law in this Chamber is as extinct as the dodo; or, if lingering remnants are found, as dead as a mummy slumbering in the chamber in the interior of a pyramid.

At one time in a national convention a gentleman from Texas had his delegation contested by some irreverent authority from that State. Among other things, it was charged against him that he selected the delegates by riding roughshod over every parliamentary rule and ignoring every practice known to any well-established textbook on rules of order.

He denied it with great vehemence before the credentials committee and afterwards on the floor of the convention. He said it was a false charge, that they had no rules to cover the case referred to, a gross violation of the ordinary rules of parliamentary procedure in the selection of delegates from Texas. He said: "Sir, we made a rule in every case right on the floor of the convention to fit everything we did"; and so we do in this Chamber. To-day we have one rule and to-morrow we have another. There is no well-established maxim of legislation in this Chamber that is not violated every day of its session and every week of its existence.

The treaty has been dragged from the grave that has opened its ponderous marble jaws to cast it up again, and is now before us—before us on the motion to reconsider of a Senator for whom I have the greatest admiration and liking, who voted with a minority. I do not know of a town meeting in a New England township, I do not know of the veriest tyro in a debating club, that has not for many, many years known that the person who is entitled to make a motion to reconsider must have voted with the prevailing side on the question when it was theretofore decided; but that cuts no particular figure in this body. I only refer to that as an illustration, because it is done here every week. So we have invited this course of affairs by our utter disregard and recklessness of all well-established rules of order. What is the use of reading and attempting to become an adept in the rules of order of this body? Everybody who has been here 30 days knows that the only rule of order that is of any binding force is made by a majority. It is a rule of legislative or parliamentary force, and in its last analysis it can be nothing else.

Again, general legislation on an appropriation bill is only forbidden in this body now by a parliamentary rule. By unanimous consent it can be set aside, or, if no one raises the point of order against it, it still can go through. General legislation can be attached to an appropriation bill by unanimous consent in spite of the rules. There is nothing in the constitutional limitations upon the legislative power of this body requiring otherwise or forbidding it. No roll call is required, unless a sufficient number demand it, upon appropriations running into the hundreds of millions of dollars. Literally we have invited through a long course of years the slipshod dissolution and fall, the departure from the text, the general debate that ranges over every known subject and invades every realm of the human imagination, by our fixed course of procedure in this body. Therefore, why should any criticism be indulged in?

Mr. WARREN. Mr. President, if the Senator will permit me——

Mr. SHERMAN. I will.

Mr. WARREN. In order to prove exactly what the Senator says, I am willing to accept his amendment.

Mr. SHERMAN. The Senator accepts it?

Mr. WARREN. I do.

Mr. SHERMAN. I will comply with all the rules, then, Mr. President.

Mr. WARREN. I wish to say, in that connection, that it is intended that those records shall be furnished, and I understand that it is the intention of The Adjutant General to furnish them. The difficulty, I suppose, has been that to get at the proper documents and take them out of their sequence involves some delay. It might be that mischief might occur or some expense might be brought about in that way, but I hope not. I agree with the Senator's proposition that they ought to be where Members of Congress could have them; and, as I said before, the Senator has proved to my satisfaction, and to the satisfaction of the Senate, that the Senate can, by unanimous consent, do almost everything, so I am not going to object to his amendment.

Mr. SHERMAN. I should be willing to add to the amendment that a Member of Congress applying for them shall pay for the cost of the record himself. I am not particular about that, just so we get it. I understand, however, that the Senator accepts it in that form.

Mr. WARREN. It will have to go to conference, and it may have to be re-formed there to some extent.

Mr. SHERMAN. I have nothing further to say.

The PRESIDING OFFICER (Mr. STERLING in the chair). The question is on the amendment of the Senator from Illinois [Mr. SHERMAN] to the amendment of the committee.

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

The PRESIDING OFFICER. The Secretary will call the roll.

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

Ashurst	France	Kendrick	Overman
Ball	Gay	King	Page
Beckham	Glass	Kirby	Phelan
Brandegee	Gore	Knox	Phipps
Capper	Gronna	McKellar	Poindexter
Chamberlain	Hale	McNary	Sheppard
Cummins	Harris	Moses	Sherman
Curtis	Harrison	Myers	Smith, Ga.
Dial	Henderson	New	Smith, Md.
Elkins	Johnson, S. Dak.	Norris	Smoot
Fletcher	Kellogg	Nugent	Spencer

Stanley	Thomas	Walsh, Mont.	Williams
Sterling	Townsend	Warren	Wolcott
Sutherland	Trammell	Watson	

Mr. GRONNA. I desire to announce that the Senator from Wisconsin [Mr. LA FOLLETTE] is absent on account of illness.

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

Mr. WOLCOTT. Mr. President, I think the Senate ought to be aware of the nature of the pending amendment before the vote is taken. I have no disposition to make any protracted remarks, but shall content myself with very briefly calling to the attention of the Senate the nature and purport of the pending amendment.

The amendment is on line 2, page 17, of the pending bill. The particular paragraph amended relates to the records of the men who were drafted during the German war, and the proviso which is proposed to be inserted in the act is as follows:

Provided, That one copy of the draft record in any individual case shall be furnished to any Member of Congress in any record or papers relating to the draft in the State in which such Member resides on his application therefor.

If I correctly understand the purpose of the amendment it provides that any Member of Congress in either branch may go down to The Adjutant General's office and secure a copy of the full draft record of any individual anywhere in his district or in his State. Now, considering the rather intimate details of a very personal nature that the draft reduced to record concerning the individuals within its scope and the therefore rather sacred nature of that information gathered by the Government solely to aid in building up an army, it seems to me the Senate is going a very good ways to direct that that personal, intimate information about individuals shall be turned over to every nosing, prying Member of Congress that might see fit to go down to The Adjutant General and get it for any purpose, be it proper, improper, or what not. How many individuals would be thus exposed to outrage? Nearly 24,000,000 men, Americans who answered the draft questionnaires. This is the number of our fellow citizens whose private lives this amendment would expose to the gaze of the curious or the vicious.

I can very well fancy if this provision becomes a law that Members of Congress will soon make themselves the clearing house of scandalmongers all over the United States seeking information for improper purposes concerning the private, intimate affairs of men who were called to be soldiers and possibly fight for their country.

Mr. President, did we enact this draft legislation in order to secure information to supply to the defamers of character and destroyers of reputation?

Mr. KELLOGG. Mr. President——

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

Mr. WOLCOTT. I yield.

Mr. KELLOGG. I suggest that the Senator give us some information with reference to the object of any such provision.

Mr. WOLCOTT. I think, if the Senator desires me to answer frankly, that the object of the provision is to ascertain the draft record of Edsel Ford. I think that is the object of it.

Mr. KELLOGG. Of whom?

Mr. WOLCOTT. One Edsel Ford, in whom I have no interest; but if that is the object, let us provide here that The Adjutant General is directed to turn over to a Member of Congress from the State of Illinois the draft record of Edsel Ford. That will accomplish the whole purpose of the amendment. Why subject every one of the selected or drafted soldiers of the United States Army to the risk of annoyance and bedevilment by those who may be prying into the information contained in their records? I sincerely hope that the amendment will be defeated.

Mr. KELLOGG. I might suggest that it is pretty well known.

Mr. THOMAS. I should like to ask the Senator, before he takes his seat, if he can give the Senate any estimate of the expense of the enforcement of that amendment to the bill?

Mr. WOLCOTT. I can not undertake to say what would be the expense to the United States Government. I am convinced that it will be at the expense of harried fellings and outraged rights of American citizens who were American soldiers, and that is an expense I do not care to incur.

Mr. KELLOGG. Mr. President, I might suggest to the Senator from Delaware that a very easy way to get rid of it is to raise a point of order.

Mr. KIRBY. Mr. President, I do not know what particular matter has been objected to by the Senator from Delaware, but if it is the entire amendment as proposed from line 18 on page 16 to line 2 on page 17 of the bill, it seems to be properly guarded there. These things are only to be furnished——

Mr. WOLCOTT. Will the Senator yield?

Mr. KIRBY. Certainly.

Mr. WOLCOTT. I am discussing an amendment which has been offered by the Senator from Illinois [Mr. SHERMAN] and which I now hand the Senator. That is the amendment I have been discussing.

Mr. President, I make a point of order against the pending amendment, that it is general legislation on an appropriation bill.

The PRESIDING OFFICER. Does the Chair understand the Senator from Delaware to raise the point of order as to the entire amendment or merely to the amendment offered by the Senator from Illinois?

Mr. WOLCOTT. The amendment offered by the Senator from Illinois.

Mr. KIRBY. Mr. President, I do not care to discuss it. If that can be added to the committee amendment I imagine we would have to raise a point of order to the committee amendment as amended.

Mr. WOLCOTT. Will the Senator yield to me for a moment?

Mr. KIRBY. Certainly.

Mr. WOLCOTT. Mr. President, I withdraw my point of order.

Mr. KIRBY. Mr. President, I do not care to discuss the matter from the standpoint of the proposed amendment to the amendment. I thought the matter was properly guarded in the amendment. I know the practice now is that no one outside of the soldier himself or his attorney can procure a copy of the draft record here unless it is upon a certificate of the court, if the matter is in court, that the ends of justice will be subserved by the production of a copy of the record. They guard it very carefully now, and I believe the proposed committee amendment guards it carefully, but as to the amendment to the amendment I rather think I am not for it at all myself.

Mr. KING. Mr. President, let the amendment to the amendment be reported.

The PRESIDING OFFICER. The Secretary will read the amendment proposed by the Senator from Illinois to the amendment of the committee.

The READING CLERK. On page 17, line 2, at the end of the committee amendment, add the following:

Provided, That one copy of the draft record in any individual case shall be furnished to any Member of Congress in any record or papers relating to the draft in the State in which such Member resides on his application therefor.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Illinois to the amendment of the committee.

The amendment to the amendment was rejected.

Mr. SHERMAN addressed the Senate. After having spoken for some time, he said:

Mr. President, I can not close my remarks on the River Rouge and the deficiency appropriation this evening. I am informed that the chairman of the committee desires to have an executive session, and I will therefore let it go over until to-morrow with the understanding that I get the floor to-morrow.

EXECUTIVE SESSION.

Mr. WARREN. Mr. President, I understand that the Senator will give way for that purpose. I therefore move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 15 minutes spent in executive session, the doors were reopened.

RECESS.

Mr. WARREN. I move that the Senate take a recess until 12 o'clock noon to-morrow.

The motion was agreed to; and (at 4 o'clock and 50 minutes p. m.) the Senate took a recess until to-morrow, Thursday, February 19, 1920, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate February 18, 1920.

MEMBER OF FEDERAL TRADE COMMISSION.

John Garland Pollard, of Virginia, to be a member of the Federal Trade Commission, for the term expiring September 25, 1921, vice Davies, resigned.

MEMBER OF CALIFORNIA DÉBRIS COMMISSION.

Col. William A. Kelly, Corps of Engineers, United States Army, for appointment as a member of the California Débris Commission provided for by the act of Congress approved March 1, 1893, entitled "An act to create the California Débris Commission and regulate hydraulic mining in the State of California," vice Lieut. Col. Lewis H. Rand, Corps of Engineers, United States Army.

UNITED STATES DISTRICT ATTORNEY.

Herbert M. Peck, of Oklahoma City, Okla., to be United States attorney, western district of Oklahoma, vice Frank E. Ransdell, appointed by court.

COLLECTOR OF INTERNAL REVENUE.

William A. Kelly, of Reno, Nev., to be collector of internal revenue for the district of Nevada. New office created by Executive order approved February 7, 1920.

PROMOTIONS IN THE ARMY.

CORPS OF ENGINEERS.

Lieut. Col. Spencer Cosby, Corps of Engineers, to be colonel with rank from February 16, 1920.

Maj. Gustave R. Lukesh, Corps of Engineers, to be lieutenant colonel with rank from February 16, 1920.

COAST ARTILLERY CORPS.

Maj. Harry L. Steele, Coast Artillery Corps, to be lieutenant colonel from February 9, 1920.

First Lieut. Gordon deL. Carrington, Coast Artillery Corps, to be captain from October 1, 1919.

First Lieut. James Q. Rood, Coast Artillery Corps, to be captain from October 1, 1919.

First Lieut. Fred G. French, Coast Artillery Corps, to be captain from October 9, 1919.

First Lieut. James L. Hatcher, Coast Artillery Corps (Ordnance Department), to be captain from October 13, 1919.

First Lieut. Ira B. Hill, Coast Artillery Corps, to be captain from October 13, 1919.

First Lieut. Berthold Vogel, Coast Artillery Corps, to be captain from October 15, 1919.

First Lieut. Odes T. Pogue, Coast Artillery Corps, to be captain from October 15, 1919.

CONFIRMATIONS.

Executive nominations confirmed by the Senate February 18, 1920.

SOLICITOR OF THE DEPARTMENT OF COMMERCE.

Frederick McCarthy to be Solicitor of the Department of Commerce.

AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

Robert Underwood Johnson to be ambassador extraordinary and plenipotentiary to Italy.

SECRETARY OF EMBASSY OR LEGATION.

CLASS 1.

Norval Richardson to be a secretary of embassy or legation of class 1.

CLASS 4.

George A. Gordon to be a secretary of embassy or legation of class 4.

AUDITOR FOR THE INTERIOR DEPARTMENT.

John E. R. Ray to be auditor for the Interior Department.

UNITED STATES DISTRICT JUDGE.

W. Lee Estes to be United States district judge, eastern district of Texas.

UNITED STATES ATTORNEY.

R. E. Taylor to be United States attorney, northern district of Texas.

SURVEYOR GENERAL.

William A. Lynch to be surveyor general of South Dakota.

APPOINTMENTS AND PROMOTIONS IN THE ARMY.

GENERAL OFFICERS.

To be brigadier generals.

Maj. Gen. André W. Brewster.
Maj. Gen. Edward M. Lewis.
Maj. Gen. Edward F. McGlachlin, jr.
Brig. Gen. Douglas MacArthur.

CAVALRY ARM.

To be colonel.

Lieut. Col. Robert J. Fleming.

To be lieutenant colonels.

Maj. George B. Pritchard, jr.
Maj. Alvord Van P. Anderson.

To be major.

Capt. Frank P. Amos.

FIELD ARTILLERY ARM.

To be majors.

Capt. Thomas D. Osborne.
Capt. William H. Dodds, jr.
Capt. Walter E. Prosser.

APPOINTMENTS AND PROMOTIONS IN THE NAVY.

To be rear admirals.

Capt. Lloyd H. Chandler.
Capt. Herman O. Stickney.
Capt. Philip Andrews.

To be captains.

Commander Walter G. Roper.
Commander Frederick R. Naile.
Frederick A. Traut.
Stephen V. Graham.
Roscoe C. Moody.
George E. Gelm.
George L. P. Stone.
Ridley McLean.
Alfred W. Hinds.
Robert W. McNeely.
Frank H. Brumby.
Harris Laning.
Andre M. Proctor.
Frank Lyon.
William P. Scott.
James P. Morton.
Commander Henry V. Butler.
Commander Walter R. Gherardi.
Commander James J. Raby.

To be commanders.

Lieut. Commander Herbert S. Babbitt.
Donald C. Bingham.
Gilbert J. Rowcliff.
Lieut. Commander Robert Henderson.

To be lieutenant commanders.

Clyde R. Robinson.
Claud A. Jones.
Claudius R. Hyatt.
Charles T. Blackburn.
Ralph R. Stewart.
Leslie E. Bratton.
Charles S. Keller.
Philip H. Hammond.
Lucien F. Kimball.
George H. Laird.
Clarence N. Hinkamp.
Ralph C. Parker.
Emanuel A. Lofquist.
Carl C. Krakow.

To be lieutenants.

Carl E. Hoard.
William L. Wright.
Leman L. Babbitt.
James R. Webb.

To be lieutenants (junior grade).

Ensign Edwin S. Earnhardt.
Ensign Fred W. Conner.

To be passed assistant surgeons.

Louis H. Clerf.
Sterling P. Taylor, jr.
Aaron Robinson.

To be assistant surgeons.

Karl McC. Scott.
Asst. Surg. Frank S. Hundley.

To be passed assistant dental surgeons.

Asst. Dental Surg. Lucian C. Williams.
Asst. Dental Surg. William L. Darnall.
Asst. Dental Surg. Franklin L. Morey.

To be professors.

Harry E. Smith.
Daniel M. Garrison.
Herbert L. Rice.

To be chief boatswain.

Boatswain (temporary) Charles N. Johnson.

To be adjutant and inspector in the Marine Corps.

Col. Henry C. Haines.

POSTMASTERS.

COLORADO.

H. Louise Hurst, Antonito.
John Davis, Arriba.
Roy McWilliams, Ault.
Charles A. Fowler, Bayfield.
Glen F. Wilson, Briggsdale.
Harold J. Schwarzel, Carbondale.
Jack I. Norris, Eads.
Mamie Weidner, Elizabeth.
Ethel K. Langcamp, Flagler.
William J. McDonald, Fowler.
Paul C. Boyles, Gunnison.
Hester E. House, Haxtum.
John T. Adkins, Holly.
Oscar L. Morris, La Salle.
William H. Bloom, Limon.
Nellie M. Cunningham, Meeker.
John Uglow, Olathe.
Hattie A. Pike, Peetz.
Serena B. Pollock, Rifle.
Walter S. Kemmer, Steamboat Springs.
Louise A. Haynes, Vona.
Asa P. Dickson, Westcliffe.
John H. Comin, Windsor.

MINNESOTA.

Carl J. Tiller, Battle Lake.
Paul B. Sanderson, Baudette.
Clarence A. Johnson, Belview.
Carl H. Schuster, Biwabik.
Elias A. Quale, Clarkfield.
Bernard W. Cummiskey, Currie.
Gertrude E. Heinrich, Deer River.
Eva Cole, Delavan.
Charles G. Carlson, Gibbon.
Roy B. Osborn, Glyndon.
Henry O. Halverson, Gonvick.
Margaret E. Thompson, Grey Eagle.
John A. McLean, Harris.
Gay C. Huntley, Hill City.
Louis W. Galour, Iona.
Mark N. Swedberg, Luverne.
Olaf T. Mork, Madison.
Clara M. Hjertos, Middle River.
John W. Peterson, Montevideo.
Francis S. Pollard, Morgan.
John Monahan, Motley.
James R. Landy, Olivia.
Ora D. Thompson, Porter.
Peter P. Ruegemer, Richmond.
James D. Markham, Rush City.
Selma O. Hoff, St. Hilaire.
Lucien M. Helm, Tower.
Alfred Gronner, Underwood.
James M. Patterson, West Concord.
Ralph Moody, Wykoff.

MISSISSIPPI.

Henry H. Hunter, Macon.

NEW HAMPSHIRE.

Joseph P. Conner, Portsmouth.

NEW YORK.

Edward J. Sweeney, East Islip.
Ray B. Worthing, East Rochester.
Howard R. Stevens, Hopewell Junction.
Robert L. McBrien, Huntington.
Clifton S. Haff, Northport.
Frank T. White, Southampton.

NORTH CAROLINA.

Rufus I. Clark, Statesville.

PENNSYLVANIA.

J. Robert McClure, Dillsburg.
William W. Woolston, Lester.
Charles H. Casey, Marcus Hook.
William E. Brooks, Ridley Park.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February 18, 1920.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Our Father in heaven, we thank Thee that there is a thousand times more good in the heart of man than evil, a thousand times more joy than sorrow.

Evil is a negligible quantity. Good is in the ascendancy. "Weeping may endure for a night, but joy cometh in the morning."

Law is the mark of civilization, lawlessness the mark of savagery. Dignity is law, selfishness is crime.

Faith is larger than doubt, hope than despair, love than hate. The star of love is in the ascendancy now and always, attested by the Cross of Calvary. Amen.

The Journal of the proceedings of yesterday was read and approved.

CALENDAR WEDNESDAY.

The SPEAKER. To-day is Calendar Wednesday. The call rests with the Committee on the Judiciary.

WRONGFUL CONVERSION OF MONEY.

Mr. VOLSTEAD. Mr. Speaker, I call up for consideration the bill H. R. 10072.

The SPEAKER. The Clerk will report it.

The Clerk read as follows:

A bill (H. R. 10072) to provide for the punishment of officers of United States courts wrongfully converting moneys coming into their possession, and for other purposes.

Be it enacted, etc., That any United States marshal, clerk, receiver, referee, trustee, or other officer of a United States court, or any deputy, assistant, or employee of any such marshal, clerk, receiver, referee, trustee, or other officer who shall unlawfully retain or convert to his own use or to the use of another any moneys received for or on account of costs or advance deposits to cover fees, expenses, or costs, deposits for fees or expenses in bankruptcy cases, composition funds or money of bankrupt estates, fees in naturalization matters, or any other money whatever which has come into his hands by virtue of his official relation or by the fact of his official position or employment shall be deemed guilty of embezzlement and shall, where the offense is not otherwise punishable by some statute of the United States, be fined not more than double the value of the money thus retained or converted, or imprisoned not more than 10 years, or both; and it shall not be a defense in such case that the accused person had an interest, contingent or otherwise, in some part of such moneys or of the fund from which they were retained or converted.

Mr. VOLSTEAD. Mr. Speaker, this bill was introduced at the request of the Attorney General. I hold in my hand a letter written by the office of the Attorney General, calling attention to the fact that under existing statutes it is believed that no officer can be prosecuted for embezzlement of funds, provided he has any contingent interest in those funds, and it is also doubted that receivers of money under the bankruptcy law can be punished at present. In view of that fact it would seem that some legislation should be passed along this line.

The bill is in line with like legislation in the various States. I know we have had in the State of Minnesota for a great many years legislation of this kind. Under the common law if a person was intrusted with funds as a trustee or agent he could not be prosecuted for larceny of such funds; it was held to be a breach of trust; not larceny.

If there are no questions in regard to the bill, I will reserve the remainder of my time.

Mr. MANN of Illinois. Mr. Speaker, will the gentleman yield for a question?

The SPEAKER. Does the gentleman from Minnesota yield to the gentleman from Illinois?

Mr. VOLSTEAD. Yes.

Mr. MANN of Illinois. This covers not only receiverships, trustees, and so forth, but it also covers clerks and marshals. Under the existing law are the marshal's fees and clerk's fees all required to be turned into the Treasury and they be paid a salary?

Mr. VOLSTEAD. I think they are all turned in now, both those of the marshal and of the clerk.

Mr. MANN of Illinois. Are there not some cases where the marshal receives a mileage compensation which may be paid by a party to the suit which he is not required to turn in, but which he uses to pay the actual expense of his deputy? I do not recall. I wondered how far this provision would go with reference to those officers of the court, where you provide that they shall be guilty of an offense if the money is not turned in practically, and then the fact that they have an interest in the money would be no defense. I was under the impression

that there were some cases where the money belonged to them practically.

Mr. VOLSTEAD. I presume what belonged to them would not have to be turned in, but the fact that they may have an interest in part of it would not justify them in withholding the balance.

Mr. MANN of Illinois. Undoubtedly that would not justify them in withholding the balance. It may be that no one would ever be prosecuted under it, although that is never a safe assumption.

Mr. VOLSTEAD. It provides that a person may not unlawfully retain it and convert it to his own use. If the money is his own, I do not see how anybody could be convicted of embezzling it. But he must not take of the property any more than he is entitled to.

Mr. MANN of Illinois. I suppose, although I do not know what the fact is, that quite generally the clerks and marshals who collect fees hold them for a time, even where they were paid a salary, and then deduct the salary by direction of the Attorney General out of the fees collected. I do not know whether that is the case or whether they are paid by check or Treasury order. But where the officers, as I understand it, are paid by direction of the marshal, the marshal approves the various vouchers and the allowance is made on his order.

Mr. VOLSTEAD. Mr. Speaker, I want to offer an amendment in line 10. I want to ask unanimous consent to correct the spelling of the word "bankruptcy," in line 10. The letter "r" has been omitted.

The SPEAKER. The Clerk will report the amendment offered by the gentleman from Minnesota.

The Clerk read as follows:

Amendment offered by Mr. VOLSTEAD: Page 1, line 10, correct the spelling of the word "bankruptcy."

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. GARD. Mr. Speaker, I did not get the benefit of the gentleman's colloquy with the gentleman from Illinois [Mr. MANN], but I will proceed in accordance with my own ideas with respect to the provisions of this bill.

The SPEAKER. Does the gentleman from Minnesota yield the floor?

Mr. VOLSTEAD. I do not yield the floor. I understood the gentleman was going to ask a question.

Mr. GARD. When the gentleman is through I want to speak in opposition to the bill.

Mr. VOLSTEAD. How much time does the gentleman want?

Mr. GARD. I want to speak in my own time.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. GARD. Yes.

The SPEAKER. If the gentleman is opposed to the bill he is entitled to one hour after the gentleman from Minnesota yields the floor.

Mr. GARD. After the gentleman yields the floor I will take my own time.

Mr. MANN of Illinois. It is customary on bills of this kind to move the previous question. That is the only way it can be brought to a vote.

Mr. GARD. I have some observations to make on the bill. If the gentleman wants to move the previous question it is in the power of the majority on the other side, and I presume they would sustain him.

Mr. MANN of Illinois. Probably they would. But the gentleman from Minnesota offered to yield time.

Mr. GARD. I thought the gentleman yielded the floor.

Mr. VOLSTEAD. No; I did not yield the floor.

Mr. GARD. How long does the gentleman intend to debate the matter? I did not get the benefit of what the gentleman said to the gentleman from Illinois. Therefore, I was desirous of asking some questions.

Mr. VOLSTEAD. How much time does the gentleman want?

Mr. GARD. Ten minutes.

Mr. VOLSTEAD. I yield the time.

The SPEAKER The gentleman from Ohio is recognized for 10 minutes.

Mr. GARD. Mr. Speaker, the matter to which I desire to call the attention of the chairman of the committee is in connection with the use of the word "employee" in so far as it relates to receivers, referees, and trustees. The law to which the bill proposed by the chairman of the Judiciary Committee is supplemental follows sections 97, 98, and 99 of the Code of the United States. Section 97 refers to any officer connected with or employed in the Internal Revenue Service of the United States. The only words associated there are—

Any officer * * * and any assistant of such officer who shall embezzle or wrongfully convert to his own use any money—

And so forth. Section 98 provides that—

Whoever, being an officer of the United States, shall knowingly contract for the erection, repair, or furnishing of any public building, or for any public improvement, to pay a larger amount than the specific sum appropriated—

And so forth.

Section 99 provides that—

Whoever, being a clerk or other officer of a court of the United States, shall fail forthwith to deposit any money belonging in the registry of the court—

And so forth.

These are the sections which have so far been held to include all those responsible under the courts. Now, the letter of the Attorney General states that section 97 of the criminal code provides for the punishment for embezzling by any officer of a United States court.

I do not find that that construction is exactly correct. Nor do I find in any of the previous statutes that there has been so far an extension of the crime of embezzlement—because that is what this is—to include an employee of a receiver, a referee, or a trustee.

It would seem to me that in the extension of laws relating to officers of the United States courts it would be entirely proper to take into consideration the marshals, the clerks, and other officers; but when we go beyond that and charge the crime of embezzlement to any employee of a receiver, referee, or trustee, it seems to me we are extending it beyond what is necessary under the existing statutes. In other words, a receiver or a referee or a trustee is an officer of the court. He is primarily responsible to the court, since his tenure of position depends upon his appointment and his report to the court.

Mr. GOODYKOONTZ. Mr. Speaker, will the gentleman yield?

Mr. GARD. In just a moment, when I finish this thought. Now, a referee is a man to whom a case is referred for adjudication, I think almost entirely on points of law, and to say that any employee of a receiver or referee is guilty of embezzlement, when the embezzlement applies to the principal officer, and not to the subsidiary officer, is, it seems to me, an extension beyond what should be the proper scope of the crime. Now I yield to the gentleman from West Virginia.

Mr. GOODYKOONTZ. Does the gentleman think that the word "employee" is surrounded with such a halo of glory that such an employee ought not to be amenable for a criminal offense, such as the theft or embezzlement of public funds?

Mr. GARD. No, I do not; but what I make the question about is that an employee of a referee is not a man who by virtue of his employment could be guilty of such embezzlement.

Mr. WALSH. Will the gentleman yield?

Mr. GARD. I yield to the gentleman from Massachusetts.

Mr. WALSH. Take the case of a receiver of a large railroad system. He would necessarily have a number of employees under his jurisdiction who might possibly have to do with the handling of funds. They might unlawfully convert the funds to their own use.

Mr. GARD. I will say that that is not in the contemplation of this act. The only contemplation of this act is where one embezzles money which he receives on account of costs or money advanced to cover fees or costs.

Mr. WALSH. Oh, no; or any other money which comes into his hands by virtue of his official relation or official position or employment.

Mr. GARD. That is the point on which I have doubt. I doubt that there would be any money coming into the hands of any employee, the direct responsibility being that of the receiver.

Mr. VOLSTEAD. Let me call the attention of the gentleman to the fact that a corporation may be a receiver. If the employees of such corporation get possession of funds belonging to the Government and convert them to their own use or embezzle them, why should they not be liable to prosecution? Trust companies very often act in these fiduciary capacities, and they usually have a large number of employees. If they take the money, it does seem to me the Government ought to be able to punish the one who is guilty instead of simply suing the corporation to recover whatever loss there may be.

Mr. GARD. I am glad to have the words of the gentleman with reference to the matter with reference to which the subcommittee raised the question with the Attorney General as to the necessity of the legislation. That is the reason I am making the inquiry of the chairman of the committee as to the extent to which this bill goes.

Mr. VOLSTEAD. The gentleman will notice that this bill does not go beyond supplying a deficiency in the law. It does

not apply in those cases where persons are already liable under existing law.

Mr. GARD. What is the gentleman's attitude with respect to this bill and its relation to sections 97, 98, and 99, which are laws of the same kind?

Mr. VOLSTEAD. On page 2 of this bill the gentleman will find that it only punishes in those cases where the offenses are not otherwise punishable by some existing statute. So it is only intended to supply whatever deficiency there is in existing statutes. It does not cover the cases to which the gentleman refers, because they remain just as they are.

Mr. GARD. It is not intended to amend sections 97, 98, and 99?

Mr. VOLSTEAD. No.

Mr. GARD. It leaves them as they are, and provides this statute in addition?

Mr. VOLSTEAD. In addition, chiefly for the purpose of preventing the defense being made that the person charged had some interest in the fund. It is to avoid the difficulty that has grown out of the old common-law doctrine that a person who has an interest in the money can not be prosecuted criminally, but is only held to have committed a breach of trust. I remember having had occasion to consider the question of whether a receiver is an officer of the court appointing him.

Mr. GARD. Whether he was an officer of the court!

Mr. VOLSTEAD. The question has been raised. I have just called attention to the fact that a corporation may be a receiver, and it may be somewhat doubtful whether a corporation is an officer of the court, and as such is embraced in the statutes punishing officers for embezzlement.

The SPEAKER. The time of the gentleman has expired.

Mr. VOLSTEAD. I move the previous question on the bill and amendments to the final passage.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, and was accordingly read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and on a division (demanded by Mr. BLANTON) there were—ayes 63, noes 7.

Accordingly the bill was passed.

On motion of Mr. VOLSTEAD, a motion to reconsider the vote by which the bill was passed was laid on the table.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. OLIVER, for two days, on account of official business.

To Mr. NELSON of Missouri, for the day, on account of sickness in his family.

To Mr. KRAUS, for two days, on account of official business.

HOUSE BILL PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. RAMSEY, from the Committee on Enrolled Bills, reported that February 13 they had presented to the President of the United States, for his approval, the following bill:

H. R. 10746. An act to authorize the incorporated town of Wrangell, Alaska, to issue bonds for the construction, enlargement, and equipment of schools, the acquisition and construction of a water-supply system, the construction of a sewer system, the construction of a city dock and floating dock, and to levy and collect a special tax therefor.

OFFICIAL STENOGRAPHERS FOR UNITED STATES DISTRICT COURTS.

Mr. VOLSTEAD. Mr. Speaker, I call up the bill H. R. 12486, authorizing the several district courts of the United States to appoint official stenographers and prescribe their duties and compensation.

The SPEAKER. The bill is on the Union Calendar, and the House automatically resolves itself into Committee of the Whole House on the state of the Union.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. GREEN of Iowa in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the consideration of the bill H. R. 12486, which the Clerk will report.

The Clerk read as follows:

Be it enacted, etc., That each judge of the district courts of the United States may appoint a stenographer. Such appointee shall be the official stenographer of the said court and shall hold such office during the pleasure of the court. Any official stenographer appointed under this act may, with the consent of the court, temporarily supply a competent substitute stenographer. Such stenographer and substitute stenographer shall be competent in the art of stenography, and before entering upon the duties herein provided shall make oath or affirmation before the clerk of the particular court to perform such duties with fidelity, and a copy of such oath or affirmation, signed by the affiant, shall be certified by the clerk administering the same and filed and recorded in the office of the clerk of such court.

SEC. 2. That such official stenographer shall take full stenographic notes of the testimony in all judicial proceedings and trials, together with the judge's charge, if any, and of all rulings and orders and any comment or remark of the trial judge relating to the case on trial made in the presence of the jury, to which rulings, orders, comments, or remarks either party may except as a matter of right, and such exception shall be noted by the official stenographer in his notes, together with any exception to the judge's charge, taken before the jury retires; all of which exceptions shall have the effect of exceptions duly written out, signed, and sealed by the trial judge at the time of trial. And it shall be the duty of such stenographer to act as secretary to such judge and to take full stenographic notes of such other matters in connection with the business of the court as the judge may from time to time direct.

SEC. 3. That such official stenographer shall receive an annual compensation to be fixed by the judge not exceeding $2,000, and to be paid in the same manner as other court officials are paid.

In addition to such salary, such official stenographer may charge for any transcript of such notes ordered by any person interested other than a judge of such court 10 cents per folio thereof and 2 cents per folio for each manifold or other copy thereof when so made that it can be made with such transcript, but he shall upon the request of the judge presiding at any trial or proceeding read his notes or make a transcript thereof for the use of such judge without charge. Upon the request of any person interested, and the payment or tender of his fees therefor, such official stenographer shall furnish a duly certified transcript of such notes or any indicated part thereof in words and figures represented by the character used in making the same.

Mr. VOLSTEAD. Mr. Chairman, this bill has been introduced for the purpose of providing official stenographers for the district courts of the United States. At present there is no law under which stenographers are furnished. Each person when he goes into court if he desires a record must furnish a stenographer. That is true both of the Government and the private litigant. In many instances both have stenographers in the trial of a case. If it is desired to secure a transcript to take an appeal, secure a writ of error or of certiorari, or for any other purpose of a review of the case, it is usually necessary to have a transcript of the evidence, and that can seldom be secured without a stenographic copy of the evidence.

Mr. BEE. Will the gentleman yield for a question?

Mr. VOLSTEAD. I will yield a little later.

Mr. BEE. Very well; I thought the gentleman had finished his statement.

Mr. VOLSTEAD. The situation that exists in the Federal courts makes it very difficult for a poor man to secure a review of an action tried in that court. He can not afford to hire a stenographer so as to secure the necessary transcript on which to base his proceeding. It is my impression that in almost every court of any consequence in this country the States provide official stenographers. A bill was considered by the committee somewhat different from this. After consulting with a number of people on this floor in trying to find out what the general practice was in the various States, I concluded that a bill along the lines of this one would meet the situation and be in harmony with the practice in State courts. It is not believed that this would materially enhance the cost to the Government. It may even reduce the cost. Still there is a possibility that it may increase it slightly. I am not certain which way the scales would turn.

Under the present practice, when the Government has an important criminal or civil lawsuit it employs a stenographer, which I think is proper, and they pay the expenses out of the Treasury of the United States. Under this bill the Government would not be required to pay any per diem in addition to the salary. It pays a per diem now. Whatever expense would be saved in that way can, in a measure, be used to pay the salary which we have provided for. There is at present an officer called the secretary to the judge who is paid, I understand, about $1,500 a year. This officer we aim to eliminate. We provide in this bill that the salary of the official stenographer shall not exceed $2,000. Of course, we realize that we could not get a stenographer for that sum, but this pay will be largely augmented by money received by him for transcripts. If anyone wants a transcript, whether it is the Government or a private litigant, he must pay for it. He pays the rate which I think is usual—in my State it is 8 cents—but we allow 10 cents a folio, and in addition to that he may charge for making copies. I think the allowances we provide for that will be ample.

I had a conversation two or three weeks ago with a stenographer employed about the House, from which I gathered that in many of the courts a stenographer would get quite large pay under this bill. It has been suggested that there ought to be a limit, as stenographers often get more pay than the judges.

Mr. MADDEN. Will the gentleman yield?

Mr. VOLSTEAD. Yes.

Mr. MADDEN. What is the ordinary charge per folio for transcripts of testimony? I think it is much more than is provided here.

Mr. VOLSTEAD. The statute of my State provides for 8 cents a folio. I think 10 cents a folio is quite common. That

will make 30 or 40 cents a page, and you will find that the amount for transcripts will run up quickly.

Mr. CHINDBLOM. If the gentleman will allow me, in Chicago they charge 50 cents, with 20 per cent rebate, making a net charge of 40 cents per folio.

Mr. MADDEN. I do not think a man can do the work for the pay provided in this bill.

Mr. VOLSTEAD. They do it in Minneapolis and St. Paul.

Mr. CHINDBLOM. Does the committee believe that one man can do all of this work—take notes all day and furnish the transcript?

Mr. VOLSTEAD. They do it in my State. I do not know how it is in the gentleman's State. The hours that courts sit are much shorter in the cities than they are in the country districts.

Mr. CHINDBLOM. My experience is that they do not do it. They change off, a man will stay an hour and then change.

Mr. BLANTON. Will the gentleman yield right there?

Mr. VOLSTEAD. Yes.

Mr. BLANTON. In my State a stenographer of the circuit court, in my district, for eight years took every case that was tried, and sat in the courtroom from 9 o'clock in the morning to 5 or 6 in the afternoon, and whenever they desired a transcript they got it in time.

Mr. CHINDBLOM. They are remarkable people down in Texas.

Mr. VOLSTEAD. And they may be more remarkable in Chicago.

Mr. MILLER. Mr. Chairman, will the gentleman yield?

Mr. VOLSTEAD. Yes.

Mr. MILLER. How will this bill operate in proceedings other than criminal proceedings in the district court?

Mr. VOLSTEAD. This applies to both civil and criminal actions.

Mr. MILLER. Do I understand from the bill that this stenographer is compelled to take the proceedings in civil cases as well as criminal cases?

Mr. VOLSTEAD. Both civil and criminal.

Mr. MILLER. And to furnish transcripts at the price stated?

Mr. VOLSTEAD. He is not required to furnish any transcript unless he is paid for it.

Mr. MANN of Illinois. He is if the judge asks for it.

Mr. MILLER. At the rate provided in the bill, he is.

Mr. VOLSTEAD. Yes.

Mr. MANN of Illinois. He has to furnish the transcript if the judge asks for it?

Mr. VOLSTEAD. Yes.

Mr. CHINDBLOM. Does the gentleman believe that the language on page 3 of this bill would authorize the payment by the Government of 10 cents per folio? The language is—

> That such official stenographer may charge for any transcript of such notes ordered by any person interested, other than a judge of said court, 10 cents per folio.

Mr. VOLSTEAD. If the Attorney General orders a transcript, or if the district attorney orders one, I have no doubt that he would have to pay for it.

Mr. BLAND of Missouri. Mr. Chairman, will the gentleman yield?

Mr. VOLSTEAD. Yes.

Mr. BLAND of Missouri. May I not ask if the provision in the bill for the temporary appointment of a substitute stenographer contemplates that business may accumulate to such an extent, beyond the capacity of the regular stenographer, that this provision will take care of that accumulation of work?

Mr. VOLSTEAD. It will take care of that in case there is any such difficulty.

Mr. STEVENSON. Mr. Chairman, will the gentleman yield?

Mr. VOLSTEAD. Yes.

Mr. STEVENSON. I want to ask about lines 15 and 16 and 17 on page 2. It is provided there that all of the exceptions taken shall have the effect of exceptions duly written out, signed, and sealed by the trial judge at the time of the trial. Does the gentleman not think he is going on an excursion into a field there that will result in trouble? In other words, the judge signs and seals, when properly presented to him, a bill of exceptions upon which an appeal is taken. This seems to me to undertake to substitute a bill of exceptions prepared by the stenographer and to make it superior to one that the judge ordinarily provides. In other words, will the judge have the right to correct and straighten out the bill of exceptions about which there may be a dispute, if the bill retains the language here that the record of the stenographer shall have that effect without the judge signing it?

Mr. VOLSTEAD. That the exception taken at the time shall have the same effect as an exception allowed and signed at the time of trial.

Mr. STEVENSON. Exceptions taken at the time shall have the same effect as those duly written out and signed by the trial judge. Suppose the trial judge makes out one and the stenographer makes out another, and they do not agree; how are you going to settle it?

Mr. VOLSTEAD. The practice requires that to get a case or a bill of exceptions settled you must submit the case or bill to the judge and get his approval.

Mr. STEVENSON. I am thoroughly familiar with that, but I think this would be getting it in a fix where we will not know where we are.

Mr. VOLSTEAD. I do not think so. The judge will have to determine just what the facts were.

Mr. STEVENSON. I think it should be provided that these exceptions shall be used as the basis for the bill of exceptions the same as if they had been written out and signed by the judge.

Mr. VOLSTEAD. The trouble is that courts sometimes refuse to allow exceptions, and it is to compel the courts to allow exceptions when they are made that this provision is inserted.

Mr. STEVENSON. I have never struck a court of that kind yet. There is sometimes a dispute as to what the exception was that was made, and it is very well to have the stenographer's notes for that. But to make that equivalent to the determination of the judge, I think, would confuse the practice in the Federal courts.

Mr. HASTINGS. Mr. Chairman, will the gentleman yield?

Mr. VOLSTEAD. Yes.

Mr. HASTINGS. I want to say that I indorse that provision as much as I do any other in this bill. I think that where you have a sworn stenographer and he makes a record a judge on the bench ought not to be allowed to change it. I have seen a good many of them, when bills of exceptions were presented, who tried to find some way to get out of a bad ruling or change or dispute it.

Mr. MILLER. To get out of a bad ruling?

Mr. HASTINGS. Yes; in order to prevent a reversal, it has been suggested by some one here. If you have a sworn stenographer, a court reporter, and he takes it down, then, when you get up your bill of exceptions, you just simply have to get all of those rulings objected to and excepted to during the proceedings of the trial, and the judge could not go back on or dispute them; he would be bound by the record. If there is a dispute between the attorney and the court, there would be the record of the stenographer who took it down. I want to say that I heartily indorse that provision of the bill.

Mr. VOLSTEAD. I think that will work out all right. I reserve the remainder of my time.

Mr. BEE. Mr. Chairman, will the gentleman yield?

Mr. VOLSTEAD. Yes.

Mr. BEE. I want to ask the gentleman a question along this line. I see a provision in the latter part of the bill which provides that parties to litigation shall pay a certain fee in order to receive a transcript of the notes; that the judge can order the stenographer to furnish one without cost. Is that for the benefit of an impecunious defendant who is unable to otherwise procure it?

Mr. VOLSTEAD. No. The stenographer is required under this bill to act as secretary to the judge. The judge may ask him to read certain of his notes for the purpose of aiding him in making a decision in a case, or, if he finds it necessary, he may ask him to make a transcript of the testimony of one or more witnesses.

Mr. BEE. For his own use?

Mr. VOLSTEAD. For his own use only.

Mr. BEE. Let me ask this. My experience in the Federal courts has been that there is absolutely no hope for a poor man under the existing practice either to get his witnesses there without going down into his pocket to pay for them, or to get a transcript of the testimony under which they can appeal, the costs of which are almost prohibitive. In the State courts almost universally there is a provision that where a defendant is in such poor circumstances and he makes an affidavit to that effect, the court and the clerk of the court passing upon it can require the stenographer to furnish a transcript free of charge.

Is it not possible to secure a provision to enable the poor man in the Federal court to be protected and have his day in the appellate court exactly like the well-to-do man has, and will this bill have that tendency? I favor its general principle that there ought to be a stenographer and he ought to be paid.

Mr. VOLSTEAD. There is a statute that allows the courts to relieve persons too poor to pay from the payment of certain expenses. But that does not, as I understand, apply to the expense of transcripts. We did not feel, though we talked about it to some extent in considering the bill, that it would be desirable to put it in this bill.

Mr. BEE. Let me ask the chairman of this great committee a question—if it is not possible for this committee to formulate a law and bring it before the Congress that will afford a defendant charged in a Federal court that leeway and opportunity in appealing from the judgment of the court and jury similar to that which is now allowed in every State in the Union, because now, as I have stated, there is practically no opportunity for a poor man to carry his case from the Federal court, no matter how unjust or erroneous he may think might be the judgment of the court and jury, and I hope the great Judiciary Committee will find some way to relieve the procedure of the odium in which it is now held by people generally because of the fact that the appellate procedure seems to be destined only for the well-to-do man and affords no relief whatever to the poor man who has no money to put up.

Mr. MILLER. Will the gentleman yield?

Mr. VOLSTEAD. I will.

Mr. MILLER. My attention is called to section 3. I see the salary is placed at $2,000 a year, which is a rather modest salary. Now, I assume that the supplies for this stenographer in doing his work will amount to quite a sum. Is it the idea of the chairman that this stenographer at the rate of $2,000 a year shall furnish his own supplies out of that salary? Would it not be a wise thing to put in the bill that the supplies shall be furnished in addition to his salary?

Mr. VOLSTEAD. If the gentleman cares to offer an amendment of that kind, we will consider it.

Mr. MILLER. I thank the gentleman.

Mr. EVANS of Nebraska. Will the gentleman yield?

Mr. VOLSTEAD. I will.

Mr. EVANS of Nebraska. Suppose the stenographer makes a mistake in the taking of the evidence. What provision is there for the correction of that error?

Mr. VOLSTEAD. It differs in different States. It is a matter to be determined by the court after notice has been given the opposing party by the one presenting a case or bill of exceptions. If there is dispute the judge settles what the actual facts are.

Mr. EVANS of Nebraska. Well, I believe there is no provision here for the service of that bill.

Mr. VOLSTEAD. We did not think it was necessary to do that. We left it exactly as it is to-day as far as that is concerned. If a man now gets a transcript from some stenographer he has to get it approved by the court before he can use it as a basis of appeal.

Mr. GARD. Mr. Chairman, does the gentleman yield some time to the gentleman from Pennsylvania [Mr. STEELE]?

Mr. VOLSTEAD. I reserve the balance of my time. The gentleman from Pennsylvania can ask for recognition in his own right.

Mr. MANN of Illinois. Mr. Chairman, I ask for recognition in opposition to the bill.

The CHAIRMAN. The gentleman from Illinois.

Mr. MANN of Illinois. I ask for recognition in opposition to the bill, unless some member of the committee wants to be recognized in opposition to the bill.

Mr. GARD. Do I understand the chairman of the committee to yield the floor?

Mr. VOLSTEAD. I reserve the remainder of my time.

Mr. GARD. How much time has the chairman used?

The CHAIRMAN. The Chair is unable to advise the gentleman just exactly, but he is of the opinion that he used about half of his time. The Chair is now advised that he used 20 minutes.

Mr. MANN of Illinois. Mr. Chairman, it has been a long time since I practiced law. I never expect to practice again, and very likely I am not up to date in reference to the procedure in the courts, but I am quite well satisfied this bill will never furnish an adequate working force for taking testimony in trial courts. Here is a proposition to appoint a stenographer at $2,000 a year, and he is also to be the private secretary of the Federal judge in place of the secretary which he now has, and this stenographer is required, in addition to acting as secretary, to take all of the testimony in the court and all of the proceedings in the court and in the presence of the jury, and for that he receives $2,000 a year, and then, in addition, if copies of the testimony are required, he receives 10 cents a folio of 100 words for the first copy and 2 cents a folio for each copy thereafter. I do not know why the 2 cents was put in. I suppose it must have been after some investigaton, because the bill which was reported by this Committee on the Judiciary in September last provided for 5 cents a folio for each duplicate copy of the testimony. Here is the case. Take the House of Representatives. We employ six stenographers at, I believe, $6,000 a year, ordinarily sitting in the House not to exceed about five hours, and they do hard work, and we are not in session all the year.

Mr. BLANTON. Will the gentleman yield right there?

Mr. MANN of Illinois. Yes.

Mr. BLANTON. That is entirely different work——

Mr. MANN of Illinois. I do not yield for a speech.

Mr. BLANTON. I just want to call attenton to the fact that it is entirely different work. A court stenographer has much more time to prepare his transcript than the stenographers here on the floor.

Mr. MANN of Illinois. I can not say how it is in the district of my friend from Texas, but I speak with some knowledge of the courts in Chicago.

A stenographer in a Chicago court is just as busy as a stenographer on the floor of the House of Representatives. He has just as hard work, and it is just as fast work, too, and he is supposed, in most cases, to have his transcript ready for the parties the next morning. They do not wait for a month to make out the transcript of the testimony. In an important case the lawyers want the transcript of the testimony at once, and it is furnished at once, just as the transcript is furnished here.

Mr. HASTINGS. Will the gentleman permit me to suggest that there is not one in twenty cases where the testimony is transcribed, and there is not one case in twenty that is appealed, and therefore no necessity for the transcript.

Mr. MANN of Illinois. I expect that that is the case in the district of my friend, where most of the cases are small cases and relate to Indians—very small criminal cases. That is not the case in the United States courts of Chicago.

Mr. HASTINGS. If the gentleman will permit, we have the most important of cases in the eastern district of Oklahoma, involving millions of dollars, of oil litigation—more important perhaps than in any other court of the United States.

Mr. MANN of Illinois. Does the gentleman say that they do not make a transcript of the testimony in those cases?

Mr. HASTINGS. I mean it is taken down in shorthand but not transcribed unless asked for, and there is not one case in twenty that is appealed and therefore not necessary to have the notes transcribed.

Mr. MANN of Illinois. You can not try a case involving a million dollars and try it well unless you have a transcript of the testimony from day to day, and if you do not have it in Oklahoma, I pity Oklahoma lawyers.

Mr. HASTINGS. I did not say that in those large cases they did not have a transcript. I say in the ordinary cases they take down the testimony in shorthand and it is not transcribed, as there is no necessity for it.

Mr. MANN of Illinois. The gentleman says in one breath that most of the cases down there are unimportant and in the next breath there are more important cases tried there than in almost any other place.

Mr. HASTINGS. "The gentleman from Oklahoma" did not make that sort of a statement. I did make a statement that there was not one in twenty of the cases appealed, and then the gentleman from Illinois said they did not have any important cases, and I rose to correct that by stating that there were some very important cases in eastern Oklahoma.

Mr. MANN of Illinois. I will take the facts about Oklahoma any way the gentleman gives them.

Mr. HASTINGS. I hope the gentleman will get it right one time anyway.

Mr. MANN of Illinois. That is more than the gentleman from Oklahoma will ever be expected to do. Just occasionally I may be right.

Mr. HASTINGS. I am glad the gentleman admits that he occasionally makes errors. That is a great concession.

Mr. MANN of Illinois. I make errors so often that I wonder the gentleman wants to pattern after me all the time when I do. He should follow me sometimes when I am right. However, that is pleasantry between the gentleman and myself. Nothing could disturb our pleasant relations.

In the Senate of the United States now the rule is to pay 25 cents a folio for taking testimony. I do not know what the Committee on Accounts allows where outside stenographers are brought in to take testimony for the House. A few years ago it was 25 cents. I believe at one time it was cut down to 15 cents, and that they found they could not get the work done properly, and the 25-cent rate was restored. I think it is very important that litigants have the right to have proper copy of the evidence taken before them by competent stenographers. I am very confident that you can not secure in the large cities of the country a competent stenographer who would be required to be the secretary of the judge, required to take the testimony without extra compensation, and required to furnish a copy of the same to the judge without extra compensation if the judge desires it. You take a case that is being tried in a court anywhere and where they desire the testimony from day to day, and it requires several stenographers to do

the reporting, and then they are required in the main to work at night, with a considerable office force, in order to have the testimony transcribed.

Mr. DEWALT. Will the gentleman allow an interruption?

Mr. MANN of Illinois. Certainly.

Mr. DEWALT. I judge from the gentleman's remark that his main objection to this is that the compensation is not large enough. Would the gentleman suggest what he thinks would be the remedy there, either by districts or in particular instances, to wit, in large cities like Chicago?

Mr. MANN of Illinois. I could not say how much it should be. I do not know. I am very confident this will not secure competent stenographers to do the work as provided by this bill.

Mr. DEWALT. Otherwise there is no objection to the bill?

Mr. MANN of Illinois. I have not so stated yet.

Mr. DEWALT. All right.

Mr. MANN of Illinois. I do not know. I have asked for information as to whether under the terms of the bill, which do not apparently require the appointment of a stenographer, it would take away from the judge the secretary he now has if he does not appoint a stenographer. As I understand, Federal judges are now entitled to a secretary.

Mr. BEE. Will the gentleman yield for a question right there?

Mr. MANN of Illinois. Certainly.

Mr. BEE. Is the gentleman able to state, or is the chairman of the committee able to state, whether the provision of secretary to a judge is one authorized by law or is it just one of common consent? Otherwise, there might be danger of the secretary being the stenographer.

Mr. VOLSTEAD. It is not authorized by law.

Mr. STEELE. It is simply taken care of in the appropriation to the Department of Justice.

Mr. MANN of Illinois. What I wanted to get at was this: This bill provides that the judges of the district courts may appoint a stenographer. And while "may" is frequently construed in statutes as "must," it is very likely it would not be so construed. What is the judgment of my friend from Pennsylvania [Mr. STEELE] on that point?

Mr. STEELE. My judgment is that it makes it discretionary with the court to appoint. If the court does not wish to appoint it is not imperatively necessary to appoint, but if he does appoint then the duties of the secretary become merged with the duties of the stenographer, and there will be no authority then to appoint a secretary.

Mr. MANN of Illinois. Would there be any authority, if the judge did not appoint under this provision of the bill, to retain an official stenographer?

Mr. STEELE. I think there would.

Mr. MANN of Illinois. He is not the official stenographer.

Mr. STEELE. Absolutely, he could retain his secretary.

Mr. MANN of Illinois. It is possible, but I doubt it. I think the purpose of this bill now—and it was a little more fully set forth in the provisions of the original bill—is to put the burden of this work upon the Federal Treasury. A great many people say that a poor man can not afford to employ a stenographer. That may be true. It may be possible that there ought to be some provision made for that. A great many poor men can not afford to employ an attorney, although very few people get into litigation in civil suits who are not able to employ an attorney. Maybe some attorneys think that they ought probably to get all the money a man has, so that he will not have any left with which to pay the stenographer. But the whole theory of this bill, as it seems to me, is to put the burden of this expense on the Federal Treasury, and if a competent stenographer can not be employed in the cities under the terms of this bill—as they can not be—we will very soon, if the bill becomes a law, have a proposition to increase the pay, to come out of the Federal Treasury.

I myself believe that the courts in the country in the main ought to be self-supporting; that if people wish to indulge in the luxury of litigation, they ought to be willing to pay the expense of the litigation.

Mr. BEE. Mr. Chairman, will the gentleman yield right there?

Mr. MANN of Illinois. Certainly.

Mr. BEE. What becomes of the defendant who has been unjustly accused, and who believes he has his rights, and is dragged into court against his will, where, so far as he is concerned, he has to defend his liberty and his life?

Mr. MANN of Illinois. A man has not to defend his liberty and his life in a civil suit at all.

Mr. BEE. I was speaking of the criminal side.

Mr. MANN of Illinois. This applies to the civil side, not the criminal side of the courts. The whole theory of it is to put upon the Federal Treasury the burden practically of furnishing the stenographers when civil cases are tried.

Mr. RAKER. Mr. Chairman, will the gentleman yield there for a question?

Mr. MANN of Illinois. Yes.

Mr. RAKER. Under the law as it now stands in our criminal cases the court provides a stenographer, and the defendant pays nothing, so far as the stenographer is concerned. Is not that correct?

Mr. MANN of Illinois. I do not know. I never tried a criminal case in my life.

Mr. RAKER. What do you pay to the reporter now in Chicago, outside of the transcript?

Mr. MANN of Illinois. When I practiced law we used to pay the reporter $10 a day——

Mr. RAKER. And 25 cents per folio for the transcript?

Mr. CHINDBLOM. Mr. Speaker, will the gentleman yield?

Mr. MANN of Illinois. Yes.

Mr. CHINDBLOM. The uniform charge in Chicago is 50 cents a page. That amounts to 20 cents a folio, figuring two and one-half folios to the page, and 10 cents, I think, for the first copy and 5 cents for each additional copy. The per diem charge of $10 is frequently merged in the charge per folio if you get a large transcript.

Now, while I am on my feet——

Mr. DEWALT. Mr. Chairman, will the gentleman permit an interruption?

Mr. MANN of Illinois. I do.

Mr. DEWALT. I did not quite understand what was meant by "merged."

Mr. CHINDBLOM. They waive the per diem when they furnish a very large transcript.

Mr. MANN of Illinois. They make a special agreement.

Mr. CHINDBLOM. Otherwise the rates as fixed by the stenographers are $10 per diem and 50 cents a page. They will give you a discount sometimes of 20 per cent on the charge per page, and sometimes they will waive the per diem in the case of a very large transcript.

Now, does the gentleman, may I ask, intend to address himself to the language of section 2? If he does not, I would like to ask a question, if I may, in regard to his interpretation as to some of the language in the beginning of section 2, if the gentleman is willing.

Mr. MANN of Illinois. I am willing.

Mr. CHINDBLOM. Section 2 reads as follows:

That such official stenographer shall take full stenographic notes of the testimony in all judicial proceedings and trials, together with the judge's charge, if any—

And then proceeds—

and of all rulings and orders and any comment or remark of the trial judge relating to the case on trial made in the presence of the jury, to which rulings, orders, comments, or remarks either party may except as a matter of right.

Does not that limit the duty of the stenographer to taking down such rulings, orders, comments, and remarks to which either party may except as a matter of right? In other words, it does not require him to take down those rulings, orders, comments, or remarks to which no exceptions may be taken or to which either party may not take an exception as a matter of right?

Mr. MANN of Illinois. That might be technical language. It is, although I do not apprehend that to be what the stenographer would take down.

Mr. CHINDBLOM. If the gentleman will permit me further, certainly this act is not intended to define what rulings, orders, comments, or remarks the party may take exception to as a matter of right?

Mr. MANN of Illinois. No. I read section 2 quite carefully, and I thought it was not the way I should have drafted it myself. I was not certain whether it was because that was not clear or because I was not clearheaded on the subject. I think it undertakes, apparently, to say what exceptions can be made and to require a transcript of the testimony to be taken as true, although both counsel for the parties and the judge should agree there was an error in it and that the judge could not change that. Whether it does away with the bill of exceptions signed by the judge I do not know, although apparently it does.

But I take it that that could not be the case, because where a motion for a new trial should be made and denied by the court, that would not be taken down by the stenographer, because it is not in the presence of the jury.

Mr. WELTY. Mr. Chairman, will the gentleman yield?

Mr. MANN of Illinois. Yes.

Mr. WELTY. But the stenographer is required to take only such matters, rulings, and orders of the court as are made in

the presence of the jury, for the purpose of protecting the defendant in the case or any parties to the suit.

Mr. MANN of Illinois. Oh, no. There is nothing in here about protecting the defendant in the case. It is all cases.

Mr. WELTY. Yes; criminal and civil cases. I understood the gentleman a while ago to say that it did not apply to criminal cases.

Mr. MANN of Illinois. Oh, no; I did not say it did not apply to criminal cases.

Mr. WELTY. And if the gentleman will permit, is not the language itself so clear as to permit the construction that the stenographer is required to take all judicial proceedings and trials, and all rulings and orders, and any comments of the court, and that either party to the suit, the plaintiff or the defendant, may take exception to any of the rulings and orders made at the time?

Mr. MANN of Illinois. That was the matter that was discussed by my colleague. I do not think it is clear, but I have no doubt about what would be done—that the stenographer would take the proceedings.

Mr. WELTY. The coordinate conjunction "and" would cover that.

Mr. MANN of Illinois. It says—

That such official stenographer shall take full stenographic notes of the testimony in all judicial proceedings and trials, together with the judge's charge, if any, and of all rulings and orders and any comment or remark of the trial judge relating to the case on trial made in the presence of the jury, to which rulings, orders, comments, or remarks either party may except as a matter of right.

Mr. WELTY. Certainly.

Mr. MANN of Illinois. Now, nobody could know whether he was going to except until after the comments had been made, so they would have to be taken down.

Mr. WELTY. He could not tell before the comments and rulings were made, because the parties would not know what they were.

Mr. MANN of Illinois. No; not very conveniently in court, although it is frequently the case in this House.

Mr. RAKER. Will the gentleman yield?

Mr. MANN of Illinois. I yield to the gentleman.

Mr. RAKER. The language on page 2, in lines 10, 11, and 12, seems to be restrictive, in that the orders and rulings must be made in the presence of the jury. Now, supposing the jury are asked to retire, and the court takes up a long proceeding for the purpose of hearing testimony and makes, practically, rulings on it before the jury return. According to this, such a proceeding would not have to be taken down, although it may be just as important as the proceedings before the jury. In criminal cases the jury are frequently requested to retire, and matters are taken up out of the hearing of the jury which counsel would not have out of the record for anything.

Mr. MANN of Illinois. Frankly, I do not think that the provision in the bill requiring the comments to which exception shall be made to be taken down will exclude the stenographer from taking down the proceedings in court in the absence of the jury. I take it that the trial judge would have jurisdiction over the stenographer and that the stenographer would endeavor to take the testimony, the same as it is now taken in court. But here is the objection that I make there. You can not employ competent stenographers for the compensation provided in this bill. You say a party may protect himself by employing competent stenographers. Very well; but the bill of exceptions, the trial proceedings certified to, have to be taken from the transcript of the official stenographer, who, in our city, I think, under this bill will certainly be incompetent at the compensation here fixed.

Mr. WELTY. Will the gentleman yield again? The first section of the bill provides that substitute stenographers may be appointed. The official stenographer can appoint as many substitute stenographers as the parties to the case desire, and the plaintiff and defendant must pay for the stenographer's transcript. This simply requires him to go into court and take the testimony, and then if they want a transcript they will have to pay for it.

Mr. MANN of Illinois. I was going to ask how many substitute stenographers could be employed. If this means more than one, then the language is unfortunate. It says the official stenographer may temporarily supply a competent substitute stenographer. That would not, under the language, authorize the employment of more than one substitute stenographer. But they can not employ a competent stenographer in New York or Chicago or Philadelphia, or any other large city, for no pay and 10 cents a folio if somebody orders a transcript. If they can not pay him, how can they employ him?

Mr. WELTY. Will the gentleman yield?

Mr. MANN of Illinois. I yield to the gentleman from Ohio.

The CHAIRMAN. The Chair desires to call the attention of gentlemen to the fact that they are forming a bad habit of not asking recognition from the Chair when they desire to interrupt one another.

Mr. MANN of Illinois. I hope the Chair will not require the consumption of the extra amount of time when I have expressed my willingness to yield?

The CHAIRMAN. The Chair will have to regulate that matter.

Mr. MANN of Illinois. Of course. I am simply asking the Chair not to, when I have expressed a willingness to yield.

Mr. WELTY. I understand the gentleman objects to this bill because competent stenographers can not be procured in Chicago and New York and some other congested centers for the compensation named in this bill. Will a defendant or plaintiff be precluded from hiring and paying for substitutes under this bill?

Mr. MANN of Illinois. Suppose they hire a competent stenographer and he makes a fair transcript of the testimony, what good is it going to do?

Mr. O'CONNOR. None.

Mr. WELTY. Why not?

Mr. MANN of Illinois. You can not use it in court. If the incompetent stenographer says that so and so took place, or if there is a hiatus in his transcript, and the record made by the competent stenographer shows that so and so took place differently from what is shown in the transcript of the incompetent stenographer, you have got to take the testimony of the incompetent official stenographer although everybody knows he has made a mistake.

Mr. WELTY. They will have to take the transcript made by the stenographers as they took the testimony, but these substitutes can be appointed by the official stenographer provided for in the bill, and paid for by either plaintiff or defendant.

Mr. WALSH. Will the gentleman yield?

Mr. MANN of Illinois. I yield.

Mr. WALSH. How do they correct such a situation as that in Chicago?

Mr. MANN of Illinois. It is not an infrequent thing that there is a contest as to what has taken place, notwithstanding the stenographer's notes. Counsel sometimes appear before the court and present their recollection of the matter and the court determines in the end.

Mr. DEWALT. Is not that so in every instance, that the record is always under the supervision of the court?

Mr. MANN of Illinois. It is not under this bill, because this expressly provides that the sworn statement of the stenographer must be taken and the judge can not change it. There is no question about that.

Mr. STEVENSON. That is the difficulty I was raising a while ago. Does not line 15, page 2, make the stenographer's transcript superior to the judge's ruling on that matter?

Mr. MANN of Illinois. Absolutely. It does not give the judge a chance to correct it at all.

Mr. STEVENSON. It is beyond the control of the judge entirely.

Mr. MANN of Illinois. This says—

All of which exceptions shall have the effect of exceptions duly written out, signed, and sealed by the trial judge at the time of trial.

That is the transcript prepared by the sworn official, and it has to be taken. I do not say that the parties by consent might not actually change it, but they could not legally change it.

Mr. WELTY. Would a judge be required to sign a transcript which was not correct?

Mr. MANN of Illinois. Under this provision he is not required to sign it.

Mr. WELTY. He would have to sign a transcript before you could prosecute a writ of error.

Mr. MANN of Illinois. "All of which exceptions shall have the effect of exceptions duly written out, signed, and sealed by the trial judge at the time of the trial." That is all the judge does when he signs the bill of exceptions. He certifies to that over his signature and seal. This says that the transcript made by the stenographer shall have the same effect as though the judge had signed and sealed it. I do not know where the judge would get authority to change it.

Mr. STEVENSON. Will the gentleman yield?

Mr. MANN of Illinois. Certainly.

Mr. STEVENSON. As a matter of fact, where we are making up a bill of exceptions the judge and attorneys almost always condense the statement of facts surrounding each exception, and therefore you have only to print that part which relates to the exceptions. If this prevails, the whole thing will have to be printed.

Mr. MANN of Illinois. I do not know whether they would have to print the whole, but it would all have to go up as part of the record.

Mr. STEVENSON. If it all went up as a bill of exceptions, it would have to be printed.

Mr. MANN of Illinois. The language here is very unfortunate.

Mr. VOLSTEAD. Under the common law you sign the exception at the time, and for the purpose of avoiding that it is entered on the record of the stenographer in this case; and then later on when you come to make up the bill of exceptions the judge passes on what actually took place. It is only for the purpose of avoiding the necessity of having the old common-law form complied with.

Mr. MANN of Illinois. I have practiced under the common law, which I doubt if my friend from Minnesota ever did. I never saw a judge sign exceptions at the time the exceptions were taken, and I doubt if anybody else ever did.

Mr. RAKER. Will the gentleman yield?

Mr. MANN of Illinois. I will.

Mr. RAKER. If a bill of exceptions is signed by the judge during the trial, it becomes a part of the record and part of the judgment roll, and after it is once signed by the judge there is no power except by proper proceedings in the Supreme Court to annul it. This provision does away with the judge's consideration of it and does away with the right of the parties to be heard as to whether the facts are true, and does away with the judge's signature and does away with the judgment roll.

Mr. MANN of Illinois. I do not suppose that that was the design of the author of the bill, and probably he would say that that is not what it means; but that is the language of the bill. The gentleman asked us to assume that because they want to accomplish a certain thing they have accomplished it, although they say something else.

Mr. GOODYKOONTZ. Will the gentleman yield?

Mr. MANN of Illinois. I will.

Mr. GOODYKOONTZ. The point the drafter had in mind in the preparation of the bill was to save the ruling of the trial judge in the admission of testimony where objections were interposed from time to time; that these objections might be entered in the transcript so that this question, which has confronted every lawyer, whether or not independent rulings as to questions and answers in the evidence itself should be made the subject of a separate and distinct bill of exceptions and therefore encumbering the record, or whether or not when it was in the transcript the court might take notice of the fact.

Mr. MANN of Illinois. I have an idea that what the provision was put in the bill for was to prevent a party in a lawsuit from employing a competent stenographer and then using that transcript taken in the trial of a case for the purpose of settling the bill of exceptions. They endeavored to make the transcript of the official stenographer absolutely controlling, so that you could not go behind it by showing that a more competent stenographer had taken the testimony differently. They want to put a cinch on the official stenographer's transcript.

I am opposed to this bill because I do not think it is the duty of the Government to pay out of the Federal Treasury the cost of trying civil suits in the Federal courts. Let the parties pay for their own litigation.

Second, I am opposed to it because it provides practically for the employment of incompetent stenographers and makes their transcript the controlling one. Everybody knows that you can not get good stenographers for the compensation named in this bill.

Mr. BEE. Will the gentleman yield for a question?

Mr. MANN of Illinois. I will yield to the gentleman from Texas.

Mr. BEE. I want to ask the gentleman if he does not think the Judiciary Committee ought to perfect some character of legislation that will curtail the trial of civil cases in the Federal courts and let them go to the State courts?

Mr. MANN of Illinois. I fully agree with the gentleman from Texas. Ever since I have been a Member of the House I have resisted the constant enlargement of the powers of the Federal judiciary to try ordinary cases which ought to be tried in the State courts.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. WALSH having taken the chair as Speaker pro tempore, a message from the President of the United States, by Mr. Sharkey, one of his secretaries, announced that the President had approved and signed bills of the following titles:

On February 14, 1920:

H. R. 2950. An act to authorize a preference right of entry by certain Carey Act entrymen, and for other purposes; and

H. R. 11368. An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1921.

On February 17, 1920:

H. R. 683. An act for the relief of William E. Johnson;

H. R. 396. An act to authorize the payment of certain amounts for damages sustained by prairie fire on the Rosebud Indian Reservation, in South Dakota; and

H. R. 10746. An act to authorize the incorporated town of Wrangell, Alaska, to issue bonds for the construction, enlargement, and equipment of schools, the acquisition and construction of a water-supply system, the construction of a sewer system, the construction of a city dock and floating dock, and to levy and collect a special tax therefor.

On February 18, 1920:

H. R. 5665. An act for the relief of Carlow Avellina.

OFFICIAL STENOGRAPHERS FOR UNITED STATES DISTRICT COURTS.

The committee resumed its session.

Mr. BLANTON. Will the gentleman from Illinois yield me three minutes?

Mr. MANN of Illinois. I yield to the gentleman from Texas three minutes.

Mr. BLANTON. Mr. Chairman, the duties of the stenographers in this House are entirely different from the duty of a court reporter. The reason we have five or six reporters on our reportorial staff here is due to the fact that the various speeches made here and the various proceedings of the House must be transcribed immediately in order that the transcripts may be passed upon and corrected shortly after adjournment, so that the RECORD may be printed during the night and be ready for the next morning. There is no such necessity in court proceedings. Why, there are very few Federal judges in the whole United States who hold court more than about a third of the time. Name me some. Name me some Federal judges who hold court more than about a third of the time during the year.

Mr. MANN of Illinois. Oh, the gentleman knows that in Chicago and New York, and in most of the large districts, the Federal judges hold court nearly all of the year.

Mr. BLANTON. Mr. Chairman, the gentleman from Illinois [Mr. MANN], who is the best posted man, I guess, in the United States on most all of the subjects that come up here in Congress, admits that he has not been around courthouses for years. Some of us have been around the courthouses a little more frequently and recently than he has been, possibly when he has been otherwise busy studying the various plant growths in his garden——

Mr. MANN of Illinois. And I would much rather be in the garden than in court. However, the gentleman from Texas is mistaken. The Federal judges in these large cities hold court all of the year with the exception of a short summer vacation.

Mr. BLANTON. Mr. Chairman, the gentleman must not get the idea that the Federal judges at Chicago are any different from the Federal judges everywhere else in the United States; and he must not get the idea that all of the court business in this Nation is transacted in Chicago, because, as was stated by my friend from Oklahoma [Mr. HASTINGS], there are important cases tried in Oklahoma and in Texas—cases involving millions of dollars and involving the life and liberty of citizens. The Federal court always meets in the morning not earlier than 10 o'clock. The judge hears the evidence, transacts business, and does it swiftly and expeditiously for about an hour and a half or two hours and then adjourns for noon for about a two-hour recess. He comes back in the afternoon, and if he is feeling badly he holds court only a short time and then adjourns until the next morning. That is about the ordinary process, even in the trial of important cases, if you please.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. BLANTON. I will ask the gentleman from Illinois [Mr. MANN] to kindly give me one minute more.

Mr. MANN of Illinois. I yield one minute more to the gentleman.

Mr. BLANTON. Most of the stenographers will not be overworked. During all of these various and numerous recesses and adjournments the stenographers have sometimes 30 days in which to get up important transcripts for the attorneys. Of course they have assistants to help them get up statements of the evidence from day to day where the attorneys are trying important cases and want same for use during the trial, but I want to say to my friend that they have plenty of time out of the 24 hours in a day to get up these transcripts, and I do not think

the gentleman should become alarmed, because some of the best stenographers I have ever known in my life have carried on the business in very active courts and have reported the proceedings day after day and month after month and year after year, preparing their transcripts on time, and have never complained. As one of such faithful, efficient court reporters, serving in a State court for more than eight years continuously, I mention Mr. W. H. Graham, now a practicing attorney of Dallas, Tex.

Mr. MANN of Illinois. Mr. Chairman, the remarks of the gentleman from Texas remind me of something I wanted to say. First, the gentleman is in error about the United States courts. Most of the judges are working most of the time, and it is claimed that in some of the districts there is a shortage of judges. I think that is practically true. I referred to Chicago not, as suggested by the gentleman from Texas, because I thought that Chicago is the place where the most important court business is transacted, but merely because when I refer to a matter I like to refer to something I know something about. I know nothing about how much business is transacted in Texas at the present time, although a few years ago I helped to create a new judgeship down there because they claimed they were very short of judges in transacting the business of that State.

This is what I wanted to say about stenographers. I am one of very few Members of this House who have ever been in the House since the proceedings were reported stenographically who never corrects his remarks. I never see a transcript of any statement which I make on the floor of the House. I sometimes have seen the transcripts of the statements made by other Members of the House after the transcript has been submitted to those Members. We have as good a force of stenographers to report the proceedings of the House as exists anywhere in the world, and yet I have an idea that if my friend from Texas [Mr. BLANTON] or my friend from some other place should exhibit the transcript of their statements made on the floor of the House after they have corrected them, one would be led to think that the transcript had been left in a chicken yard with chickens tracking over it with inked feet. The only authority that Members have is to correctly put on paper what they have said, and there is no Member here who corrects his remarks who does not thereby say that there has been a slight error on the part of the stenographer in reporting what he said, and while that would not always be correct, it sometimes happens; but under this bill you propose to fix it so that after the court stenographer provided for in the bill makes a mistake nobody can correct it.

I yield three minutes to the gentleman from Oklahoma [Mr. HASTINGS].

Mr. HASTINGS. Mr. Chairman, I am heartily in favor of the bill and I am heartily in favor of section 2. I have not had very extensive practice before the Federal courts, but I have had some. The Federal courts that I practiced before were legislative Federal courts, and we had a good many czars on the bench. Whenever a member of the bar tried to get the record corrected as against the czar on the bench, the contest was very unequal.

This bill practically follows the law in the State of Oklahoma, with reference to State courts now. We have a stenographer who takes down the proceedings. They take down the testimony, they take down the rulings, and in the event that a transcript is required the notes of the stenographer are transcribed. What I attempted to say when my good friend was impatient and had the floor a few moments ago was this, that not one in twenty of the cases tried either in a State court or a Federal court is appealed, so that in not one in twenty cases tried is it necessary to transcribe the record. Everyone who has practiced before either a State or Federal court knows that is correct.

My good friend from Illinois injects the remarks that we do not have any important cases tried in Oklahoma. I venture to say that there are more important lawsuits in the Federal courts in the eastern district of Oklahoma than in any other Federal court in the United States. I would state furthermore that that court is always busy and usually one or two outside judges, sent from other districts, are there to assist the judge for the eastern judicial district. What I want to emphasize is this, that cases may be tried day in and day out, and the stenographer is there, and he makes notes of the proceedings, the rulings, and so forth, and yet the proceedings are not transcribed and the rulings are not transcribed unless it becomes necessary for an appeal or a bill of exceptions is to be prepared for the judge to certify.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

Mr. HASTINGS. I will ask the gentleman to yield me two minutes more.

Mr. MANN of Illinois. I yield the gentleman one minute more.

Mr. HASTINGS. I want to make one more observation, and that is this: This stenographer is to be appointed by the judge. The judge himself can change the stenographer whenever he wants to, and he is dead certain to appoint a competent man; but if he makes a mistake and appoints an incompetent man, under the terms of this bill he can change him any day.

The eminent trial judge may be mistaken the next day as to what transpired. The lawyer may be mistaken. Who could better be relied upon than the stenographer himself to say what actually did take place if it is disputed by the judge and is disputed by the lawyer? [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN of Illinois. How much time have I remaining?

The CHAIRMAN. The gentleman has 11 minutes remaining.

Mr. MANN of Illinois. I yield five minutes to the gentleman from California [Mr. RAKER]. [Applause.]

Mr. RAKER. Mr. Chairman, in section 2 the whole matter could be covered, and I say this in all earnestness, because I know the committee wants to get the right provision.

That such official stenographer shall take full stenographic notes of the testimony and proceedings in all judicial proceedings and trials.

Now, you could stop right there. That means everything from the time the case opens until the court discharged the jury, every word that every attorney utters in court in regard to the trial or statement that the judge makes from the time the trial begins until the end, every declaration he makes to the jury, every criticism he makes of counsel, every exception made by counsel to the rulings of the judge, and then the charge to the jury. Now, to make it specific and avoid all question you could add "together with the judge's charge, if any, and of all rulings and orders and any comment or remark of the trial judge relating to the case on trial," and stop right there. That makes this bill certain, so there will be no question about it. It ought to be that way. Many of the States have it and it protects counsel. There must be a stenographic report of the trial of cases. There ought to be. Now, there are three methods in our State and some other States in preparing an appeal. A bill of exceptions, with which everyone is familiar; a statement of the case, which is a little more voluminous and which makes more specific the matters involved because it makes specific wherein the evidence is insufficient to sustain the findings of the court or the verdict of the jury, and that must be specified in the specification of exceptions. Then there is the newer procedure in operation in California for the last 12 years, something similar to an appeal in an equity case in some States, especially Oregon, and it has worked admirably. It ought to be in force in the Federal courts. In the State of Oregon, if you try an equity case, the stenographer takes all of the testimony and proceedings, and then the court, after counsel has been given notice, goes over the record and then certifies it, and that record goes to the supreme court, without being printed, counsel being required to present an abstract. Now, by this new system the stenographer takes all of the testimony and proceedings. Counsel are notified. If they desire to be heard, the court conducts the hearing in a short time, and all this surplus matter is stricken out. The record is short; there is no printing of the record. Only the record certified by the court goes to the supreme court. Counsel have printed an abstract. Take, for instance the supreme court; go look at the supreme court printed records, and you will find volume after volume of records of proceedings anywhere from 1 up to 28 or 30 that have been printed. You save that expense. You save expense on appeal, and you prevent the litigant from being bankrupted by the reporter as well as by the printing of testimony. The gentleman from Illinois is clearly correct, and we ought not to overlook what he says with reference to lines 15, 16, and 17, where it says:

All of which exceptions shall have the effect of exceptions duly written out, signed, and sealed by the trial judge at the time of trial.

Now, if that means anything it means what it says, namely, that you have complied with all the formal procedure, notice to adverse counsel, all proceedings of the court to determine whether or not the testimony and exceptions concerning the facts in the record are true. The judge then passes on it, and you have an opportunity to be heard before the judge and get the facts in the bill of exceptions and——

The CHAIRMAN. The time of the gentleman has expired.

Mr. RAKER. May I have time to finish this sentence.

Mr. MANN of Illinois. I yield to the gentleman.

Mr. RAKER. But you place upon the statute book a new provision giving this power to the reporter to transcribe and file with the clerk this record which disposes of all the preliminaries, and then this record goes and there is no way to obviate

it unless by special proceedings before the judge, and if he denies it, then by application to correct the record in the Supreme Court. You know that is most difficult to do. The other provision in the bill as to employing an official reporter and then pay for the transcript is valuable and ought to be enacted. I trust the committee will look to the suggestion just made, first as to the testimony and proceedings in the trial of the case, and second as to these bills of exceptions, because you clearly do away with the opportunity to either party to be heard on a settlement as to the bill of exceptions before the judge before he signs it, and the bill of exceptions once signed it may be a month or two or three months until the case is finally acted upon and final judgment rendered. It then becomes part of the judgment roll and upon appeal the Supreme Court considers it.

Mr. MANN of Illinois. Mr. Chairman, I reserve the remainder of my time.

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman from Missouri [Mr. NEWTON].

Mr. NEWTON of Missouri. Mr. Chairman, I think this is a good bill and ought to be enacted into law. I never could understand why it was that during all of these years, while the State courts had their stenographers to take down their proceedings, the Federal courts either in a criminal or a civil case had no stenographers and unless your client was able to hire a stenographer, when the trial was finished, no matter how many errors had been committed or how much injustice done, you had no record from which to appeal, and hence no adequate relief.

Our State courts in Missouri for years have been provided with official stenographers. They pay the stenographers a salary of $1,800 per year, and then they are allowed 45 cents per page for transcripts for the original copy and 15 cents per page for carbon copies. Under that provision we get the best stenographers obtainable in all our State courts. Such stenographers take down all the proceedings. Every word that is uttered in the trial of a case becomes a part of the record. After the trial has been finished, if either litigant desires to appeal, he can pay for having the transcript written up, and when the case is decided it is taxed as costs in the case. If there is any controversy as to the accuracy of the testimony which has been taken, as it appears in the stenographer's transcript, it is a matter for the trial court to make the correction, and when he signs the transcript of the testimony that becomes the record of the case.

Now, what is the case in the Federal courts? I have gone into the Federal court as a district attorney to try criminal cases. I have gone into the Federal court in our State as a representative of litigants in civil cases. I have seen so many instances of injustice resulting from the lack of a proper person to keep the record of a trial that I have always wondered why it was that some provision was not made in the Federal courts at least as good as that to-day in the State courts for keeping a record of what transpired in the trial of cases. I remember one instance in the progress of a criminal case, where the Government had no stenographer. We presented our testimony. The trial lasted for a number of days. The defendant had provided himself with a stenographer at his own expense, and during the trial of the case there was much testimony developed which was of great importance to one of the departments of this Government, and when the trial had been finished the defendant's attorney destroyed the transcript and the Government's attorney was unable to procure a copy of such testimony. Such a thing could not have happened if this bill had been a law at that time.

Take it in criminal cases. Many defendants are unable to hire their own stenographers when they go into court. The court may sometimes make comments which result in great prejudice to him during the trial of a case. He may make those comments in ruling upon the testimony or in giving his oral instructions, which sometimes amounts to an argument, and yet without a stenographer no record is preserved. I have always had the feeling that a judge will be more careful in the comments he makes if he knows there is an official reporter taking down all the testimony which is being presented and all the remarks and rulings made by him. [Applause.]

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman from Ohio [Mr. GARD].

Mr. GARD. Mr Chairman, although the bill may more properly be spoken of by the very able gentleman from Pennsylvania [Mr. STEELE], I want to say that I am in favor of the basic idea of it, which provides for an official court stenographer, and I think the reasons just given by the gentleman from Missouri [Mr. NEWTON] should be convincing to every man who has had to do with the trial of cases in courts, whether Federal or State courts. At the same time, I think we are indebted to the observations of the gentleman from Illinois [Mr. MANN], whose keenness of judgment upon matters as written in bills we always concede. And I desire to call certain matters to the attention of the proponents of the bill, the chairman of the committee, and the gentleman from Pennsylvania [Mr. STEELE] with respect to the possibility of certain amendments.

In section 2 of the bill, on page 2, line 8, after the word "trials," it would be my suggestion that the words "when requested by any party or the court" should be included in the bill; because there are very many cases where stenographic reports are unnecessary. The ordinary work of a court, the little things that come up from day to day, are not necessary, but where a case is of importance, and either party desires or the court desires it, the official stenographer should be compelled to do that work.

Now, I have another suggestion about the complaint which the gentleman from Illinois [Mr. MANN] made of lines 15, 16, and 17. It is the contention of the gentleman that the language of the bill would arbitrarily close all further action and prohibit any amendment by the court. I do not think that is the intention of the bill, but I think it could probably be expressed a little bit better if we were to strike out the word "all" as it appears on line 15 and insert the words "the notation," so that it would appear:

The notation of which exceptions shall have the effect of exceptions duly written out, signed, and sealed by the trial judge at the time of the trial.

There can be no intent in the minds of those who favor the bill that the power of the judge to determine what the exceptions are when he signs the transcript shall be foreclosed by any stenographic report. It is only that the exceptions taken in this form, by making an exception by verbal motion, shall have the same effect as where it was written out.

I also desire to call attention to the fact that probably in section 3 we should have a provision that this compensation of $2,000 shall be in lieu of compensation now paid as secretary under existing law. I would also suggest, too, that, on page 1 of the bill, the court may have the power to appoint a stenographer or stenographers. And I would rather impose that power in a court to appoint two stenographers in a case of a congested condition of a docket in a great city than I would to permit a stenographer to appoint, with the approval of the court, a substitute stenographer. I believe, with the power to appoint a stenographer or stenographers at this specified compensation, with proper compensation for transcribing and with the safeguarding provisions of the bill, that a great and necessary reform will be worked out to the benefit of litigants in Federal courts.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. VOLSTEAD. Mr. Chairman, I yield 20 minutes to the gentleman from Pennsylvania [Mr. STEELE].

Mr. STEELE. Mr. Chairman, the chairman of the committee has so fully explained the provisions of this bill that very little remains to be said except by way of repetition.

I wish to say, however, that this bill had its origin among the members of the Judiciary Committee itself—not the committee of the present House, but the committee of the last House. At a meeting of the subcommittee of that committee, having charge of legislation of this kind, it was suggested by Mr. REAVIS, Mr. GARD, and one or two other gentlemen, and myself, that there should be legislation bearing upon this question; that our Federal courts were behind the State courts and lacked the modernizing influence of a stenographer in court to take down their official records.

Within the last 30 years a stenographer has been part of the essential equipment not only of every court but of the office of every professional man, and, you may say, in every accounting room in the land. The Government has recognized the appointment of stenographers in aid of its executive business by supplying a clerical force of this kind in nearly all the executive departments of the Government. It is now part of the civil-service examination of the Government, and, therefore, it seems that the court, one of the coordinate branches of the Government, is the last part of the official business of the Government to be provided with this necessity. In that respect it is very much behind our State courts. I can say within my own State for 35 years the courts have been provided with official stenographers at the expense of the county. They were paid a compensation at that time of not more than $2,000 per annum, as provided in this bill. Now the limit has been increased, as I recollect it, to $3,000 or $3,500, and the cost of the copy was practically what was stated in the original bill. Now, the work of a stenographer will very much facilitate and dispatch all the business of the court. The old method of taking down notes

of testimony by longhand, by judges and lawyers, very much hindered the progress of a trial. But with a stenographer there are no such delays, and he will practically, in my judgment, save his cost in the facility with which the business of the courts will be dispatched.

About seven years ago a commission appointed to revise the civil code made a recommendation to Congress upon this subject, and that recommendation was as follows:

> The value of shorthand notes of testimony and other proceedings in expediting trials and in securing accuracy in bills of exception and transcripts on appeal is abundantly established by experience. It is believed to be desirable that this duty shall be performed by sworn officers of the court, with such provision as will secure the preservation of the notes. The laws of nearly all the States provide for court stenographers, and there are abundant considerations of convenience and economy which dictate that the laws of the United States should no longer fail to do so.

Now, after the necessity for this legislation was made apparent the question came up with reference to the expense of it upon the Federal Government. In the bill which I reported in the last Congress provision was made for the payment of the expense out of the Federal Treasury, as it is in this bill, and also provision was made in that bill for the payment of an enlarged cost per folio of the notes taken by the stenographer.

Mr. BEE. Mr. Chairman, will it interrupt the gentleman to ask him a question in that connection?

Mr. STEELE. No, sir.

Mr. BEE. Is there any provision of existing law that pays traveling expenses for the stenographers or secretaries of the judges?

Mr. STEELE. There is no provision in the existing law for the payment of stenographers or even of secretaries.

Mr. BEE. Therefore no traveling expense is provided?

Mr. STEELE. No, sir.

Now, the question of expense confronted the committee, and they sincerely desired to have a measure prepared so that the courts could be relieved and at the same time that no additional burden would be placed upon the Federal Treasury. It was ascertained from the Department of Justice that out of the appropriation made to that department nearly every Federal district judge is now provided with a secretary at an expense of $1,500 per annum, so that it was thought that instead of allowing $1,500 to be expended for a private secretary to the judge, that money should be used in providing a court stenographer, which would relieve litigants of the inconvenience and expense of providing their own stenographers in the trial of cases, and which became a very heavy burden upon the poor litigant, inasmuch as the poor litigant was at a great disadvantage in comparison with the wealthy litigant, who could always provide his own stenographer. We therefore concluded that in this bill we would provide that the official stenographer should perform the service now performed by a secretary, for which there is no provision in the law outside of the appropriation bill for the Department of Justice, and that by so doing there would practically be no additional expense to the Government.

In addition to this the Government now pays for stenographic work in the trial of Government cases something like $35,000 per annum, of which amount it will be practically relieved, except possibly the cost of the transcript at the minimum price provided in this bill; so that from the standpoint of economy, it seems to me, this bill meets the question and provides the court with a stenographer and the litigant with that great assistance without any great additional expense practically upon the Federal Treasury.

Mr. MANN of Illinois. Mr. Chairman, will the gentleman yield?

Mr. STEELE. Yes, sir.

Mr. MANN of Illinois. The gentleman refers to the "minimum price." Will not the Government under this bill still be required to pay for the copy that it receives?

Mr. STEELE. That is what I stated.

Mr. MANN of Illinois. At a maximum price?

Mr. STEELE. It is both a maximum and a minimum. It is the price. I say it is a "minimum price," because at 2 cents per folio copy I can not imagine anybody receiving that service at any less cost than that. I think the gentleman will agree to that.

Mr. MANN of Illinois. How do you get at 2 cents a copy?

Mr. STEELE. Just the same as any litigant under the terms of the bill has the right to require it, and it is the duty of the stenographer to furnish it.

Mr. MANN of Illinois. First, somebody must order it at 10 cents a folio. How can the Government get the additional copy?

Mr. STEELE. Upon request; upon the payment of that price.

Mr. MANN of Illinois. Does not the gentleman think that the Government will order it first in every case?

Mr. STEELE. No. I have just stated that the stenographic work now costs the Government, in Government cases alone, $35,000 a year, and a large amount of that will be saved under the terms of this bill.

Mr. MANN of Illinois. I can not see how it will be saved under this bill.

Mr. STEELE. It will be saved because the Government will not be required to supply its own stenographer in order to take the notes.

Now, various criticisms have been made, some with respect to special provisions of this bill. In the main it seems to me the criticisms are largely theoretical and do not have any substantial merit.

Now, with reference to the appointment, in the first section, of substitute stenographers, that is simply intended to meet a temporary condition that arises in all courts and in all offices, and that is a stenographer may be ill at some time; it may be necessary for him to be absent; and during that temporary condition the court can temporarily appoint some one to take his place.

Mr. WELTY. Mr. Chairman, will the gentleman yield?

Mr. STEELE. Certainly.

Mr. WELTY. Under that section 1 would the court or the stenographer be permitted to appoint more than one?

Mr. STEELE. I do not think so. I think the court is limited to appointing one stenographer, and I think at all times the provisions of the bill limit one stenographer to each judge or practically each court.

Mr. WELTY. Suppose both the plaintiff and defendant required a daily transcript. It would be physically impossible for two stenographers to furnish that every day, would it not?

Mr. STEELE. That depends a good deal upon the skill of the stenographers. If they have copies every day, there would have to be assistants to the stenographers. There would have to be clerks, possibly, appointed who could read the stenographic notes outside of the stenographer.

Mr. WELTY. This bill gives no authority for that.

Mr. STEELE. This bill makes no provision for that. They can provide that themselves during the progress of the trial.

Mr. HUSTED. Mr. Chairman, will the gentleman yield?

Mr. STEELE. Yes.

Mr. HUSTED. As to the question of compensation, would not the gentleman think there would be difficulty in securing efficient stenographers for the compensation provided for by the bill?

In our State we pay the official stenographers of the courts $3,600 a year. In addition to that, we pay them mileage at the rate of 10 cents a mile going and coming to and from home, and we pay them all their necessary expenses while in attendance on the court, including their stationery. In addition to that they are paid for transcripts of the testimony, and if a daily transcript is required they are paid an increased amount for that. It seems to me that when we take into consideration the scarcity of good stenographers and the salaries in demand, the compensation fixed by this bill is rather small.

Mr. STEELE. I will say to my colleague on the committee that what he has stated to be the compensation in his State, and the practice with reference to furnishing supplies and paying for transcripts, is also the practice in my own State. Down to this time we have had no difficulty in getting competent stenographers. At the present time, with the present high cost of living, it may be that the compensation fixed in this bill is too low. Personally I would prefer to see it higher. My colleagues upon the committee felt that this was adequate and that competent stenographers could be secured at the compensation fixed in the bill. I yielded to their superior judgment in this regard.

Criticism has also been made with reference to a provision in section 2 of the bill, providing that—

> Such exception shall be noted by the official stenographer in his notes, together with any exception to the judge's charge, taken before the jury retires; all of which exceptions shall have the effect of exceptions duly written out, signed, and sealed by the trial judge at the time of trial.

I wish to say, with reference to that provision, that we have had practically that identical language in our Pennsylvania statute for the last 20 or 30 years. It is not so rigid as to exclude the trial judge from any control over his record after the trial has taken place. The trial judge always has control of his record, and when an exception is asked for, when the counsel sitting at the table says to the stenographer, "I ask for an exception to that ruling," the stenographer notes that upon his record. Then, if the judge wishes to say anything further or do anything further, he has his opportunity then and there, just the same as the counsel has, and in the final make-up of the record, if the case goes to the appellate court, it is always

within the control of the court to go over the record and certify as to any errors that may be contained therein. The practice of th court can be regulated by a rule of court just as well as it could be by a fixed statutory provision here. After the record is made up, if there is any conflict of opinion as to the accuracy of the record, the court can always fix the time when objections will be heard and the matter will be determined by the court, and whatever is determined by the court at that time stands a the official record. But in the absence of anything of that kind, all that counsel has to do—and it is a great labor-saving device in the preparation of an appeal—is to go over the record, and, where an exception is noted by the stenographer, assign that as error, include that part of the record, and it answers all the purposes of a bill of exceptions signed and sealed by the trial judge. But that does not eliminate the power of the judge to control his record at any time if any error is committed by the stenographer with reference to it.

Mr. BANKHEAD. Will the gentleman yield for a question in that connection?

Mr. STEELE. Yes.

Mr. BANKHEAD. Does the gentleman think the language employed in the bill here, technically construed, carries out the interpretation stated by the gentleman from Pennsylvania?

Mr. STEELE. Absolutely. It is shown by the experience of 30 years in our State, and I have no doubt whatever of it.

Mr. BANKHEAD. The language of that particular section is:

All of which exceptions shall have the effect of exceptions duly written out, signed, and sealed by the trial judge at the time of trial.

Mr. STEELE. Yes; "shall have the effect of exceptions"; but the record is always within the control of the court notwithstanding that.

Mr. BANKHEAD. I was only fearful that this language might make it possible to put a different construction upon it.

Mr. STEELE. Absolutely not.

Mr. RHODES. Will the gentleman permit a question?

Mr. STEELE. Yes.

Mr. RHODES. On page 3 the following language appears:

In addition to such salary, such official stenographer may charge for any transcript of such notes ordered by any person interested other than a judge of such court 10 cents per folio thereof.

I should like to inquire if this language authorizes the judge of the court to require a copy of the transcript?

Mr. STEELE. Yes.

Mr. RHODES. And if so, for whose benefit?

Mr. STEELE. For his own benefit in expediting the trial or hearing and argument of the case, or on a motion for a new trial, or a judgment non obstante veredicto, or for any other matter of rehearing he may order it for his own use.

Mr. RHODES. Then why should not that language be qualified by the words "for his own use"? Because so much has been said in regard to poor litigants being unable to obtain transcripts, might it not be possible that the judge in a certain case might be moved to request a copy of such transcripts for the benefit of such litigants?

Mr. STEELE. I would not assume that any judge would abuse his power to that extent.

Mr. RHODES. That might be a fair assumption, but would it not be possible for such a thing to be done?

Mr. STEELE. I would not conceive it.

Mr. CLASSON. Will the gentleman yield?

Mr. STEELE. Yes.

Mr. CLASSON. The language is "for the use of such judge."

Mr. RHODES. I was calling attention to the language in line 3, page 3, and I submit that the qualifying words to which the gentleman refers are not there.

Mr. DEWALT. Yes; but that refers to the language in lines 6, 7, and 8.

Mr. RHODES. If that is intended, then that language should be there.

Mr. DEWALT. It is in lines 6, 7, and 8 of the same paragraph.

Mr. STEELE. My own judgment is that the passage of this bill will not add any burden to the Federal Treasury; that it will expedite the trial of cases in Federal courts; that it will modernize Federal court procedure so that it will be abreast of the State courts in the facility with which the Federal courts can do business, and will expedite the dispatch of the public business. It is a bill that is desirable from every point of view, and I hope the House will give it favorable consideration.

The CHAIRMAN. The time of the gentleman has expired. The gentleman from Minnesota [Mr. VOLSTEAD] has 10 minutes remaining.

Mr. VOLSTEAD. I yield five minutes to the gentleman from Pennsylvania [Mr. DEWALT].

Mr. DEWALT. Mr. Chairman, I think it would be an attempt at a superabundance of argument even to try to reinforce what has been said by the gentleman from Pennsylvania [Mr. STEELE] and others who have advocated this bill.

Let us lay aside for a moment the necessity of the bill, the advisability of it, and the cost thereof, and consider, if you please, some of the exceptions that have been made to the bill itself. While I am for the bill, my opinion is not of such a character that I should not advocate the passage of the bill if there were reasonable amendments proposed thereto. I do think, with all due deference to my colleague from Pennsylvania, that there is considerable merit in the criticism that has been made by the gentleman from Illinois [Mr. MANN], and also the suggestions by the gentleman from Alabama [Mr. BANKHEAD]. I think that they are very easy of correction and amendment, and I suggest to the chairman of the committee and the gentleman having charge of the bill [Mr. STEELE] that they consider the advisability of inserting, on page 2, line 11, after the word "jury," these words: "or in the course of the trial or proceedings in regard thereto."

That would certainly include all dictum made by the court in any argument other than in the presence of the jury. It would include all rulings made by the court in applications for a new trial, or all proceedings had before the court in banc if the court sat in banc without a jury.

The criticism made by the gentleman from California [Mr. RAKER], and also in part by the gentleman from Illinois [Mr. MANN], I think is well taken, that these rulings, orders, and comments, to which exception could be taken as the bill is now framed, would be confined to those made in the presence of the jury. Therefore I think the insertion of the words would cure that, and I refer them to the respectful consideration of the committee.

Now, as to the other point made by the gentleman from Illinois [Mr. MANN], which was that this stenographic copy as vouched for by the stenographer and sworn to by him—as he is a sworn officer of the court—become of the same effect as the exceptions duly written out and signed by the judge himself. I grant you that a fair and technical construction of the bill as now written might admit of that construction. I think that can be easily cured if, in line 17, after the word "trial," the gentleman in charge of the bill will insert these words: "if certified by the court," so that the reading would be:

All of which exceptions shall have the effect of exceptions duly written out, signed, and sealed by the trial judge at the time of trial if certified by the court.

In that way you would obviate the difficulty.

Mr. MANN of Illinois. Mr. Chairman, I yield the balance of my time to the gentleman from Louisiana [Mr. O'CONNOR].

Mr. O'CONNOR. Mr. Chairman and gentlemen of the committee, I agree with the distinguished gentleman from Illinois [Mr. MANN] in his suggestion that the only justification for this bill is upon the theory that the public has an interest in civil litigation. If it has that interest, and in my judgment it has an interest in all civil litigation, if only from the standpoint that it is interested in seeing the poor man secure his rights when opposed by one who has sufficient means to pay for the vindication of his rights, this bill ought to carry a mandate or direction to the stenographer to make a transcript of every case which he takes and make it a part of the record of the court.

In order for him to do this he must be a competent stenographer. Down in Louisiana, where we have the civil law, our code of practice requires that all cases must come up on the law and the evidence, necessitating a transcript in each and every case that comes to the court of appeals or the supreme court. We know the necessity of having good stenographers. I notice that a great many assume that all stenographers are equally good, for some peculiar reason which I have not been able to understand. As a matter of fact, all stenographers are not equally good. There are good stenographers and bad stenographers, just as there are good blacksmiths and bad blacksmiths, good carpenters and bad carpenters, good slaters and mediocre slaters. There is a maxim in the shorthand world—and years ago I was of that splendid profession, and I might say, poetically, that I, too, was born in Arcadia—there is a maxim among stenographers that a poor stenographer with a good memory is a better stenographer than the good stenographer with a bad memory. For, after all, it is a fundamental of every process of writing which from a lack of vocalization causes it to depend largely upon catch signs to assist the memory that a thoroughly educated person with a splendid memory should be the writer in order to make a desirable transcript of any record that comes under his observation and pencil. Therefore I believe it would be necessary, in the first

instance, to secure a desirable stenographer. Where it is necessary from day to day to transcribe the notes the stenographer has to employ an amanuensis, and the amount provided for in this bill would not allow him anything after the payment of the amanuensis—not more than to pay his rent and put a pair of shoes on his feet.

Mr. BEE. Will the gentleman yield?

Mr. O'CONNOR. I will yield.

Mr. BEE. I want to say to the gentleman that I have an amendment increasing the compensation.

Mr. O'CONNOR. I think it is absolutely essential because, say what you will, these modern influences to which the gentleman from Pennsylvania has referred will go on, and what to-day may be deemed unnecessary will certainly be necessary in a few years to come.

I remember the time down in New Orleans when our criminal courts did not have stenographers. Then questions went up purely upon matters of law, because our criminal process is, after all, bottomed on the English common law. Louisiana, as you doubtless know, is the only State in the Union where the record goes up on the facts in civil cases as well as the law, and they have for a long time been considering in inner or esoteric circles abandoning that old and long established practice down there. After the criminal courts were provided with stenographers the most astute criminal lawyers recognized at once that they could get a case up to the supreme court not only upon the law but upon the facts by making the facts in each and every case where they took a bill of exception a part of the bill of exceptions. In consequence, every judge in the supreme court knows a criminal case as well as if he had heard it as a juror. I am not saying that is not in the interest of justice, but I do say that a true and correct transcript should be made by a competent stenographer, able to secure and make a full report.

The remuneration offered in this bill is not sufficient to bring into the field the best services required, and you do undoubtedly require the highest and best talent obtainable if you are going to embark in this new channel in the direction of securing the ends of justice through the civil courts, aided and assisted by this modernizing influence which has come into the field of journalism, law, commerce, and legislation.

Mr. BLACK. Mr. Chairman, will the gentleman yield?

Mr. O'CONNOR. Yes.

Mr. BLACK. Does the gentleman not think that this compensation which the stenographers will receive for making typewritten transcripts of their records would be a considerable addition to the compensation provided here.

Mr. O'CONNOR. I do not know, for the reason that while a stenographer in a court in Chicago may be able to secure a sufficient sum in that way to pay a desirable amanuensis, the man in New Orleans might not be able to.

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

Mr. VOLSTEAD. Mr. Chairman, criticism has been made of this bill, chiefly criticism of its language, but so far as I can gather no real opposition to the plan or purpose of the measure has been manifested. I think we generally recognize that it is high time that we tried to modernize the district courts so as to get them somewhat in line with the practice that is common all over the country, a practice that has been found not only desirable but necessary, particularly in view of the fact that there is now much complaint that the poor are not getting a fair deal. We certainly ought to be willing to grant this particular relief, which would be of especial value to those who can not afford to pay expensive stenographers in courts to protect their interests. This is necessary to enable them to have their cases properly reviewed by the courts.

The question of fees seems to agitate a great many of the Members. It is no doubt true that in some of the large cities the stenographers earn a great deal more money than this bill may give them. A few days ago I was told by one of the stenographers who was doing work about the Capitol that two men of his firm were making $50,000 a year, $25,000 each. They are getting 25 cents per folio, and they are not getting any salary at all.

Mr. O'CONNOR. Mr. Chairman, will the gentleman yield?

Mr. VOLSTEAD. No; I have not the time. In cities like St. Louis they are getting, as we are informed, practically the fees that we are providing in this bill. In my own State, in the large cities of Minneapolis and St. Paul, cities that have a great deal of important litigation, they are getting a salary of not to exceed $2,000, with substantially the same fees for transcripts. I do not believe that there is going to be any hardship imposed upon these stenographers and I do not believe there is any necessity for increasing these allowances. There is no doubt that these stenographers will get a great deal out of the transcripts, much more than the salary. I am told that several of the men who are now serving as secretaries to the judges are acting as stenographers. That is, they are able now to get men at $1,500 a year to act as secretaries who add to their salary by serving as stenographers. I do not think there is going to be any serious difficulty about the matter at all. I am willing to submit the question to this House. I feel an interest in the bill, because I believe the time has come when we ought to deal fairly with this matter and put these courts on something like the same plane as the State courts. The Federal courts certainly should not be behind the times.

The CHAIRMAN. All time has expired. The Clerk will read the bill for amendment.

The Clerk read as follows:

SEC. 2. That such official stenographer shall take full stenographic notes of the testimony in all judicial proceedings and trials, together with the judge's charge, if any, and of all rulings and orders and any comment or remark of the trial judge relating to the case on trial made in the presence of the jury, to which rulings, orders, comments, or remarks either party may except as a matter of right, and such exception shall be noted by the official stenographer in his notes, together with any exception to the judge's charge, taken before the jury retires; all of which exceptions shall have the effect of exceptions duly written out, signed, and sealed by the trial judge at the time of trial. And it shall be the duty of such stenographer to act as secretary to such judge and to take full stenographic notes of such other matters in connection with the business of the court as the judge may from time to time direct.

Mr. GARD. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Page 2, line 6, after the word "shall," insert "when requested by either party or the court."

Mr. GARD. Mr. Chairman, the object of this amendment is to take care of the numerous cases where stenographic reports are entirely unnecessary. As everyone knows who has observed affairs of this kind, there are many instances in all courts in the ordinary practice of the day where there is no necessity to transcribe the statement of counsel or the presentation of matters in purely ex parte proceedings. Section 2, as I read it, provides that the stenographer shall take full stenographic notes of testimony in all judicial proceedings. This is a matter which should be under the control of the court and the litigants, and if the litigants request it they should have the right to have the testimony taken by the stenographer, and if the court directs it the testimony should be so taken.

Mr. STEELE. Does the gentleman mean by that amendment that the stenographic notes shall only be taken where directed by the court or requested by one of the parties?

Mr. GARD. Yes; when requested by the parties or directed by the court.

Mr. STEELE. The stenographer is supposed to receive an annual compensation, and the annual compensation is to cover the work in taking the stenographic notes. I would quite agree with the gentleman that there should be no transcribing of the notes, but I think he should take the notes.

Mr. GARD. There is no necessity for it always.

Mr. STEELE. Because sometimes parties themselves make up their minds to appeal a case after the trial has actually taken place. In a situation such as might arise under the gentleman's amendment, there would be in that case no way of obtaining the stenographic notes. Whether the notes should be transcribed or not may well depend upon the action of the parties or the courts. I think the stenographer ought to perform the duties for which he is paid an annual compensation by taking the notes.

Mr. GARD. I think if you have a stenographer to take down every word that is said in the progress of all judicial proceedings and trials, you will accumulate such a mass of shorthand notes that you will have to have not only one but many stenographers to do the work.

The parties know what they want, the court knows what he wants, and it seems to me it would safeguard both the interests of the litigants and the interest of the court.

Mr. WALSH and Mr. CHINDBLOM rose.

Mr. GARD. I yield to the gentleman from Massachusetts, a member of the committee.

Mr. WALSH. Does not the gentleman think the better way to provide for that would be to have the language read "that such official stenographer shall, unless excused by the presiding justice and with the consent of the parties," and so forth?

Mr. GARD. Well, that is simply the alternative; it is stating the negative side of it.

Mr. WALSH. That would require the assent of the parties to the stenographer being excused. The other would leave it up to the presiding judge.

Mr. GARD. It has the same effect. I think either result is obtained by the parties or either party requesting the stenographer to take the evidence down, and if the court requests him to take it down then the interests of both in the case are well safeguarded.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WALSH. Mr. Chairman, I offer a substitute for the amendment offered by the gentleman from Ohio to read, after the word "shall," in line 6, page 2, "unless excused by the presiding judge with the consent of the parties."

Mr. MOORE of Virginia. Mr. Chairman, may we have the original amendment again reported?

Mr. GARD. Mr. Chairman, before the amendment is reported I desire to change the word "either," in the amendment reported by me, to the word "any."

The CHAIRMAN. The gentleman from Ohio asks unanimous consent to modify his amendment as stated. Is there objection? The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. GARD: Page 2, line 6, after the word "shall," insert "when requested by any party or the court."

The CHAIRMAN. Now the Clerk will report the substitute.

The Clerk read as follows:

Amendment offered by Mr. WALSH as a substitute for the amendment offered by Mr. GARD: Page 2, line 6, after the word "shall," insert "unless excused by the presiding judge with the consent of the parties."

Mr. MANN of Illinois. Mr. Chairman, it is the difference between tweedledum and tweedledee. The fact is universal, and experience teaches us that that which you give away people take. This bill proposes to give without charge the expense of a stenographer. Why should the parties waive it? The parties to a lawsuit do not waive things unless they think they gain something by it. As long as we offer to give them the use of a stenographer they will take the use of the stenographer. Either one of these amendments if enacted will amount to the same thing, because it will never be exercised in any case.

Mr. DEMPSEY. Will the gentleman yield for a question?

Mr. MANN of Illinois. Certainly.

Mr. DEMPSEY. Is it not a fact that the stenographer on a salary will be present in the court anyway, and his time might as well be employed taking these notes? It does not have to be a lawsuit, because lawsuits terminate suddenly and unexpectedly, and although he might be excused in one case he would have to be present and ready for the next one. Why should not he take these stenographic notes as long as he has an annual salary and gets paid for taking them?

Mr. MANN of Illinois. Well, as far as that is concerned that is not the question involved here in this amendment. As far as that is concerned this stenographer is to occupy a very important position otherwise. He will be required to be the secretary of the judge in place of the secretary the judge now has. Let me say to the gentleman from New York neither he nor I, I suppose, am a stenographer. Stenographic work is hard work, and no man or woman lives, in my judgment, who can take stenographic work six hours a day every day in the year and keep it up. The strain is too much. The gentleman has a secretary who can take stenographic work, but after a while his secretary changes off, writes out his work. But here is a proposition which requires a stenographer all the time that the court is in session, every day, to be on hand taking testimony, and then when this stenographer is to write it out I do not know, but I assume at night.

Mr. DEMPSEY. The way they do that kind of work is the stenographer has always attached to his staff——

Mr. MANN of Illinois. But there is no staff here.

Mr. DEMPSEY. I know, but a staff is here in this sense, that they make a great deal more money by transcribing than by taking——

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN of Illinois. Not under this bill they do not.

Mr. CHINDBLOM. Mr. Chairman, I move to amend the substitute by adding at the end of the substitute "in a civil proceeding."

The CHAIRMAN. The Clerk will report the amendment to the substitute.

The Clerk read as follows:

Amend the substitute offered by Mr. WALSH by adding at the end of the substitute "in a civil proceeding."

Mr. CHINDBLOM. Mr. Chairman, I ask unanimous consent to amend that further by saying, "in a civil proceeding or action."

The CHAIRMAN. The gentleman asks unanimous consent to modify his amendment by adding——

Mr. WALSH. Reserving the right to object, I do not think the gentleman would desire to offer that amendment and then say, in the very next line, "in all judicial proceedings and trials."

Mr. CHINDBLOM. Mr. Chairman, if this provision should obtain at all, it should certainly be confined to civil proceedings; otherwise you create a situation where you deprive the defendant in a criminal suit of the advantages which he would have if he were more intelligent or better informed as to the proceedings in court and which he would lose by reason of his lack of information or by reason of his lack of counsel being present to help him. Certainly if we are going to provide official stenographers for the courts those stenographers should be available in criminal proceedings for the benefit of men who are charged with the commission of crime.

Mr. BLACK. Will the gentleman yield for a moment?

Mr. CHINDBLOM. Yes.

Mr. BLACK. There are a great many convictions on pleas of guilty. The gentleman would not want to have the stenographer take down the testimony in a case of that kind?

Mr. CHINDBLOM. I would. I will say to the gentleman the plea of guilty might have been inadvertently entered, or some other reason might exist why there should be a record of the proceedings.

The CHAIRMAN. Does the Chair understand the gentleman from Illinois [Mr. CHINDBLOM] to withdraw his request?

Mr. CHINDBLOM. I think the original language is sufficient, namely, "in a civil proceeding," but I asked to add the words "or action."

Mr. WALSH. Would the gentleman want that amendment inserted, and then in the very next line find the language "in all judicial proceedings and trials"?

Mr. CHINDBLOM. The question applies to the gentleman's own substitute as well as to my suggestion.

Mr. WALSH. You are putting in language, I think I may say to the gentleman, that is inconsistent with the language in lines 2 and 3. The amendment and the substitute apply to language in lines 2 and 3, but your modification would only make it apply to civil proceedings, when in the language following it says "all judicial proceedings and trials."

Mr. CHINDBLOM. I ask that the substitute be read as amended, so that the exact language will be clear.

The CHAIRMAN. The Chair then understands the gentleman from Illinois [Mr. CHINDBLOM] to withdraw his request to modify his amendment?

Mr. CHINDBLOM. No; I will not withdraw the request. I prefer the request.

The CHAIRMAN. Without objection, the Clerk will report the substitute as proposed to be changed by the amendment of the gentleman from Illinois.

The Clerk read as follows:

At the end of the substitute insert: "in a civil proceeding or action," so that the substitute offered by Mr. WALSH will read: "unless excused by the presiding judge with the consent of the parties in a civil proceeding or action."

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. GOODYKOONTZ. Mr. Chairman, I rise to oppose all amendments that have been offered. The text of the bill as it is printed is sufficient within itself. If the parties want to waive any requirement there provided, they have that power under general law, according to ordinary usage and practice. If the parties want to say to the judge, "We agree that it is not necessary to have the reporter take down this evidence," there is nothing in law that would not allow this to be done. So that the proposed alterations in the text seem to me superfluous, and we are only wasting time in quibbling over such minute details.

The CHAIRMAN. The question is on the amendment to the substitute offered by the gentleman from Illinois.

The question was taken, and the amendment was rejected.

The CHAIRMAN. The question now arises on the substitute offered by the gentleman from Massachusetts for the original amendment.

The question was taken, and the substitute was rejected.

The CHAIRMAN. The question is on the original amendment offered by the gentleman from Ohio [Mr. GARD].

The question was taken, and the Chair announced that the noes seemed to have it.

Mr. GARD. Division, Mr. Chairman.

The committee divided; and there were—ayes 14, noes 38.

So the amendment was rejected.

Mr. STEVENSON and Mr. GARD rose.

The CHAIRMAN. The gentleman from Ohio [Mr. GARD], a member of the committee, is recognized.

Mr. GARD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Ohio offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. GARD: Page 2, line 15, after the word "retires," strike out the semicolon, insert a period, and strike out the balance of the language in lines 15, 16, and 17, up to and including the word "trial."

Mr. GARD. Mr. Chairman, I offer this amendment because of the criticism which has been made as to what the language may mean. I think that the language refers merely to the notation of the exceptions and not to the foreclosure of any judicial action after the notation is made. For the purpose of making it entirely clear, it seems to me this language may well be eliminated, since it may have a tendency to confuse; and I think the entire matter is cared for by the language in lines 11, 12, and 13, where it provides that the exceptions shall be noted by the official stenographer, together with any exception to the judge's charge taken before the jury retires.

Mr. BLACK. Will the gentleman yield?

Mr. GARD. I will.

Mr. BLACK. By striking that language out, would the defendant in the case have to make up his bills of exception in a separate instrument and have them signed by the judge? I understand the purpose of this section is to give the record the effect of a bill of exceptions; and if you strike that out would it not destroy the meaning of the section?

Mr. GARD. I think not. I think the meaning of the section would be preserved by the language. The exception provides for the making of the exception. It says that the exception shall be noted by the official stenographer in his notes, together with any exception to the judge's charge. So the bill of exceptions is presented upon the notation of an objection to testimony introduced and any exception to the judge's charge taken before the retirement of the jury.

Mr. BLACK. Under the present rules of the court, do not those things have to go up by means of regular bills of exception prepared after the case is tried?

Mr. GARD. They will still.

Mr. BLACK. In our State, for instance, they do not necessarily have to go up in that way. The stenographer's records will show that the exception was made, and if that record goes up to the court, that of itself is a bill of exception, without the necessity of making out a separate bill.

Mr. GARD. I think the practice is general that assignment in error must be made. The mere fact of notation is sufficient to establish the fact that the assignment of error is made upon a certain question, but the assignment must be set out in a petition in error. I think this notation will be sufficient to give the basis for saying what the exception was.

Mr. McKEOWN. Will the gentleman yield?

Mr. GARD. Yes.

Mr. McKEOWN. Is not this provision you seek to strike out intended to expedite trial? In States, for instance, like Oklahoma the notation of an exception by the stenographer is not considered an exception to the court in a charge to a jury. A mere exception noted by the stenographer is not sufficient to save that exception on the record on appeal. Is not the purpose of this language you strike out to give the court a chance to expedite the trial by letting the stenographer take the exceptions that are dictated by the counsel at the time the charge is given? Is not that the purpose of this language?

Mr. GARD. I think that is the purpose; but there is some confusion of ideas as to whether that purpose is limited in the language in which the gentleman expressed himself, or whether it precluded the judge from acting on the exceptions after they were made. In other words, there was some considerable discussion to the effect that if this language were allowed to remain in the bill, the mere fact that the stenographer's notes showed a notation was sufficient to make that a part of the bill of exceptions, although in fact the notations may have been erroneous.

Mr. McKEOWN. In my State the exception noted by the stenographer is not deemed a sufficient exception on appeal and trial, and the custom is not to allow the attorney to dictate his exceptions at the time the charge is made.

Mr. VOLSTEAD. Mr. Chairman, I want to offer an amendment.

The CHAIRMAN. The Chair will state to the gentleman from Minnesota that there is an amendment already pending.

Mr. VOLSTEAD. I desire to perfect the amendment. The gentleman from Ohio [Mr. GARD] desires to strike out certain language. I desire to perfect that language before the motion is voted on.

The CHAIRMAN. The gentleman from Minnesota offers a preferential amendment.

Mr. VOLSTEAD. On line 17, page 2, after the word "trial," insert "when the notes whereof are found by the court to conform to the facts."

Mr. MOORE of Virginia. I would suggest to the gentleman to phrase it in this way, "subject to the authority of the court to make the notes conform to the facts." That no doubt is what the gentleman has in mind.

Mr. VOLSTEAD. This will give the court the power to determine that this was the actual transaction as it took place, so as to avoid the question that has been raised here, of writing into the bill a provision that would allow the stenographer alone to determine what is and what is not an exception.

Mr. MOORE of Virginia. I understood the purpose, but I thought perhaps it could be better expressed in the language I suggested. Otherwise it might be said, if an error was found, that the section which allows this was defective, so far as this particular matter is concerned.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLSTEAD: Page 2, line 17, after the word "trial" insert "when the notes whereof are found by the court to conform to the facts."

Mr. MOORE of Virginia. I suggest vesting the court with authority to make the notes conform to the facts, and that would involve a correction only to that extent.

Mr. VOLSTEAD. Will the gentleman suggest an amendment?

Mr. DEWALT. Mr. Chairman, will the gentleman yield?

Mr. VOLSTEAD. Yes.

Mr. DEWALT. When I had the floor a few moments ago I suggested that you insert after the word "trial" the words "if certified by the judge." That would meet all your purpose, and it would be much more emphatic, explicit, and to the point, and would cover everything intended by your phraseology.

Mr. VOLSTEAD. The judge does not certify those things, does he?

Mr. WALSH. The judge certifies in this way: He takes the record, looks over the exceptions thereto, and signs his name beneath the exceptions and the objections, and that is a certification upon the record.

Mr. VOLSTEAD. The method I have been accustomed to involved the idea that the court would make a finding to the effect that it corresponded with the facts. That is the reason why I suggest that we adopt that form. Other courts might hold differently.

Mr. DEWALT. Will the gentleman pardon me again?

Mr. VOLSTEAD. Yes.

Mr. DEWALT. The certification of the court would be simply this: "I, John Jones, presiding judge of the court of common pleas, do certify that the record is correct." That is the end of it.

Mr. LITTLE. Mr. Chairman, if the gentleman will yield a moment, I suggest that the suggestion of the gentleman from Pennsylvania [Mr. DEWALT] would not leave the court any room to do anything except to refuse to certify or to certify, whereas the suggestion of the gentleman from Virginia [Mr. MOORE] would give him the authority to certify and would also give him the authority to correct. I think the language of the gentleman from Virginia fully covers it. I suggest that the motion now before the House and the suggestion of the gentleman from Pennsylvania [Mr. DEWALT] have left to the courts only the right to certify or to refuse, while the suggestion of the gentleman from Virginia [Mr. MOORE] covers all that and allows the court to correct it.

The CHAIRMAN. Will the gentleman from Minnesota give attention to the Chair for a moment? The Chair would call the attention of the gentleman from Minnesota to the fact that when he first stated his amendment it read "conform to the facts." The Clerk says the writing before him reads, "conform with the facts." The Chair is in doubt whether that is what the gentleman wanted.

Mr. MOORE of Virginia. I would never get into a controversy with my friend from Minnesota on a point of that sort.

The CHAIRMAN. Does the gentleman from Virginia desire recognition?

Mr. MOORE of Virginia. Yes. The chairman of the committee has just indicated that he will accept the language I suggested in lieu of what he has offered.

Mr. GARD. The gentleman desires to amend the substitute.

The CHAIRMAN. Does the gentleman from Virginia desire to amend the preferential motion of the gentleman from Minnesota?

Mr. MOORE of Virginia. Let it be a substitute, Mr. Chairman, for the preferential amendment offered by the gentleman from Minnesota.

The CHAIRMAN. The gentleman from Virginia offers a substitute amendment for the amendment of the gentleman from Minnesota. Will the gentleman from Virginia please provide the Clerk with the substitute?

Mr. MOORE of Virginia. Certainly.

The Clerk read as follows:

Amendment offered by Mr. MOORE of Virginia as a substitute for the amendment offered by Mr. VOLSTEAD:

Page 2, line 17, insert after the word "trial" the words "subject to the authority of the court to correct the notes, so that they shall conform to the facts."

The CHAIRMAN. Does the gentleman from Virginia wish to be heard on the substitute?

Mr. VOLSTEAD. I accept that amendment.

Mr. GARD. I suggest, Mr. Chairman, that the gentleman from Virginia make his amendment absolutely correct by striking out the period after the word "trial," so that it would continue in sense.

Mr. MOORE of Virginia. Mr. Chairman, I ask that that be done.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent to modify his amendment as the Clerk will now report it.

Mr. CALDWELL. Mr. Chairman, does not the amendment say after the word "trial"?

The CHAIRMAN. Yes.

Mr. CALDWELL. Then that is before the period.

The CHAIRMAN. The Chair thinks the gentleman from New York is correct, and, without objection, the amendment will stand as originally offered by the gentleman from Virginia [Mr. MOORE]. The question now is on the amendment offered by the gentleman from Virginia [Mr. MOORE] to the preferential amendment offered by the gentleman from Minnesota [Mr. VOLSTEAD].

The amendment was agreed to.

The CHAIRMAN. The question now is on the preferential amendment of the gentleman from Minnesota [Mr. VOLSTEAD] as amended.

The amendment as amended was agreed to.

Mr. VOLSTEAD. The amendment of the gentleman from Ohio [Mr. GARD] is still pending.

The CHAIRMAN. Certainly. The Chair was about to put that.

Mr. GARD. The amendment I have offered is disposed of by the perfection of the text, because my amendment does not apply to the text as it now appears.

The CHAIRMAN. As a matter of form the Chair thinks it will have to be submitted unless the gentleman withdraws it.

Mr. GARD. I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Without objection, the amendment offered by the gentleman from Ohio will be withdrawn.

Mr. VOLSTEAD. Mr. Chairman, I move to strike out, in line 11, page 2, the words "made in the presence of the jury."

The CHAIRMAN. The gentleman from Minnesota offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. VOLSTEAD: Page 2, lines 10 and 11, after the word "trial," where it occurs the second time, strike out the words "made in the presence of the jury."

Mr. MANN of Illinois. If that language is stricken out it leaves the requirement to take all the proceedings stenographically, as I understand it. Suppose a motion for a new trial is being argued before the judge, and he makes an inquiry about a point of law. Is that required to be taken down? I think it would be, the way the language reads.

Mr. VOLSTEAD. I think so, but it is a very common custom in statutes of this kind to require all the proceedings in court to be taken down, and, of course, some discretion is allowed in regard to the taking down of immaterial matter.

Mr. MANN of Illinois. Oh, well, if it should not be taken down, an exception could be assigned because it was not taken down.

Mr. VOLSTEAD. An exception might be taken, but the party would get no benefit of it. It would have to be shown that it had some relation to the case.

Mr. MANN of Illinois. The argument of counsel probably would not have to be taken down. I do not know. But the remarks of the trial judge, I take it, would have to be taken down. Of course if that is what the gentleman wants, all right. It would be rather hard to require the stenographer to be present every time a motion for a new trial is being argued for the purpose of taking down an inquiry made by the judge about the law.

Mr. STEVENSON. Mr. Chairman, I agree with the gentleman from Illinois [Mr. MANN] that we had better leave this language in the bill. I conceive the purpose of it to be this: Occasionally a judge makes remarks in the presence of the jury that are conceived to be detrimental to one side or the other. A good many cases in my State have been reversed on account of remarks made by the trial judge while discussing positions taken by counsel, remarks made in the presence of the jury, on the ground that they tended to prejudice the case. I take it this is for the purpose of reaching cases of that kind. Somebody asks a question. The judge rules, and in ruling he decides a question of fact which is entirely for the jury. He does it for the benefit of the ruling, but the jury get it, because he decides it there in their presence, and they carry that into the jury room with them and it can not be eradicated from their minds. A good many cases have been reversed on that ground. I take it this bill was drawn for the purpose of providing protection against that and not for the purpose of providing that everything in the world that the judge might say when the jury were not present should be taken down. I think the language is eminently proper, and that it should stay in the bill.

Mr. MANN of Illinois. Will my friend from South Carolina yield?

Mr. STEVENSON. Yes.

Mr. MANN of Illinois. Does not my friend think that if it were not for the requirement that everything said in this House shall be taken down, there would be far fewer and much better speeches made than are usually made now?

Mr. STEVENSON. There is no question about that. [Laughter.] I do not speak very much here, but still possibly I speak a little more than I would if my remarks were not taken down.

Mr. MANN of Illinois. I am not referring to the gentleman's speeches. I think probably the practice of having a verbatim report of all the remarks of Members published will never be abandoned, but I believe that practice causes more delay in the business of Congress than any other one thing.

Mr. McKEOWN. If this language were stricken out, what would happen where the jury come in and ask the court for further instruction? Would the stenographer be permitted to take down those remarks?

Mr. STEVENSON. The stenographer would have to take down all the remarks made whether the jury were in or out. Now, the idea of the bill is that whatever the judge says that reaches the mind of the jury, or that may be conceived to be prejudicial to one side or the other, must be taken down. That is the bill as it stands. Now, the proposition to take out the words which limit it to what is said in the presence of the jury means that the stenographer has got to take down all that is said in the presence of the jury and all that is said at any other time in the course of the trial, and therefore I think the language is better the way it is. I think the bill is a very good one as it stands in that shape.

Mr. DEWALT. Mr. Chairman, I move to strike out the last word. I may be wrong in my construction of this phraseology, but it appears to me that the words clearly import that the rulings, orders, comments, or remarks referred to apply only to such rulings, orders, comments, and remarks as are made in the presence of the jury. Now, why do I say that? Because the phraseology in lines 8, 9, and 10 of page 2 is this:

Together with the judge's charge, if any, and of all rulings and orders and any comment or remark of the trial judge relating to the case on trial made in the presence of the jury, to which rulings, orders, comments, or remarks either party may except as a matter of right.

Where? In the presence of the jury. Then follows this:

To which rulings, orders, comments—

What rulings, orders, and comments? Why, the rulings, orders, and comments just above referred to; that is, the rulings, orders, and comments made in the presence of the jury.

Mr. MANN of Illinois. Will the gentleman yield?

Mr. DEWALT. Yes.

Mr. MANN of Illinois. Does the gentleman understand the amendment that is pending to strike out the language "in the presence of the jury"?

Mr. DEWALT. Yes. Now, I am in favor of striking out those words, but the gentleman from South Carolina [Mr. STEVENSON] is opposed to that amendment, and that is why I am saying that I do not think the words should be permitted to remain in the bill.

Mr. JONES of Texas. Will the gentleman yield?

Mr. DEWALT. Yes.

Mr. JONES of Texas. In many cases the jury is withdrawn, and sometimes there is a half day or day's discussion on the law of the case. During the discussion the court makes a great many remarks which it would be utterly useless to take down, which would only encumber the record. Does the gentleman think that all of these remarks that the judge might

make in the discussion of a law question should be taken down and make the party pay for the transcript at the rate of 15 cents 100 words?

Mr. DEWALT. My answer is no. Therefore I prepared an amendment, which I submitted to the consideration of the gentleman from Illinois and to the chairman of the committee, in these words: After the word "jury," in line 11, insert the words "or in the course of the trial or proceedings in regard thereto which are relevant."

Mr. BEE. Will the gentleman yield?

Mr. DEWALT. Yes.

Mr. BEE. Is there such a contingency in the Federal court as the withdrawal of the jury while a discussion of a question of law or the admissibility of evidence is going on?

Mr. DEWALT. Surely.

Mr. BEE. Would not that be a proper part of the transcript?

Mr. DEWALT. Yes.

Mr. BEE. If this language remained in the bill, it would not be.

Mr. STEVENSON. Can I interrupt the gentleman?

Mr. DEWALT. Certainly.

Mr. STEVENSON. Is not the difficulty that the gentleman makes the language "made in the presence of the jury" refer to the judge's charge and all rulings and orders, whereas it is intended only to refer to the words "any comments and remarks of the judge relating to the case on trial made in the presence of the jury"?

Mr. DEWALT. No; I do not think that is a fair construction; there is no comma. It says that all rulings and orders and any comment or remark of the trial judge relating to the case on trial. Made where? Made in the presence of the jury.

Mr. HUSTED. Will the gentleman yield?

Mr. DEWALT. I will.

Mr. HUSTED. Does not the gentleman think it would obviate the objection by the insertion of the words "also of," after the word "and," where it appears the second time in the line, in line 9, and before the word "any," so that it would read "of all rulings and orders and also of any comment or remark by the trial judge relating to the case on trial made in the presence of the jury"?

Mr. DEWALT. That would cure it.

Mr. HUSTED. Mr. Chairman, I offer the following preferential amendment.

The Clerk read as follows:

Page 2, line 9, after the word "and," where it occurs the second time in the line and before the word "any," insert the words "also of."

Mr. MANN of Illinois. That is not a preferential amendment.

The CHAIRMAN. The Chair thinks the gentleman from Illinois is correct.

Mr. VOLSTEAD. Mr. Chairman, I will withdraw my amendment.

The CHAIRMAN. Without objection, the amendment offered by the gentleman from Minnesota will be withdrawn.

There was no objection.

Mr. HUSTED. Mr. Chairman, now I offer my amendment.

The Clerk read as follows:

Amendment offered by Mr. HUSTED: Page 2, line 9, after the word "and," where it occurs the second time in the line, insert the words "also of."

Mr. MANN of Illinois. Let us have that read as it will read if amended.

The CHAIRMAN. Without objection, the Clerk will report the language as it will read if amended.

The Clerk read as follows:

SEC. 2. That such official stenographer shall take full stenographic notes of the testimony in all judicial proceedings and trials, together with the judge's charge, if any, and of all rulings and orders and also of any comment or remark of the trial judge relating to the case on trial made in the presence of the jury, etc.

Mr. HUSTED. Mr. Chairman, the purpose of the amendment is to confine the remarks and comments to be taken down by the stenographer to the remarks and comments of the trial judge relating to the case on trial made in the presence of the jury. The object is, of course, to have taken down any comments or remarks made in the presence of the jury which tend to influence the decision of the jury, but it would be superfluous and unnecessary to take down comments and remarks not made in the presence of the jury. As the bill reads without the amendment it would not be necessary to take down rulings and orders which were not made in the presence of the jury. Of course, there are many rulings and orders which are not made in the presence of the jury which should be taken down. As the bill reads, the stenographer would have to take down those rulings and orders only which were made in the presence of the jury, but under my amendment the rulings and orders would have to be taken down, whether made in the presence of the jury or not, and only such comments and remarks by the trial judge would have to be taken down as were made in the presence of the jury. It seems to me that these are the only remarks that should be taken down, because the purpose is to enable the parties to get a record on which to set aside a verdict on the ground that the jury was unduly influenced.

Mr. SAUNDERS of Virginia. Will the gentleman yield?

Mr. HUSTED. Certainly.

Mr. SAUNDERS of Virginia. I see what the gentleman has in mind, but does not he think that if he puts this amendment in it would still leave it in doubt as to precisely what the sentence will mean? Does he think that the judge in construing the language will give the meaning which the gentleman has just given? It seems to me that it would be doubtful whether it would necessarily carry the meaning which the gentleman has stated.

Mr. HUSTED. I do not see why, if the bill is amended as I propose, it would not require the stenographer to take down those comments only and remarks of the trial judge relating to the case on trial which were made in the presence of the jury.

Mr. SAUNDERS of Virginia. Yes; but my point is that even with that amendment the words "or rulings and orders," in line 9, would also be related to the words "made in the presence of the jury."

Mr. HUSTED. It does not seem to me that that would be a proper construction.

Mr. JONES of Texas. Mr. Chairman, will the gentleman yield?

Mr. HUSTED. Yes.

Mr. JONES of Texas. Would not this make it absolutely clear: Instead of inserting the amendment where the gentleman does, insert, after the word "trial," in line 10, where it occurs the second time, the words "when such comment or remark is made in the presence of the jury"?

Mr. HUSTED. That would make it absolutely clear. I think my amendment accomplishes the purpose, but that would certainly put it beyond any question of doubt.

Mr. JONES of Texas. Then, Mr. Chairman, I desire to offer as a substitute for the amendment of the gentleman from New York, that, on page 2, in line 10, after the word "trial," where it occurs the second time, the words "when such comment or remark is" be inserted.

The CHAIRMAN. The gentleman from Texas offers an amendment in the nature of a substitute, which the Clerk will report.

The Clerk read as follows:

Page 2, line 10, after the word "trial," where it occurs the second time in the line, insert the words "when such comment or remark is."

Mr. MANN of Illinois. What has become of the amendment of the gentleman from New York [Mr. HUSTED]?

Mr. JONES of Texas. This is a substitute for that.

Mr. MANN of Illinois. But it does not come in the same place in the bill at all.

Mr. JONES of Texas. Then I ask that mine be considered as pending, if that is correct.

The CHAIRMAN. The Chair has not made any ruling upon it, because no point of order has been directly made.

Mr. MANN of Illinois. I do not think it is necessary to make a point of order to say that an amendment is not in order when another amendment is pending.

Mr. DEWALT. Mr. Chairman, I demand the regular order.

Mr. HUSTED. Mr. Chairman, in view of the fact that I consider the form of this amendment better than the form of the amendment that I have offered, as it puts it beyond any peradventure of doubt, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. The gentleman from New York asks unanimous consent to withdraw his amendment. Is there objection?

There was no objection.

Mr. JONES of Texas. I now offer the amendment which I heretofore offered.

The CHAIRMAN. The gentleman from Texas renews his offer of the amendment, which the Clerk will report.

The Clerk again reported the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The question was taken, and the amendment was agreed to.

Mr. BLANTON. Mr. Chairman, I move to strike out the last word. This morning I received a letter from Hon. Fred W. Davis, commissioner of agriculture in the State of Texas. Other Members of Congress received a copy of that letter. As it is a

matter of importance, I ask unanimous consent, in my time, to read, out of order, a reply which I sent to that letter.

The CHAIRMAN. The gentleman from Texas asks unanimous consent to read, in his time, a letter, out of order. Is there objection?

Mr. NOLAN. Mr. Chairman, reserving the right to object, does the gentleman intend to insert the letter from the agricultural commissioner of the State of Texas along with his statement?

Mr. BLANTON. I will be very glad to do that if the gentleman would like to have it done. I will ask that it be printed, so that we may not take up the time to read it.

Mr. NOLAN. Under those circumstances I would have no objection.

The CHAIRMAN. Is there objection?

There was no objection.

The letter of Mr. Davis is as follows:

DEPARTMENT OF AGRICULTURE,
STATE OF TEXAS,
Austin, February 14, 1920.

Hon. THOMAS L. BLANTON, M. C.,
Washington, D. C.

MY DEAR SIR: According to press reports, four leading farmers' organizations have memorialized Congress to take all necessary steps to prevent strikes. As a member of the executive board of one of the four organizations, will say that I had no idea any action was even contemplated concerning the fight now raging between organized labor and organized capital. Had I been consulted my protest would certainly have been registered.

Many times the statement has been made that Gompers was trying to get the farmers to pull the chestnuts of organized labor out of the fire, and farmers have been warned to keep hands off; which was good advice. Then why should the farmers pull the chestnuts of organized capital out of the fire? Certainly our farmers are more closely identified with labor than capital.

I hold no brief for either capital or labor, but the memorial deals with an abstract principle of human rights wherein it contends that labor has not the right to strike. It further contends that farmers have no right to strike because the public's interests are paramount. If one class is going to be compelled to work for the benefit of another, or all other classes, who is to be the slave, and who the master? For this is the only state of existence under such a policy. A collection of individuals have the same collective right as each individual has. Must an individual get permission of an officer of the law before he can quit working for another individual? Such a monstrous condition would be worse than Prussianism. Must an organization get permission from an officer of the law before its members can stop working for a corporation? If this doctrine becomes established, not only will industrial workers be immediately enslaved, but farmers will soon fall victims to the same doctrine. They will soon be compelled to sell the fruits of their toil, which represents their wages, at the price which the other fellow offers. Refusal to sell, because prices are not satisfactory will run counter to the need and wishes of the public. It will not stop there, for they will be denied the right to quit and move to town after the public's needs have pauperized them, for the public will still sorely need the fruits of their unrequited toil and the town will have no particular use for them. A tenant farmer may be dissatisfied with the price he is receiving for his produce, the terms his landlord exacts, the educational conditions for his children, besides many other grievances, but what difference will that make when the public will starve if the farmers cease to produce. Here again the man who is working the land will be held up, while the man who owns it, but is probably living in town, will escape.

We should not forget that the governor of Kansas, who proposed more than anyone else to force the industrial laborers to continue to work, asked the United States Department of Justice to prosecute southern cotton growers for declaring they would reduce their cotton acreage in order to sell what they had already produced for the cost of production. He argued that the public would suffer if cotton production was curtailed.

The memorial sets up this very argument. It claims that if industrial workers, railroad men, for example, strike, the public will suffer, and the public has rights which the classes must respect. What classes, pray? The public did not charter our railroads to firemen, or engineers, or any other class of laborers. If lives are lost because of wrecks or otherwise, people do not sue the engineers for damages. These workers were not given the right of eminent domain, land grants, money bonuses, freedom from taxation, etc., for the purpose of developing the country and serving the public. Then when the public becomes concerned, why should the laborers who have no charter rights be held responsible and the owners of the roads escape?

It is claimed that the owners are paying all they can afford to pay. But who knows what would be the condition if the water was all squeezed out and excessive salaries which the public pays the officials for managing their own private business, and all their attorneys and lobbyists, were reduced to what these people could command in a competitive field? But this doesn't change the principle. The responsibility to keep the trains running rests upon the owners, not the laborers, and laborers individually and collectively have the right to work for nothing, or refuse a salary which would beggar a prince.

We know if salaries which strikers are getting are high enough, others will be attracted to them. If there is just argument in the contention that the salaries are high, the Government can put a stop to strikes by protecting those who take the places of those who quit. This, in the interest of both the individuals and public, the Government has a right to do. The Government has a right to prevent lawlessness among strikers. It has a right to take people individually and collectively who become a burden upon society because of idleness and put such to doing public work if they are unwilling to do private work, but it has no more right to make a section hand work for wages he doesn't consider fair, and when he doesn't wish to work, so long as the section hand does not become a burden upon the public, than it has to take the millionaire's son and make him work for wages which he would consider not sufficient for cigarette money. The Republic will write its doom when it undertakes to make one class work for another class.

If Congress should act favorably upon the memorial sent them by these four organizations, the farmers will regret it bitterly because its only goal is tyranny.

Yours, respectfully,
FRED W. DAVIS,
Commissioner.

Mr. BLANTON. Mr. Chairman, I think I ought to say that the gentleman from Oregon [Mr. MCARTHUR], the gentleman from Louisiana [Mr. O'CONNOR], and others tell me that they received a similar letter, and I take it that other Members of Congress received copies of the letter. The letter which I sent in reply reads as follows:

WASHINGTON, D. C., *February 18, 1920.*

Hon. FRED W. DAVIS,
Commissioner of Agriculture, Austin, Tex.

MY DEAR SIR: Your three-page letter of 14th received, wherein you oppose the farmers' memorial asking Congress to prevent strikes, and you defend strikes by organized labor, and you specially defend the position taken by railroad employees, who have threatened a nation-wide tie-up unless their wage demands are granted, and you conclude by stating that if Congress should act favorably on the memorial sent by the farmers' four organizations regret would follow.

You sent this propaganda letter not only to my Texas colleagues, but Congressman MCARTHUR, of Oregon, and others tell me they likewise received one; hence I take it that you mailed one to each Congressman and Senator.

Not a single posted farmer in Texas will approve of your action. Does the State of Texas pay you a salary to thus waste your time and its stationery and postage in sending such Gompers propaganda to Senators and Congressmen? Have you let the farmers of Texas know the contents of your letter? Don't you know that the farmers bear more heavily than anyone else the burden of all labor strikes? Don't you know that the farmers of Texas favor proper arbitration of all industrial disputes to prevent strikes? Are you trying to hedge on Mr. Gompers's recent pronunciamento by thus assuring him that you are a dependable friend and want to be reelected?

I had hoped that the department of agriculture in my State was administered in the interests of Texas farmers and had other use for its time and money than wasting it in vicious propaganda. I know the farmers of Texas. Every posted, intelligent one of them will condemn your action.

Very sincerely, yours,
THOMAS L. BLANTON.

The Clerk read as follows:

SEC. 3. That such official stenographer shall receive an annual compensation to be fixed by the judge not exceeding $2,000, and to be paid in the same manner as other court officials are paid.

In addition to such salary, such official stenographer may charge for any transcript of such notes ordered by any person interested other than a judge of such court 10 cents per folio thereof and 2 cents per folio for each manifold or other copy thereof when so made that it can be made with such transcript, but he shall upon the request of the judge presiding at any trial or proceeding read his notes or make a transcript thereof for the use of such judge without charge. Upon the request of any person interested, and the payment or tender of his fees therefor, such official stenographer shall furnish a duly certified transcript of such notes or any indicated part thereof in words and figures represented by the characters used in making the same.

Mr. HUSTED. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Page 2, line 24, strike out "$2,000" and insert "$3,000."

Mr. HUSTED. Mr. Chairman, I offer this amendment because I believe that in certain parts of the country the compensation provided for in this bill is inadequate to secure the services of trained experts. I know that in the State which I have the honor in part to represent, outside of the city of New York and the county of Kings, all of the stenographers are paid $3,600 per year. In addition to that they get mileage at the rate of 10 cents a mile, and they get their expenses while in attendance upon court, including their stationery. In the first and second districts the compensation is fixed by the courts, but I understand that in those districts the compensation is even higher.

In order to provide competent stenographers for the courts of the United States I think we will have to increase the compensation fixed in this bill. We want men who can take down the testimony correctly and transcribe it correctly, and I do not believe that we can get men to do that for the compensation provided in the bill, either in the city of New York or in the county in which I reside or in the city of Chicago or in any of the large centers of the country. I realize that this increases the amount of money authorized by the bill, and I regret that fact, but I offer the amendment because I believe it is absolutely necessary. These stenographers have to be highly trained experts. You can not use second-class men for this purpose. You must use the best, and the demand for those men is so great and they are so few in number that you have to pay good salaries in order to get them. I would say, further, that in the State of New York, in addition to the compensation which I have stated, we also give them 10 cents a folio for transcripts of the record.

Mr. DONOVAN. Mr. Chairman, I move to strike out the last word simply for the purpose of indorsing and reiterating what the gentleman from New York [Mr. HUSTED] has said, particularly as it related to the city of New York. I do not believe it is possible to procure in the city of New York a competent

stenographer to take the position on the $2,000 basis. Therefore I am heartily in favor of the amendment and believe it is in the line of economy that the compensation be increased to $3,000 as suggested.

Mr. WELTY. Will the gentleman yield?

Mr. DONOVAN. I will.

Mr. WELTY. Could not that be cured by raising the fees of the stenographers in preparing the transcript?

Mr. DONOVAN. No; I do not think that would, because they get now over $4,000 salary and 10 cents for transcript.

Mr. WELTY. Suppose we make it 5 cents for manifolding instead of 2 cents?

Mr. DONOVAN. In the city of New York the State courts pay, if I recall correctly, $4,500, and it is difficult to get them at that, because the high-grade men generally run their own departments and make vast sums, as has been indicated here.

If this bill is to become the law, we ought to have a salary of sufficient size to attract men who can do the work competently.

Mr. BLACK. Did the gentleman state what official stenographers in the district courts in New York City got—how much?

Mr. GRIFFIN. I think it is $4,500.

Mr. BLACK. And fees?

Mr. GRIFFIN. Yes; besides.

Mr. GOODYKOONTZ. Mr. Chairman and gentlemen of the House, we can not measure the salaries of court reporters throughout the United States by the standard of pay for court reporters in New York City any more than we can measure lawyers' fees and judges' salaries and compensation to others by the high standard of value obtaining in New York. The ordinary country lawyer may earn $50 a day in the trial of an action, whereas a lawyer in the city of New York, whose abilities are no more eminent, may command $250 per day. This Congress can not afford to vote a measure into law which will devolve a great lot of salaries upon the American people at this time, and better had this bill be defeated than that we put upon the backs of the people any more burdens of taxation. Now, I concede that the $1,500 salary that is being paid under existing law to the secretary of the Federal judge, which office is being practically abolished by this bill, will not materially increase the expenses of running the Government when we consider the increased facility with which court matters will be dispatched; therefore this measure is really in the interest of economy. But if you are to add an additional $1,000 for each court reporter for each of the 98 Federal district judges in the country, then we are going to impose upon the American people $98,000 more than this bill authorizes. Now, I was elected by a set of people who expected me to come to Washington and vote for economy. When I went back home during the holidays I was met by the taunt that we were not accomplishing what was expected of us, because many of the members of the boards and commissions that formerly infested and swarmed about Washington are still there and the boards and commissions have not been abolished or eliminated——

Mr. GRIFFIN. Evidently the gentleman has not been here and heard the report of the gentleman from Wyoming [Mr. MONDELL], his leader, on the wonderful accomplishments in the way of economy.

Mr. GOODYKOONTZ. Mr. MONDELL justly set forth the large measure of good which we have accomplished in that direction, but I am here to tell you the work ought to be carried 50, 60, or 100 per cent further, and if the pruning knife is severely applied, as it should be, 40,000 or 50,000 employees, "deserving Democrats," will be taken out of harness—I should say office, for they are not working—and sent back to the farms where they belong. [Applause on the Republican side.]

Mr. MANN of Illinois. Mr. Chairman, I would like to make an inquiry with reference to this compensation matter. In many districts court is held in a number of different places. We provide for the traveling expenses of the judge going from his home to the different places for holding court. What compensation would the stenographer get for his traveling expenses, board bills, and so forth? Under this bill, will not he be required to pay all those expenses out of his salary?

Mr. VOLSTEAD. I am not prepared to say whether or not he will. I was assured at one time there was a provision to cover it, but I did not take the pains to look it up.

Mr. MANN of Illinois. Plainly there is no provision in reference to the payment of official stenographers in this respect.

Mr. VOLSTEAD. They become officers of the court. Whether the statute covering the others is broad enough, I do not know.

Mr. MANN of Illinois. Well, I know that will not add to the ease with which to get competent stenographers if they have to pay these expenses.

Mr. VOLSTEAD. Mr. Chairman, just a word, if I may be permitted. I do not think we ought to increase these salaries simply because New York or some other large city may find some difficulty or imagine it will find some difficulty in securing stenographers. Personally it is my impression that they will earn not only $2,000 but earn more than twice that much. That has been the experience as far as I know in our State courts. Let us concede for the sake of the argument there ought to be an increase in New York City. We ought not to extend that all over the country. There is a very simple way of making an amendment that will cover these large cities if we see fit and not spread this expense all over the whole country. I am satisfied that it is absolutely unnecessary. It can not cost any more in the Federal courts than it does in our State courts. It is a well-known fact that in many States the fees provided for in the bill are considered large enough. In my State the amount they receive for transcript is less although we have two cities, Minneapolis and St. Paul, where we have a great deal of litigation. In St. Louis the stenographer only gets $1,800 a year, and he practically gets the same pay for transcripts. Now, if there is any real necessity for any change it ought to be changed so as only to apply to large cities and not cover the whole country. The exceptional cases should not be made use of to increase generally the amount that will have to be borne by the Government under this bill.

Mr. HUSTED. Will the gentleman yield?

Mr. VOLSTEAD. I will.

Mr. HUSTED. I would like to ask the chairman whether he considers in the provision carried in the bill for the fixing of a salary by the judge of not exceeding $2,000 that discretion would be abused in every case by the judges. Does the gentleman think the judges would make the maximum the salary in every case?

Mr. VOLSTEAD. I imagine it will be $2,000 in every case where it may be necessary.

Mr. HUSTED. Or whether in districts where $2,000 was adequate $2,000 would not be fixed, and in districts where $2,000 is wholly inadequate a larger salary would be fixed?

Mr. VOLSTEAD. The gentleman is making a speech instead of asking me a question.

Mr. HUSTED. Well, it was in the form of a question.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. HUSTED].

The question was taken, and the Chair announced that the noes seemed to have it.

Mr. HUSTED. Division, Mr. Chairman.

The committee divided; and there were—ayes 16, noes 38.

So the amendment was rejected.

Mr. BEE and Mr. SAUNDERS of Virginia rose.

The CHAIRMAN. The Chair will recognize the gentleman from Texas [Mr. BEE].

Mr. BEE. Mr. Chairman, I offer a couple of amendments, and I ask unanimous consent that I may be allowed to proceed past the five minutes, so that I can discuss the two amendments. They are correlated.

The CHAIRMAN. The gentleman from Texas asks unanimous consent to proceed for 10 minutes. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the amendments.

The Clerk read as follows:

First amendment offered by Mr. BEE: Page 3, line 8, after the word "charge," insert "and when it shall be made to appear to the judge, either by affidavit or otherwise, that a defendant convicted in a criminal cause before said court is too poor to pay for a transcript of the testimony or record, and desires to appeal from the judgment of said court, the said judge shall enter an order directing the said official stenographer to furnish to the said defendant without cost the said transcript aforesaid for the purpose of perfecting his appeal."

Second amendment offered by Mr. BEE: Page 3, line 3, after the word "court," strike out the words and figures "10 cents" and insert the words and figures "15 cents."

Mr. BEE. Mr. Chairman, there has been a good deal of controversy during the course of these proceedings with reference to Federal courts. I want to take advantage of this opportunity to state that, although my experience has been limited in a degree, I have always found the Federal judges to be excellent men and excellent judges and lawyers. I never have joined in the condemnation of Federal judges that has been prevalent over this land. That, however, does not preclude me from saying that I am opposed on principle to the further extension of the powers of the Federal courts. [Applause.] I recall, for instance, in my State, and I suppose it is the same elsewhere, that you can not bring a suit except under a certain amount against the Western Union Telegraph Co. or the Southwestern Telephone Co. without having the cause transferred

to the Federal court, even though they hold a permit to do business from the State court. I think the law ought to be amended, and the Supreme Court, I hope, some day will so decide, that whenever a foreign corporation holding a permit to do business in a State moves to transfer that cause from the State courts into the Federal court it instantly forfeits the permit to do business in the State. Now, having discussed that briefly, I get to my reasons for these amendments.

One of the things that has operated to the unpopularity of the Federal courts is the prohibition against the poor man asserting his rights in such courts. Such a thing as an appeal is almost unheard of, for the reason they are not able to pay the multifarious fees that have accumulated during the course of the trial and that are essential for them to perfect their judgment to the court of appeals. This bill is a step in the right direction. It provides that which ought to have been provided long ago—an official stenographer, whose duty it shall be to take down everything that occurs in the court. But when that is done any man who is unable to pay the cost of the transcript ought not by reason thereof be precluded from asserting his rights in the appellate court. I have not made a careful estimate of the cost of appeal in Federal cases, but I venture this offhand prediction that you can not appeal an ordinary felony case from the Federal court anywhere in this country to a circuit court of appeals under at least $250 to $300, excluding the attorney's fees. In fact, a defendant in the Federal court is confronted with costs and charges at every turn of his proceedings to his absolute discouragement. And it may be that he is guilty. But the fact that he is guilty does not preclude under our form of law and our fundamental Government the right to his day in court, but it is prohibitive under the present statutes. These amendments I have proposed, and to which I direct the attention of the committee, follow the general practice in nearly every State court, that where a defendant makes affidavit or otherwise satisfies the court that he is too poor to pay for the transcript, it shall be the duty of the court, satisfied of that fact, to compel the official stenographer to make that transcript out for him without cost in order that he may perfect his appeal, because without that he will be precluded from his appeal.

The stenographer—and I have no desire to curtail him—is receiving a salary of $2,000 a year. For what? For his attendance on the court. But there is no limitation on the amount that the stenographer can make outside of the $2,000. If the volume of business is heavy enough, and the appeals are of sufficient number, he can make $10,000 a year. In other words, it sometimes happens in the Federal courts that a case will take a month to try, with daily and hourly transcripts of testimony. The stenographer making that transcript oftentimes has the right, and it will be advantageous to him, to hire some one to whom he can dictate his notes through the dictaphone and have them transcribed upon the typewriter. The $2,000 is for the purpose of paying for his attendance in order that he may do that very thing.

Now, I stated at the beginning that the two amendments were correlated. I do not believe that 10 cents a folio is enough, because this bill does not make provision for the traveling expenses of the court reporter. The district judge and the marshal and the district attorney have their traveling expenses provided for and met, but the reporter must pay his own traveling expenses. In the State of Texas, for example, we pay 15 cents a folio. I understand in the State of Illinois they do the same thing, as I am informed, and I do not know how many other States in the Union pay that rate. That 15 cents a folio does not come out of the Government. The Government is only out the $2,000 for the salary to the reporter. The 15 cents a folio, or 10 cents, as the case may be, comes from the litigant, and in the event a defendant has satisfied the court that he is too poor to pay the expense it is borne without cost.

Mr. MILLER. Mr. Chairman, will the gentleman yield?

Mr. BEE. Yes.

Mr. MILLER. In how many places in the gentleman's district does the United States court hold terms of court?

Mr. BEE. We have four in the western district of Texas, and they are widely separated. In the district represented by the gentleman from Texas [Mr. GARNER] they go from Houston to Brownsville and Galveston, all about, and it is a considerable expense.

Mr. RAMSEYER. Mr. Chairman, will the gentleman yield?

Mr. BEE. Yes.

Mr. RAMSEYER. The gentleman's amendment applies only to defendants in criminal cases?

Mr. BEE. Yes; it applies only to defendants in criminal cases.

Now, there is a question with reference to civil litigation, and I understand my colleague from Texas [Mr. JONES] will refer to that. I wish I had it in my power to write the law of this land and take these people out of the Federal courts and have them spend their time in the State courts, where they belong. It is said, "It must needs be that offenses come, but woe to him by whom the offense cometh," and I suppose there is no remedy for that and we can not help ourselves in that direction.

Let me make this suggestion: Raise this compensation to 15 cents a folio, and you will enable the court reporters to do two things. The additional 5 cents per folio will go toward paying their traveling expenses, which are not now provided for, and at the same time it will compensate them for the free work that they have to do for the unfortunate defendants who are not able to pay their fee. If you keep it at 10 cents and put this amendment on, it might work a hardship.

It is far from my purpose to bring any hardship upon the court reporter. I consider that one of the marvels, almost miracles, of our time is found in the efficiency and the skill and the scientific and literary qualifications of stenographic reporters. When I see them in this House every day, with the variety and kinds of speeches, and the variety of manners in the delivery of them, and I pick up the RECORD the next morning, I marvel at their efficiency; and when I, with my limited experience in the courts, have noticed how accurately they have reported the efforts of lawyers before courts and juries, I marvel more at their efficiency, and I am in favor of such compensation to them as will bring to the court reporters and stenographers in the courts, Federal and otherwise, such a measure of compensation as will reward them for the skill and trouble and study they have devoted to their profession. Mr. Chairman, I ask the adoption of this amendment.

Mr. SAUNDERS of Virginia. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SAUNDERS of Virginia. Which one of these two amendments is before the committee?

The CHAIRMAN. The Chair thinks that the one first read will be the first voted on.

Mr. SAUNDERS of Virginia. That is in relation to codefendants?

The CHAIRMAN. Yes.

Mr. VOLSTEAD. Mr. Chairman, I move that the committee rise temporarily.

The CHAIRMAN. The gentleman from Minnesota moves that the committee do now rise. The question is on agreeing to that motion.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. GREEN of Iowa, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having had under consideration the bill (H. R. 12486) authorizing the several district courts of the United States to appoint official reporters and prescribing their duties and compensation, had come to no resolution thereon.

RETURN OF THE RAILROADS.

Mr. ESCH. Mr. Speaker, I file the report of the committee of conference on the bill H. R. 10453, the railroad bill, with the exception of the statement.

Mr. GARD. I reserve all points of order.

The SPEAKER. The Clerk will report it.

The Clerk read as follows:

Conference report on the bill (H. R. 10453) to provide for the termination of Federal control of railroads and systems of transportation; to provide for the settlement of disputes between carriers and their employees; to further amend an act entitled "An act to regulate commerce," approved February 4, 1887, as amended, and for other purposes.

The SPEAKER. Ordered printed under the rule.

Mr. BLANTON. Mr. Speaker, I reserve all points of order.

The SPEAKER. The gentleman from Texas reserves all points of order on the conference report.

Mr. ESCH. Mr. Speaker, I ask unanimous consent that I may have until 10 o'clock to-night to file the statement accompanying the conference report. The conferees did not finish their labors until 12 o'clock, and it will not be possible to complete the statement, perhaps, until midnight to-night.

The SPEAKER. The gentleman from Wisconsin asks unanimous consent between now and 10 o'clock to-night to file the statement accompanying the conference report. Is there objection?

Mr. BLANTON. Reserving the right to object, Mr. Speaker, may I ask the gentleman what we may expect as to consideration and debate on this conference report, and when it will probably be taken up?

The SPEAKER. Is there objection?

There was no objection.

Mr. BARKLEY. Mr. Speaker, I ask unanimous consent that I may be permitted to submit, if I desire to do so, at any time until 12 o'clock to-night my reasons for failing to sign the conference report.

The SPEAKER. The gentleman from Kentucky asks unanimous consent to be permitted to file before midnight to-night a statement of his reasons for failing to sign the conference report. Is there objection?

Mr. WALSH. Well, under what rule is the gentleman authorized to file an individual statement on the conference report?

Mr. BARKLEY. There is not any rule on the subject. I am asking unanimous consent. The conference report is not a unanimous report. In view of my inability to agree to the report I thought it was fair to myself and to the membership that I should have opportunity to file my reasons. I do not know that I shall do it, but I want the privilege of doing so if I wish to.

The SPEAKER. The Chair is not aware that that has ever been done. The Chair thinks it could be done by unanimous consent. Is there objection?

Mr. WALSH. I doubt whether it is wise to establish the precedent of filing minority views on conference reports. Can not the gentleman accomplish the same result by extending his remarks in to-day's RECORD?

Mr. BARKLEY. That is what this would amount to, except that if I am given permission to file minority views the two would go together, and what I have to say will appear in the RECORD at the place where the conference report and statement are printed.

The SPEAKER. Is there objection?

Mr. MANN of Illinois. Reserving the right to object, of course, the statement of the conferees usually does not attempt to argue the merits of the proposition. It usually states only what is done.

Mr. BARKLEY. Yes.

Mr. MANN of Illinois. I suppose the gentleman from Kentucky, if he files his minority views, will make what he says a matter of argument as to what ought to be done.

Mr. BARKLEY. It will not refer to the statement at all. It will simply refer to the conference report, which is composed of a bill that is a substitute for the bills passed by the two Houses.

Mr. MANN of Illinois. It will be an argument, will it not?

Mr. BARKLEY. I do not know whether it will or not.

Mr. WALSH. I trust the gentleman will ask to extend his remarks.

Mr. BARKLEY. It will be merely a statement in explanation of my disagreement to the conference report.

Mr. WALSH. Reserving further the right to object, Mr. Speaker, I trust the gentleman will ask to extend his remarks in the RECORD by way of explanation, rather than to file a statement of his views. I do not think we ought to establish such a precedent, and while this is being asked by unanimous consent I feel that it might in the future lead to a great many requests of a similar nature, and I think the gentleman should ask to extend his remarks in the RECORD, explaining his failure to join in signing the report. If he does that he will be at liberty to set forth his views in an argumentative way.

Mr. BARKLEY. An extension of remarks of that kind would go in the back part of the RECORD, where nobody would see it. My object was to have it accompany the report, where it would be read.

Mr. WALSH. The gentleman can ask to have it extended immediately following the statement.

Mr. BARKLEY. I ask unanimous consent that I may extend my remarks in the RECORD by printing, to accompany the report, a brief statement of my reasons for not signing it.

The SPEAKER. The gentleman asks unanimous consent to extend his remarks in the RECORD by printing, following the statement of the conferees, a discussion of the conference report. Is there objection?

There was no objection.

Mr. ESCH. Mr. Speaker, I ask unanimous consent that immediately after the disposition of business on the Speaker's table on Saturday morning next, the conference report on the railroad bill be taken up, that there be four hours of debate thereon, the time to be equally divided between those in favor of the conference report and those against it, the time of those opposed to the bill to be in control of the gentleman from Tennessee [Mr. SIMS] and the time in favor of the conference report to be under the control of myself, and that at the expiration of that time the previous question be considered as ordered upon the conference report.

The SPEAKER. The gentleman from Wisconsin asks unanimous consent that on Saturday next, immediately after the business on the Speaker's table is disposed of, the conference report on the railroad bill be taken up for consideration; that there be not exceeding four hours of debate, half to be controlled by himself in favor and half by the gentleman from Tennessee [Mr. SIMS] against; and that upon the conclusion of the debate the previous question shall be considered as ordered. Is there objection?

Mr. BARKLEY. Mr. Speaker, reserving the right to object, if this agreement is entered into, ordering the previous question at the conclusion of the debate, would it preclude the offering of a motion to recommit the report to the conference committee with or without instructions?

Mr. ESCH. I understand that one motion to recommit would be allowable under the rules, on a conference report as well as upon any other proposition.

Mr. BARKLEY. Further reserving the right to object, this is perhaps the most important legislation that will be considered at this session of Congress or any other session. With the exception of the title of the bill, which governs the issuance of railroad securities, there are many provisions in this conference report that were not in the bill as it passed the House. I should like to ask the gentleman from Wisconsin if he does not think we ought to have at least five hours' debate on this report, in order that Members may be given every opportunity to understand what is contained in it?

Mr. ESCH. As the gentleman very well knows, under the rule only one hour is allowed on a conference report; and I had thought that, by liberalizing the rule and extending the time to four hours, that might be sufficient. I realize that there is a great demand for time, and that those who open the debate on either side may occupy a considerable portion of the time in explanation, leaving very little time, possibly, for other Members to debate the conference report.

Mr. BARKLEY. As the gentleman says, I realize that under the rule only one hour is allowed for consideration of a conference report; but certainly nobody on either side would care to limit the debate on a great conference report of this sort to one hour. If it is limited to four hours, that will mean two hours on a side, which will practically limit the debate to the members of the conference committee. I have an idea that there are many Members of the House who would like to say something one way or the other about this report, and we could very well devote more than four hours to the discussion of it.

Mr. ESCH. Mr. Speaker, I modify my request to this extent, that there shall be five hours of general debate, half the time to be controlled by the gentleman from Tennessee [Mr. SIMS] and half by myself, and that when the House adjourns on Friday night it adjourn to meet at 11 o'clock on Saturday morning, of course with the understanding that the previous question shall be considered as ordered at the expiration of the five hours' debate.

The SPEAKER. The gentleman modifies his request, increasing the time to five hours, with the addition that when the House adjourns on Friday it be to meet at 11 o'clock on Saturday morning. Is there objection?

Mr. BLANTON. Reserving the right to object——

Mr. LITTLE. Reserving the right to object——

Mr. CALDWELL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. CALDWELL. Does this unanimous consent preclude a motion to recommit?

The SPEAKER. The Chair will pass on that question when it arises.

Mr. CALDWELL. I think we are entitled to know what the attitude of the Chair will be on that question before we consent to this request for unanimous consent.

The SPEAKER. The Chair would tell the gentleman if he was certain about it himself; but the Chair admits that he is not at this moment certain about the motion to recommit. Of course, the unanimous-consent agreement would make no difference as to that.

Mr. MANN of Illinois. The precedents clearly are that a motion to recommit to the conference committee, where the Senate has not acted, is in order after the previous question has been ordered. Speaker CLARK on a number of occasions held that a motion to recommit was in order although the previous question was operating.

Mr. BLANTON. Mr. Speaker, reserving the right to object, I want to suggest to the gentleman who has charge of the bill that this is a matter upon which I take it every Member in this House wants to go on record. I do not speak so much for myself, because my position on the bill from the beginning to

the end is well known both here and in my district, and by reason of such fact I have agreed to pair with another Member. But practically all of our colleagues want to go on record, and they will not have a chance to speak within the agreed five hours' debate, because, I take it, as suggested by the gentleman from Kentucky, that most of the time will be taken by members of the committee, who always come first, and this will leave other Members very little time to put themselves on record. They therefore can go on record only by their votes. Why have such an important matter and such an important vote on Saturday when the gentleman knows that a great many Members are then away from the city?

Mr. BEGG. They will be here next Saturday.

Mr. BLANTON. Oh, no; some of them are always unavoidably (?) absent.

Mr. ESCH. Let me say to the gentleman that there is no day which could be set where there would not be some unavoidable absences.

Mr. BLANTON. But Saturday is the worst day you could select.

Mr. ESCH. No; I think not. I wish to state that it is our hope that the bill may be acted upon Saturday. If it is passed by the House, it can not be messaged over to the Senate until Monday morning. That may mean that no action will be possible in the Senate before Tuesday, and on the 1st of March, by proclamation of the President, the roads are to be returned. We can not and we ought not to delay this matter beyond Saturday.

Mr. BLANTON. In that connection, would not the gentleman agree to have the vote on Monday? Many Members usually return then.

Mr. ESCH. No; I do not think anything would be gained by that.

Mr. LITTLE. Mr. Speaker, reserving the right to object, and I shall not object, as has been suggested, under a custom of the House members of the committee have the primary right to speak. I am afraid in a matter like this that they may take up the greater part of the time. Members of the committee have talked about it already, and I hope the gentleman in charge of the time may be able to assure us to-day that those of us who are not members of the committee shall have the opportunity in behalf of our constituents to state our position on the matter.

Mr. ESCH. I shall try and use my best endeavors to permit as many Members to give expression to their views as is possible. I hope that I may not be compelled to use all of the time on our side in explanation of the conference report.

The SPEAKER. Is there objection?

Mr. BLACK. Reserving the right to object, I want to ask a question. The agreement to divide the time, to be controlled by the gentleman from Tennessee on this side and the gentleman from Wisconsin on that side, as I understand, there is on our side——

Mr. ESCH. That is not the way I made the request. It was to divide the time between those in favor of the conference report and those who are opposed.

Mr. BLACK. Yes; but I take it that the gentleman in control of the time on this side will feel that he should yield only to those who are opposed to the conference report. I think we will probably have a good many on our side of the House who will be in favor of the conference report. I would like to know if we are to have some division of the time.

Mr. ESCH. I will state that if there is time left I would be glad to give them some recognition.

Mr. BLACK. That is not satisfactory, Mr. Speaker—"if any time is left."

Mr. ESCH. I hope to be liberal, as I stated to the gentleman from Kansas, and yield to as many as I can who are in favor of the report.

Mr. BLACK. If we can have some understanding that we will have an equitable division of time, I have no further objection.

Mr. ESCH. I will try and do that to the best of my ability.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

OFFICIAL STENOGRAPHERS FOR THE UNITED STATES DISTRICT COURTS.

Mr. VOLSTEAD. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 12486, providing for official stenographers in the United States district courts.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. GREEN of Iowa in the chair.

Mr. JONES of Texas. Mr. Chairman, I offer an amendment to the first Bee amendment.

The Clerk read as follows:

After the word "cause," in the fourth line, add "or the defendant or plaintiff in a civil case, and after the word "defendant, in the last line, insert the words "or plaintiff."

Mr. JONES of Texas. Mr. Chairman, I do not know what the attitude of the committee will be in reference to the Bee amendment, but the purpose of the amendment I offer is to make the Bee amendment apply to both civil and criminal cases, whereas the original amendment applies only to criminal cases. I think it is wise to adopt both these amendments, because there are cases both civil and criminal in which a man, to say the least, ought to have the right of appeal, and yet in which by virtue of his depleted financial condition he is unable to pay the necessary expenses. If I have interpreted both amendments correctly, it makes it within the discretion of the trial court to order a transcript made in the event that the conditions justify such an order.

There are cases, particularly where employees are injured and suits for damages are filed, and in other cases where the heirs are suing for the recovery of certain properties, in which an adverse decision leaves practically no chance to have an appellate court pass on the decision of the trial court, because of the inability of the litigant who happens to lose in the lower court to pay the costs and expenses of an appeal.

I have heard a great deal of criticism of the Federal courts along this particular line. In fact, practically the only criticism that I have heard of Federal courts is the accusation that they are a rich man's court, that a poor man has no chance in these courts. I believe the adoption of these amendments will practically eliminate that accusation by making it possible, when the judge who decides the case feels that the facts justify it, through the filing of an affidavit to permit an appeal without the payment of the costs. I do not believe there is a State in the Union in which the State practice does not so provide. I know that in our State and in one or two of the adjoining States the trial judge may, in his discretion, upon the filing of the necessary affidavits permit an appeal on the part of the party losing, where it is shown to the satisfaction of the court that the particular litigant is unable to pay the expense of such an appeal. There are many cases where the issues of law are nebulous and very close, where a ruling of the court upon a point of law will settle the case in one way, whereas a decision on the same point of law the other way would settle the case in favor of the other litigant. It depends on the particular viewpoint of the judge who tries the case. In the character of case that I have mentioned, it seems to me wise that the litigant should have the right to an appeal, which he does not now have, in view of the expense necessarily attending such appeals in the Federal court. For that reason I think the amendment should be adopted.

Mr. BEE. Mr. Chairman, I ask unanimous consent to modify my amendment by inserting the word "indigent" in place of the word "poor."

The CHAIRMAN. The gentleman from Texas asks unanimous consent to modify his amendment as indicated. Is there objection?

Mr. JONES of Texas. Mr. Chairman, I do not believe the word "indigent" would cover the case. I think the word "poor" is better, and for that reason I shall object.

The CHAIRMAN. Objection is heard.

Mr. GOODYKOONTZ. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Texas [Mr. BEE], as also to the amendment to the amendment offered by the other gentleman from Texas [Mr. JONES]. The general statutory law of the United States makes ample provision for officers' service to poor persons. Any litigant may file his affidavit and proceed in forma pauperis, and this very measure which we are now proposing to enact into law makes the stenographer a court official, and as such he will, if the bill becomes a law, for the first time in the history of the country become subject to the operation of the general law.

Mr. JONES of Texas. Mr. Chairman, will the gentleman yield?

Mr. GOODYKOONTZ. Yes.

Mr. JONES of Texas. It has been my experience that they will not order a transcript made, and a man can not appeal in forma pauperis. He may have a trial of the case, and if you make the amendment apply to criminal cases I think, by process of reasoning, civil cases clearly would be excluded.

Mr. GOODYKOONTZ. The action of the judges of the Federal courts in refusing to order a transcript for one of the parties is undoubtedly due to the fact that the judges have no jurisdiction over the stenographers. This bill will make the stenographer the official reporter of the court, and with the enactment

of such a measure into law the reporter will be subject to the general law of the country, as much so as the clerk of the court or the marshal, and be required to serve poor persons free of charge.

Mr. LITTLE. Mr. Chairman, I move to strike out the last word. After all, the principal reason for the organization of government is to fix it so that two men can go into a court and have a fair trial of their difficulties instead of fighting it out outside. Anything that conduces to that end is beneficial. I think one of the amendments of the gentleman from Texas [Mr. BEE] and the amendment of the gentleman from Texas [Mr. JONES] are along that line. Unless a poor man has the same chance as the rich man to have a fair trial and appeal, then you have not accomplished the very purpose of the organization of government. If your law is of such a nature that one man has a better chance than the other in the court, then you have not accomplished the purpose of government. The object of government in that respect is to afford a tribunal so that men may have an opportunity there to settle their difficulties and have nothing left to quarrel about. Everyone here knows, who has ever had a case in the Federal courts, who has had to pay the expenses of such an appeal, that that expense is simply outrageous. After you get the stenographer paid you can hardly afford to have the record printed. There is no reason or excuse for that. It may be that this will cost the State a little, but that is what your Government is organized for. There is no better way in the world to spend your money than to use it in seeing to it that one man has as good a chance in court as the other. There is no tax that can be used more sensibly than in an endeavor to give a man a square deal in court.

I believe this law should be passed, so that a poor man can appeal from a civil or a criminal case. I do not believe it should be left to the volition of the judge, who may think that he has decided the case and that it ought to stop there. I think this amendment should be so amended that every man can get an appeal.

As to this addition of 5 cents a folio, I do not believe it is the right thing to do. I think the committee should have adopted an amendment making the salary $3,000, and then it would have gone against the State instead of the various people. I do not know why a man who loses a lawsuit should pay 5 cents extra. I think the stenographer should be paid a reasonable salary, so that the State would pay it and it would be evenly distributed. I do think that amendments should be adopted so that hereafter one man has as good a chance as another in court.

Mr. BEE. Mr. Chairman, will the gentleman yield?

Mr. LITTLE. Yes.

Mr. BEE. My idea of the 15 cents was to compensate the stenographer for the free work that he would have to do for those who are unable to pay, because it is very difficult to get a stenographer for the $2,000.

Mr. LITTLE. I do not think the rich people ought to pay for suits that they are not interested in. Let the State pay that by giving a bigger salary. That is what your Government is for.

Mr. VOLSTEAD. Mr. Chairman, I would like to see if I can have some agreement in relation to time on these amendments. Can we close, say, in 10 minutes? [Cries of "Vote!"]

The CHAIRMAN. Does the gentleman prefer a unanimous-consent request?

Mr. VOLSTEAD. Mr. Chairman, I move that all debate on these amendments close in five minutes.

The question was taken, and the motion was agreed to.

Mr. LANKFORD rose.

Mr. VOLSTEAD. Mr. Chairman, I intend to use some of this time myself, because there has not been anything said in opposition to these amendments. I do not think we ought to adopt either of these amendments. The amendment in line 8 might be a very proper amendment if it was added to the existing law relative to that subject, but I do not believe we should put it into this bill. We have a statute on the subject, and perhaps that statute ought to be amended to cover this sort of a case. Nor do I believe we should raise the fee from 10 cents a folio to 15 cents. I called attention on the floor to the fact that 8 cents is what court stenographers receive in my State. Ten cents, I am told, is the usual fee in many States. We certainly ought not to raise it for the purpose of making the litigants who are able pay the expense of those who are unable to pay, as has been suggested. If there should be a provision such as is offered in the second amendment, the costs of the free service to the poor should be paid by the Government. That is what we require under the existing statute and that is the requirement in State laws wherever provisions are made for poor litigants. It seems to me we ought not to adopt either one of these amendments. We do not want this bill to carry any additional expense over what we pay now for court business.

Mr. BEE. Will the gentleman yield?

Mr. VOLSTEAD. I will.

Mr. BEE. I do not understand that these amendments would carry any additional appropriation. You have not raised the $2,000, and this comes out of the fee of the litigants. How are you adding anything? But you are giving the poor man a chance.

Mr. VOLSTEAD. A good many poor people will have to pay 15 cents instead of 10 cents for a transcript under this amendment. There would be only a few people who would get this exemption you speak of, while persons ordering a transcript would pay 50 per cent more for it.

Mr. BEE. But it is better that ninety-nine go than that one innocent be punished.

Mr. VOLSTEAD. But you punish a good many people who are just as innocent perhaps as those who are poor.

Mr. JONES of Texas. The amendment in reference to raising the pay is not in anyway connected with the first pay amendment which the other gentleman from Texas offered. The question of the relation of the pay is an entirely different matter.

Mr. VOLSTEAD. But it has been argued that they are related. The contention is that 15 cents ought to be paid so as to get enough money for the stenographer to pay for those who are unable to pay.

Mr. JONES of Texas. But the second amendment may or may not be adopted.

Mr. PARRISH. Mr. Chairman, if the gentleman will permit, I would like to ask the chairman of the committee if there is any provision in the law by which the defendant may get the benefit of a record on appeal, who is too poor to pay for same?

Mr. VOLSTEAD. I doubt that. There is the statute authorizing the Government to pay certain expenses of poor persons, but I can not say that it would apply to the payment for a transcript.

Mr. PARRISH. Does not the gentleman think that the amendment of the gentleman from Texas [Mr. BEE], especially as to criminal cases, ought to be adopted and a further provision adopted providing that the expenses be paid by the Government?

Mr. VOLSTEAD. It ought to be paid by the Government.

Mr. PARRISH. I agree with the chairman that the increase of the price from 10 to 15 cents puts that additonal burden on the litigants.

The CHAIRMAN. The time of the gentleman has expired; all time has expired. The question is on the amendment offered by the gentleman from Texas [Mr. JONES].

Mr. RAKER. Mr. Chairman, may we have the amendment again reported?

The amendment was again reported.

The CHAIRMAN. The question is on the amendment.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. Now, the question is on the first amendment offered by the gentleman from Texas [Mr. BEE] as amended.

The question was taken, and the Chair announced the noes seemed to have it.

Mr. BEE. Division, Mr. Chairman.

The committee divided; and there were—ayes 20, noes 16.

So the amendment was agreed to.

Mr. JONES of Texas. Mr. Chairman, I wish to offer an amendment to the amendment which has just been adopted.

Mr. STEVENSON. You can not do that.

Mr. JONES of Texas. Can I not offer an amendment, this being the same paragraph, to this particular amendment?

The CHAIRMAN. Does the gentleman mean to the amendment just adopted?

Mr. JONES of Texas. I ask unanimous consent to modify the amendment in this way: The original amendment says, "when it is made to appear to the court by affidavit or otherwise." I wanted to strike out "by affidavit or otherwise" and insert "when it is made to appear to the satisfaction of the court." I think that would be better.

Mr. RAKER. Mr. Chairman, let the amendment be read as it is now, with the suggested amendment.

The CHAIRMAN. The amendment as adopted will first be read.

The amendment was again reported.

The CHAIRMAN. The Chair will now inquire of the gentleman from Texas what his unanimous-consent request is?

Mr. JONES of Texas. I was simply trying to make it more in the discretion of the court. I suggested they strike out "the

judge by affidavit or otherwise" and insert "to the satisfaction of the court," so that it would be made to appear to the satisfaction of the court.

The CHAIRMAN. The gentleman from Texas [Mr. JONES] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. JONES of Texas to the amendment just adopted: Strike out the words "to the judge, either by affidavit or otherwise," and insert in lieu thereof "to the satisfaction of the court," so that the amendment will read:

"When it is made to appear to the satisfaction of the court that a defendant convicted in a criminal cause"—

And so forth.

The CHAIRMAN. Is there objection?

Mr. BEE. Reserving the right to object——

Mr. WALSH. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MILLER. Mr. Chairman, I have an amendment.

The CHAIRMAN. The Chair would suggest that there is another amendment offered by the gentleman from Texas, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. BEE: Page 3, line 3, after the word "court," strike out the words and figures "10 cents" and insert the words and figures "15 cents."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. WALSH and Mr. VOLSTEAD demanded a division.

The committee divided; and there were—ayes 15, noes 19.

So the amendment was rejected.

Mr. MILLER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Washington offers an amendment which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. MILLER: Page 3, line 13, after the word "same," strike out the period and insert a comma, and add the following:

"*Provided*, That nothing in this act shall prohibit counsel of record in proceedings other than criminal to agree upon and employ a stenographer of their own selection, who shall be sworn in all cases in the same manner as the official stenographer."

Mr. MILLER. Mr. Chairman and gentlemen of the committee, this bill gives a monopoly of all court reporting in the Federal court to the official court reporter.

Every member of the committee who has had extensive practice in the Federal courts knows that there are all kinds of stenographers, all kinds of court reporters, and many of them have reporters of their own, that are available for such work. I know of many attorneys in my town that have agreements with firms doing stenographic work, reporting these cases in the Federal court.

I am one of those who do not believe in giving a monopoly to anybody. You take large centers, where there is heavy practice in the Federal courts, and those men will get all the practice, civil and criminal, and no reporter under this bill, other than the official reporter, can report any case in the United States courts.

Now, it occurs to me that that is a bad practice. We all ought to be privileged, when we make an agreement with counsel of record on the other side, to have the selection of a reporter of our own appointment, and we may be able to get him much cheaper than the official one. It seems to me that the amendment speaks for itself and the salutary purpose it will serve. I know in my own town the United States court meets every day in the year. Under our condition if this act becomes a law nobody can report a case except this official reporter, and it will be impossible to get a record cheaper than the rate we lay down in this bill, whereas if counsel of record had the right to agree upon and employ their own reporter, they may do it much cheaper. Court reporting now is a business, and it being a business, we ought to be permitted to purchase the services of anyone we see fit, just so he is agreeable to the counsel in the case and the court. Every one in this business will be driven out except the man who has this monopoly.

Mr. WALSH. Mr. Chairman, the gentleman from Washington [Mr. MILLER] has well said that "the amendment speaks for itself." It would in my opinion practically destroy the object and purposes of this bill. You can not have half a dozen official stenographers for each Federal court, as the particular stenographer may be the pet of a particular law firm.

The object of this provision in the bill is to provide an official for the court who shall be known as the official stenographer, whose duties shall be prescribed, who shall be paid from the Federal Treasury.

This is not establishing a monopoly any more than because we select one particular judge to be the judge of a court we are setting up a monopoly, or that when we take one particular man for the clerk of the court we are establishing a monopoly, or that when we pick out one particular attorney to be United States attorney for that district we establish a monopoly. We are providing an extra official for this court, an official stenographer, an institution which has been set up in pretty nearly every State in the Union that has a court system of records, and under the modern practice we employ the stenographer and make him one of the officials of the judicial system. It seems to me it would tend to uniformity and reliability if we had one man, with authority in cases of emergency to provide a substitute, who should be known as the official stenographer.

Mr. HUSTED. Mr. Chairman, will the gentleman yield?

Mr. WALSH. Yes.

Mr. HUSTED. I would like to ask the gentleman how long he thinks the official stenographer would want to hold the munificent position at a salary of $2,000 if the best part of his business, that of making transcripts in large cases, were taken away from him by private stenographers?

Mr. WALSH. Not long, I submit, if he is a competent man and you are going to deprive him of the compensation which is provided for in this bill by way of furnishing transcripts. It would seem to me that the provision of the bill is fairly liberal, and that nobody need have any fears that we are establishing any great destructive monopoly that is going to crush out and destroy the liberties of the human race.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired. The question is on agreeing to the motion offered by the gentleman from Washington [Mr. MILLER].

The question was taken, and the Chairman announced that the noes appeared to have it.

Mr. MILLER. A division, Mr. Chairman.

The CHAIRMAN. A division is demanded.

The committee divided; and there were—ayes 5, noes 24.

Mr. GOODYKOONTZ. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from West Virginia offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. GOODYKOONTZ: Page 3, subjoin a new section, to be known as section 4, and reading as follows:

"SEC. 4. In event a party to a judicial proceeding shall desire to take an appeal or apply for a writ of error or certiorari from a judgment, order, or decree, as the case may be, entered therein, and shall procure for use in that connection a transcript of the evidence, he may require the stenographer to incorporate in the certificate a statement of the amount paid therefor, and in event the judgment, order, or decree complained of is reversed, the amount so paid shall be taxed as part of the costs recovered thereon."

Mr. SAUNDERS of Virginia. Mr. Chairman, that amendment is not in order now.

The CHAIRMAN. Does the gentleman make the point of order?

Mr. SAUNDERS of Virginia. I simply call the attention of my friend from West Virginia to the fact that his amendment would cut off any further amendments to the pending section, because he is offering a new section. If we allow the pending section to be passed by, and take up a new one, that would cut off any further amendment to the section so passed by.

Mr. GOODYKOONTZ. I have no desire to effectuate any such result as that.

Mr. SAUNDERS of Virginia. That would be the parliamentary situation. The gentleman's amendment is a new section.

Mr. GOODYKOONTZ. I withhold my amendment for the present.

The CHAIRMAN. Without objection the gentleman's amendment will be temporarily withdrawn.

Mr. SAUNDERS of Virginia. Mr. Chairman, I wish to ask the chairman of the committee what is meant by the words in line 5, page 3? This section provides for compensation for the transcript, 10 cents per folio thereof, and 2 cents per folio for each manifold or other copy thereof "when so made that it can be made with such transcript."

What do those words mean? I can not figure out that they mean anything, and I have not found anybody else who has been able to explain to me their meaning.

Mr. VOLSTEAD. It means simply a manifold or carbon copy made at the same time with the original.

Mr. SAUNDERS of Virginia. But this says "when so made that it can be made with such transcript."

Mr. VOLSTEAD. That is copied from an old statute.

Mr. SAUNDERS of Virginia. Whether the language is old or new, I am trying to find out what it means. If a copy can not be made, there is no use to make any provision about it, and when you have provided that there shall be compensation for copies, of course that provision carries with it the implication that the copies can be made.

I move to strike out that language, "when so made that it can be made with such transcript," because I do not believe that they convey any meaning. I think some words have been left out in that connection.

Mr. VOLSTEAD. Nothing has been left out.

Mr. SAUNDERS of Virginia. What do the words mean, "when so made that it can be made"?

Mr. VOLSTEAD. It is intended to cover this situation: The stenographer might refuse to make a manifold or carbon copy, and insist on getting 10 cents a folio for each transcript. Now, if the second copy is requested at the same time that the original is ordered, so that the manifold can be made at the same time, then 2 cents is all that the stenographer will get for the carbon copy.

Mr. SAUNDERS of Virginia. That is not the way the section reads. The section provides that the fee shall be 10 cents per folio for the transcript, and 2 cents per folio for each manifold, or other copy. That language provides the fee for all copies that may be made. It does not make any difference how the copies are made. The fee is 2 cents for each copy. I have conferred with a good many of my brethren, and I have not found anybody who could explain the meaning of the words quoted.

Mr. WALSH. It simply means 2 cents a folio for carbon copies.

Mr. VOLSTEAD. It means 2 cents a folio for carbon copies made at the same time as the original.

Mr. SAUNDERS of Virginia. What do the words mean, "when so made that it can be made with such transcript"? A copy may be made from the transcript by the use of carbon or some other device, but the copy is not made, so that it can be made.

I move to strike out the words in line 5, "when so made that it can be made with such transcript."

I am heartily in favor of this measure, but these words should be stricken as meaningless, and therefore a blot on the bill.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Virginia.

The Clerk read as follows:

Amendment offered by Mr. SAUNDERS of Virginia: On page 3, line 5, after the word "thereof" strike out the words "when so made that it can be made with such transcript."

Mr. VOLSTEAD. I offer an amendment to that, to strike out the words, in line 5, "so made that." Then it will read:

And 2 cents per folio for each manifold or other copy thereof when it can be made with such transcript.

Mr. DEWALT. Will the gentleman allow an interrogatory there? Suppose it can not be made with the transcript. Then what is the stenographer to get?

The Clerk read as follows?

Amendment offered by Mr. VOLSTEAD to the amendment offered by Mr. SAUNDERS of Virginia: Page 3, line 5, strike out the words "so made that."

Mr. DEWALT. Will the gentleman yield?

Mr. VOLSTEAD. Yes.

Mr. DEWALT. Suppose that it could not be made with the transcript. Then what is the stenographer to receive?

Mr. VOLSTEAD. He will get 10 cents for the transcript. But when it can be made at the same time he will only get 2 cents. That is for the purpose of avoiding a duplicate charge.

Mr. SAUNDERS of Virginia. That raises another difficulty. You do not make copies with transcripts; you make copies from transcripts.

Mr. DEWALT. May I interrupt? It seems to me that what the gentleman desires is that if the copies can be made at the same time as a duplicate of the original, then the stenographer shall receive 2 cents.

Mr. VOLSTEAD. Yes; and 10 cents for the other.

Mr. DEWALT. But if he can not make the copies at the same time he gets 10 cents?

Mr. VOLSTEAD. That is it.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. SAUNDERS of Virginia. I ask for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. JOHNSTON of New York. Will the gentleman yield?

Mr. SAUNDERS of Virginia. Yes.

Mr. JOHNSTON of New York. Ordinarily the transcript means the first original copy that is made by the typewriter machine. The most copies that any stenographer can make for practical purposes are four additional carbon copies.

Mr. SAUNDERS of Virginia. Those are made from the transcript.

Mr. JOHNSTON of New York. No; they are made at the same time.

Mr. SAUNDERS of Virginia. They are made by carbon paper put into the machine.

Mr. JOHNSTON of New York. Yes. Let us assume that there is a case of where there are 10 defendants. You have one transcript and need nine additional copies. If this amendment prevails you will have the first defendant who gets the original transcript paying 10 cents. The next four will be 2 cents and the additional five will be compelled to pay 10 cents for each carbon copy. That is manifestly unfair.

Mr. SAUNDERS of Virginia. That would be unfair. The proper thing to do is to strike out the language that I have moved to strike out. Then every time a transcript is made it would be paid for at the prescribed rate, and for the copies that could be made the stenographer would be paid 2 cents.

Mr. JOHNSTON of New York. If you strike out the language you suggest you are making each manifold copy 2 cents, no matter when it is made.

Mr. SAUNDERS of Virginia. Every time the stenographer made a transcript he would charge 10 cents, but for every carbon or other copy he would get 2 cents.

Mr. MACCRATE. Will the gentleman yield?

Mr. SAUNDERS of Virginia. Yes.

Mr. MACCRATE. Subsequent to the first set of carbons, if new orders for transcripts were given, if you strike out these words, the stenographer will only get 2 cents.

Mr. SAUNDERS of Virginia. Not at all. He would get 10 cents per folio for the transcript and 2 cents for the carbon or other copy.

Mr. MACCRATE. It will be an original.

Mr. SAUNDERS of Virginia. Then, as I have stated, he will get 10 cents.

Mr. MACCRATE. But it will be a copy of the old work.

Mr. SAUNDERS of Virginia. No; it would be another transcript of the stenographic notes. He would need the transcript to make the copy or copies.

Mr. MACCRATE. I suggest that the language in the bill as it is carries out the intention.

Mr. SAUNDERS of Virginia. If anyone can explain that language in the bill, to wit, "so made that it can be made," I would like to hear that explanation. Mr. Chairman, I move to strike out the language suggested in my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota to the amendment of the gentleman from Virginia.

The question was taken; and on a division (demanded by Mr. SAUNDERS of Virginia) there were 21 ayes and 8 noes.

So the amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment as amended.

The amendment as amended was agreed to.

Mr. PARRISH. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Strike out the period at the end of the Bee amendment and insert the following: "And the cost of such transcript of testimony or record shall be paid by the Government."

Mr. VOLSTEAD. Mr. Chairman, there is no objection to that.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The amendment was agreed to.

Mr. VOLSTEAD. Mr. Chairman, I move that all debate do now close——

Mr. RAKER. Mr. Chairman, I have an amendment which I desire to offer, on page 3, line 9——

The CHAIRMAN. Does the gentleman from Minnesota insist upon his motion.

Mr. VOLSTEAD. I move to close debate in five minutes on all amendments to the bill.

The CHAIRMAN. The gentleman from Minnesota moves to close debate on this amendment and all amendments to the bill in five minutes.

The motion was agreed to.

Mr. RAKER. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Page 3, line 9, strike out the word "interested."

Mr. RAKER. Mr. Chairman, I merely want to remark that I think this word ought to be eliminated, because this restricts anyone from going into the public record and getting a copy.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from California.

The amendment was rejected.

Mr. RAKER. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

After the proviso of the Bee amendment insert: "*Provided*, That the official stenographer shall, within 10 days after taking said notes, file with the clerk of the court his official shorthand notes of the trial, testimony, and proceedings so taken by him, and when said notes are so filed they shall become a public record."

Mr. RAKER. Mr. Chairman, I just want to say one word on this. The first amendment just offered by me and rejected is unfortunate. This will help to correct it. There is no court proceedings in any civilized country, at least in America, where anyone is prohibited from getting a transcript of the testimony and proceedings in the case or copy of the record. Let us pass that, however. This amendment now makes the official stenographer's shorthand notes a public record, and in all of the States they are required to file them within so many days after the completion of the taking of the notes, so that anyone may go and look at the notes. They are a public record, and a change of them is just like a change of any other public record. There should be some restriction, some safeguard put around those notes, and some one should have charge of them except the reporter. In every court you will find the notes after being taken are required under penalty to be filed with the clerk and to remain a public record.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California.

The question was taken; and on a division (demanded by Mr. RAKER) there were—ayes 12, noes 24.

So the amendment was rejected.

Mr. VOLSTEAD. Mr. Chairman, I move that the committee do now rise and report the bill to the House with the amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. GOODYKOONTZ. Mr. Chairman, I offered an amendment which was withheld, and I would like to have it acted upon now.

The CHAIRMAN. The Chair thinks that the gentleman from West Virginia, having withheld his amendment with the understanding that he would be permitted to return to it, has the right to offer that amendment now.

Mr. GOODYKOONTZ. I offer the amendment.

Mr. SAUNDERS of Virginia. The gentleman has the right to offer an amendment. So long as any member of the committee wishes to offer an amendment to the pending bill, the committee can not rise.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. GOODYKOONTZ: Page 3, subjoin a new section to be known as section 4, and reading thus:

"SEC. 4. In event a party to a judicial proceeding shall desire to take an appeal or apply for a writ of error or certiorari from a judgment, order, or decree, as the case may be, entered therein, and shall procure for use in that connection a transcript of the evidence, he may require the stenographer to incorporate in the certificate a statement of the amount paid therefor, and in event the judgment, order, or decree complained of is reversed the amount so paid shall be taxed as part of the cost recovered thereon."

Mr. WALSH. Mr. Chairman, I reserve a point of order.

Mr. GOODYKOONTZ. Mr. Chairman——

The CHAIRMAN. The Chair is of the opinion that debate on the preceding section having been closed that therefore debate upon this new section is now closed.

Mr. SAUNDERS of Virginia. Before the Chair finally makes that ruling I would like to make a suggestion to the Chair that the closing of debate on one section of a bill can not possibly operate to close debate on a new section that is not offered by virtue of its relationship to the preceding section, but as an independent section. That is the present situation. This is an entirely new section, not offered as being germane to the preceding section, but as an independent section germane to the bill. There was an intimation made from the Chair some time by another Chairman that when debate had been closed on a section and amendments thereto that this would operate to forbid debate on an amendment to the bill offered as a new section; but that ruling has never been formally made. I would ask the Chair before making his ruling to consider for a moment——

The CHAIRMAN. The Chair would be very much inclined to agree with the gentleman's argument in the first instance, but the Chair thinks he has been foreclosed by a previous decision.

Mr. SAUNDERS of Virginia. Not a well-considered previous decision. I noticed a few days ago that a Chairman of the Committee of the Whole found no difficulty in overruling a former Speaker of the House, Mr. CLARK, in respect to whether a motion to strike out was always in order. Mr. CLARK held time and again that a motion to strike out was always in order and that the question of germaneness did not apply to it. Yet a Chairman of the Committee of the Whole—I think it was Mr. HICKS—overruled Mr. CLARK very positively, so that all antecedent decisions are not by any means being followed.

By what sort of reasoning can the fact that debate has closed upon one section of a bill, operate to foreclose debate on a new section which is not offered as an amendment by reason of any relationship to the preceding section? Upon what principle would such a ruling rest? It is perfectly competent to foreclose debate on a section, and all amendments thereto. That is frequently done. But the very statement of the motion shows that it does not apply to a situation in which an amendment is offered, not by virtue of the fact it pertains to that particular section, on which debate is closed, or any other section of the bill, but by virtue of the fact that it is germane to the bill as a whole and is therefore offered as an independent section. It will be perfectly competent to make this motion to close debate as to this new section after debate proceeds for a while with respect to the same, but I submit, Mr. Chairman, that this proposed section is not related to the antecedent section in anywise. It is therefore not an amendment that depends upon that section, and hence the motion to close debate on that section by its own terms of limitation does not apply to the new section which is now offered simply as an amendment to the bill generally and not to any particular section of the bill.

The CHAIRMAN. The Chair thinks the rulings had better be harmonious.

Mr. SAUNDERS of Virginia. Permit me to make this suggestion. Suppose this amendment had not been offered immediately following this particular section on which debate had been closed but two or three sections had been read and it was then offered as an amendment as a separate and independent section? Would the fact that at some time in the consideration of the bill, debate had been closed on some antecedent section, preclude debate upon the section offered as a new and independent section? That would seem to be the necessary consequence of this ruling, since this section now offered is just as independent of the antecedent section, as it would be if offered after two or three sections had been read. It is in nowise related to the antecedent section, and its parliamentary status is not affected by the motion which has been made in relation to that section.

The CHAIRMAN. That matter will be passed upon by the Chair when it arises.

Mr. GOODYKOONTZ. Mr. Chairman, I ask unanimous consent to speak for one minute on this subject.

The CHAIRMAN. The gentleman from West Virginia asks unanimous consent to speak for one minute. Is there objection? [After a pause.] The Chair hears none.

Mr. GOODYKOONTZ. Mr. Chairman, the amendment I have offered simply gives the right to the prevailing party in the appellate court to have the cost of the transcript taxed as part of his recovery in the appellate court.

Mr. RAKER. Is not that the law now?

Mr. GOODYKOONTZ. No; it is not the law. The chairman of the committee and myself examined the general statutes and we were unable to find any specific authority for the taxing of the cost of the transcript. A condition like this is generally taken care of in the statutory law of the States, although in my own State, West Virginia, the cost of the transcript can not be recovered, according to an opinion of the supreme court of appeals of that State. The question has been ruled on by that court, and an effort has been made to secure the passage of an act through the State legislature to remedy the situation.

Mr. WALSH. As I caught the reading of the amendment, it provides for taxing of costs. That is not, certainly, germane in a bill authorizing several district courts to appoint official stenographers and prescribing their duties. That is a matter for the judicial code. This is a bill to authorize the appointment of official stenographers and to prescribe their duties. Now, the amendment goes into what shall be taxed as costs under certain conditions. I do not think it ought to be affixed to this bill. If it is necessary in proceedings in Federal courts to revise the authority for taxation of costs, that ought to be done in the proper and regular way—should not be injected into a measure prescribing for official stenographers. I make the point of order it is not germane.

Mr. GOODYKOONTZ. Mr. Chairman, this bill goes further than that. It provides for the appointment of a court reporter, and it provides for payment of compensation to him for these transcripts and imposes a liability upon litigants, and it can at the same time make provision for the recovery of the amount that the litigant is required to disburse in the way of costs. It is a new provision of law that the bill carries, and it can very well take care of the incidental matter that I have mentioned.

The CHAIRMAN. The Chair is ready to rule. The bill, as the gentleman from West Virginia [Mr. GOODYKOONTZ] states, does provide for the appointment of a stenographer and for his

compensation, but it nowhere makes provision with reference to the action of the court or any directions as to how the court shall proceed. The last part of the amendment of the gentleman from West Virginia would require the court to tax a certain amount as costs and therefore applies to the action of the court. In the opinion of the Chair, the amendment is not in order.

Mr. VOLSTEAD. Mr. Chairman, I move that the committee do now rise and report the bill to the House with amendments, with the recommendation that the amendments be agreed to and the bill as amended do pass.

Mr. GARD. Will the gentleman yield?

Mr. WALSH. Mr. Chairman, I make the point of order that the motion is not debatable.

The CHAIRMAN. The point of order is sustained. The question is on the motion of the gentleman from Minnesota [Mr. VOLSTEAD].

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. GREEN of Iowa, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 12486) authorizing the several district courts of the United States to appoint official stenographers, and prescribing their duties and compensation, and had directed him to report the same to the House with sundry amendments, with the recommendation that the amendments be agreed to and the bill as amended do pass.

Mr. VOLSTEAD. Mr. Speaker, I move the previous question on the bill and all amendments to final passage.

The previous question was ordered.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them in gross.

The amendments were agreed to.

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

On motion of Mr. VOLSTEAD, a motion to reconsider the vote by which the bill was passed was laid on the table.

Mr. GARD. Mr. Speaker, I make the point of order there is no quorum present.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATIONS.

Mr. WOOD of Indiana, from the Committee on Appropriations, reported the bill (H. R. 12610) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1921, and for other purposes, which was referred to the Committee of the Whole House on the state of the Union and ordered printed.

Mr. GARD. Mr. Speaker, I reserve all points of order on the bill.

CONFERENCE REPORT—ZONING COMMISSION.

Mr. MAPES, from the Committee on the District of Columbia, presented a conference report on the bill (H. R. 6863) to regulate the height, area, and use of buildings in the District of Columbia, and creating a zoning commission, and for other purposes, for printing in the RECORD under the rules.

ADDITIONAL PRINT OF CONFERENCE REPORT ON RAILROAD BILL.

Mr. DEWALT. Mr. Speaker, I present a unanimous-consent request that 1,500 additional copies of the conference report on the railroad bill be ordered printed for the use of the House.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

ENROLLED BILLS SIGNED.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 3202. An act granting leave of absence to officers of the Coast Guard, and for other purposes; and

S. 3722. An act to grant the consent of Congress to the Alfords Bridge Co. to construct a bridge across the Savannah River.

RESIGNATION OF MEMBER.

The SPEAKER laid before the House the following communication:

HOUSE OF REPRESENTATIVES,
Washington, D. C., February 18, 1920.

Hon. F. H. GILLETT,
Speaker House of Representatives, Washington, D. C.

MY DEAR MR. SPEAKER: I desire to tender my resignation as the sitting Member from the fifth Virginia district, this resignation to be effective on February 29, 1920.

Sincerely, yours,

E. W. SAUNDERS.

LEGISLATION FOR THE FARMER.

Mr. LANKFORD. Mr. Speaker, it is so easy for us to get our minds off of the real issue, and among the mass of bills pending here we are apt to lose sight of the all-important task before us. I refer to the task of legislating first, last, and all the time for the producer, and especially for the farmer. If we do this, we can never go wrong. All our success as a Nation springs from the success of the farmer.

How are we to solve the problem of the high cost of living, which, like Banquo's ghost, will not down? The answer is by a greater production. Where must it come from? The answer is from the farmer. I repeat, How are we to solve the question of the high cost of living? The answer is help the farmer and he will solve it.

Every bill here can be determined a good bill or a bad one by answering in our hearts the question, Will it help the farmer?

Let us see if I am right about this. What about universal military training. Will it help the farmers or hurt them for their boys to be forced into a military camp at an immense expense to the taxpayers? I think it will hurt the farmer and thus hurt our Nation, and I am opposed to it for this and other reasons.

What about the thousands of undesirable people that are flocking to our country? Are they helping the laboring man and the farmer? I say no. So I am opposed to filling this country up with people who do not love our Nation, who do not respect our flag, and who are opposed to everything for which our forefathers fought.

What about the railroad bill now in conference? How are we to vote on it? I will tell you: Read it carefully and prayerfully, and as you read search your heart as to each provision with the burning question, What is best for the great mass of common folk, for the laboring man, and for the farmer? Then vote as your conscience leads you and you will not go wrong.

Let us apply the test to one idea in the bill as an example. What about the short-line railroads? Do they help the farmers? Yes; for in many sections they carry the means of transportation to his very door, and in all instances they are the feeders for the big lines and help to perfect our great railroad system which, when properly controlled, means so much to our farming interests.

Then I am in favor of legislation for the short lines, for when I help legislate for the short lines I help legislate for the producer and the farmer.

Legislation for the producer is legislation for the consumer. It is legislation for everybody.

Mr. Speaker, I repeat, the solution of every problem here is found in the answer to the question, Will it hurt the farmer?

A canal has been proposed across a part of my district in Georgia. Am I in favor of it? The answer to this question is found in the answer to the question, Will the canal help the farmers of my district or hurt them? I am first, last, and all the time in favor of a sea-level canal through the low, flat lands near the Okefenokee Swamp, because such a canal would be very valuable not only to our Nation but also would be very valuable to many people of my district for drainage purposes.

But when there is a suggestion to not drain the Okefenokee Swamp, but to dam it and hold water in it and flood and water-soak all the low, flat lands for miles and miles around the swamp, in order to get a lock canal built through the Okefenokee, then I am opposed to the canal.

My very being shudders at the idea of causing hundreds of people in Clinch, Charlton, Ware, Atkinson, Echolls, and other counties to have to give up their homes on account of water being backed up in streams that flow into the Okefenokee.

Mr. Speaker, the people of my district need drainage in several counties adjoining the Okefenokee Swamp. I favor with my whole heart a sea-level canal which would be in furtherance of a general drainage scheme.

I find myself rebelling against any system of locks and dams to hold water for canal purposes. We do not need something to lock the water in the Okefenokee; we need a key to let the water out of the Okefenokee and surrounding territory. I find myself favoring a canal that will help the people of my district; not one to hurt them. Will it help the farmer or hurt him? Answer that question and you will know how I will vote. I voted against the so-called daylight-saving law because it was an injustice to the farmer.

I prepared and secured an amendment to the prohibition bill so as to protect innocent holders of liens and so as to maintain our credit system for the common folks and for the farmers.

I blocked, had stricken from the calendar, and prevented the passage of a bill by Mr. DYER, of Missouri, to try to find a substitute for wooden crossties, because I saw it was an effort to injure the people of my section who own pine timber. I believe that no substitute can be found for wood ties. The price would be run down and yet wood ties used.

Mr. Speaker, when an effort was made last fall to tax potash and run the price of guano up and cost the farmers of Georgia about $20,000 per county per year extra, I fought the measure

by speeches on this floor and in every way I could. I am glad that by the help of others the bill has never passed.

When a bill was up to educate cripples, crippled in factories, I tried to amend it by providing that boys crippled on the farm should also be helped by the Government. My amendment lost by only a few votes.

I am now studying day and night on a bill which I intend to introduce to cut out so much profit of the middle man and bring the producer and consumer closer together and help the farmer get more for his products and help the consumer get better food more cheaply. I hope to offer a bill along this line soon.

Mr. Speaker, we must legislate for the farmer if we want to legislate for our people and for our homes and for our great Nation.

Mr. GARD. Mr. Speaker, I make the point there is no quorum present.

ADJOURNMENT.

Mr. VOLSTEAD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 22 minutes p. m.) the House adjourned until Thursday, February 19, 1920, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. MONTAGUE, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 12351) to extend the time for the construction of a bridge across the Roanoke River in Halifax County, N. C., reported the same without amendment, accompanied by a report (No. 643), which said bill and report were referred to the House Calendar.

Mr. WEBSTER, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 12164) to authorize the construction of a bridge and approaches thereto across the Columbia River, between the towns of Pasco and Kennewick, in the State of Washington, reported the same without amendment, accompanied by a report (No. 644), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (H. R. 12213) authorizing F. R. Beals to construct, maintain, and operate a bridge across the Big Nestucca River, in Tillamook County, Oreg., reported the same with amendments, accompanied by a report (No. 645), which said bill and report were referred to the House Calendar.

Mr. WINSLOW, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 11756) to extend the time for the construction of a bridge across the Connecticut River between Springfield and West Springfield, in Hampden County, Mass., reported the same with amendments, accompanied by a report (No. 646), which said bill and report were referred to the House Calendar.

Mr. BARKLEY, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (S. 3779) to authorize the Ozark Forest road improvement district of Baxter County, Ark., to construct and maintain a bridge across the White River, near Norfork, Ark., reported the same without amendment, accompanied by a report (No. 647), which said bill and report were referred to the House Calendar.

Mr. PARKER, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (S. 3813) to authorize the construction of a bridge across Lake Champlain between the towns of Shoreham, Vt., and Ticonderoga, N. Y., reported the same with an amendment, accompanied by a report (No. 648), which said bill and report were referred to the House Calendar.

Mr. RAYBURN, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 12160) authorizing the construction of a bridge and approaches thereto across Red River at a point a little east of north of Nocona, in Montague County, Tex., reported the same with an amendment, accompanied by a report (No. 649), which said bill and report were referred to the House Calendar.

Mr. FESS, from the Committee on Education, to which was referred the bill (H. R. 12266) to amend an act entitled "An act to provide for vocational rehabilitation and return to civil employment of disabled persons discharged from the military or naval forces of the United States, and for other purposes," approved June 27, 1918, reported the same without amendment, accompanied by a report (No. 651), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. WOOD of Indiana, from the Committee on Appropriations, to which was referrred the bill (H. R. 12610) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1921, and for other purposes, reported the same without amendment, accompanied by a report (No. 652), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Invalid Pensions was discharged from the consideration of the bill (H. R. 5201) granting a pension to James D. White, and the same was referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. VOLSTEAD: A bill (H. R. 12603) to prevent fraud respecting securities offered for sale and to provide a summary proceeding therefor, and for other purposes; to the Committee on the Judiciary.

By Mr. TREADWAY: A bill (H. R. 12604) to authorize the Secretary of War to transfer to the Federal Board for Vocational Education certain machines, appliances, tools, equipment, and other supplies under the control of the War Department; to the Committee on Military Affairs.

By Mr. ROUSE: A bill (H. R. 12605) for the establishment of branch post offices or stations beyond the corporate limits or boundaries of any city or town in which the principal office is located; to the Committee on the Post Office and Post Roads.

By Mr. O'CONNELL: A bill (H. R. 12606) to save daylight and to provide standard time for the United States; to the Committee on Interstate and Foreign Commerce.

By Mr. LEHLBACH: A bill (H. R. 12607) to amend an act entitled "An act making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1919, and prior fiscal years, and for other purposes," approved July 11, 1919, to include members of the Regular Army Reserve and the Naval Reserve Force in the civil-service preference therein provided; to the Committee on Reform in the Civil Service.

Also, a bill (H. R. 12608) providing for the employment by the United States Government of disabled soldiers and sailors of the United States, and prescribing the preference to be extended to them in filling clerical and other vacancies; to the Committee on Reform in the Civil Service.

By Mr. ROGERS: A bill (H. R. 12609) to define the provisions of the Constitution of the United States relating to the inability of the President; to the Committee on the Judiciary.

By Mr. WOOD of Indiana: A bill (H. R. 12610) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1921, and for other purposes; to the Committee of the Whole House on the state of the Union.

By Mr. BLANTON: A bill (H. R. 12611) to meet the present print-paper emergency, by directing the Postmaster General to establish proper rules and regulations limiting the number of pages in newspapers entitled to transmission through the United States mails; to the Committee on the Post Office and Post Roads.

By Mr. IRELAND: Resolution (H. Res. 466) providing for a clerk to the Committee on Disposition of Useless Executive Papers; to the Committee on Accounts.

By Mr. FESS: Joint resolution (H. J. Res. 297) providing for an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. MOORE of Virginia: Joint resolution (H. J. Res. 298) to authorize a select joint committee on the organization, activities, and methods of business of the administrative branch of the Government; to the Committee on Rules.

By Mr. CAMPBELL of Kansas: Memorial of the Legislature of the State of Kansas, opposing the passage of any legislation which shall abrogate the prerogatives of the States guaranteed under the militia clause of the Federal Constitution; to the Committee on Military Affairs.

Also, memorial of the Legislature of the State of Kansas, favoring appropriations to aid States in construction of roads; to the Committee on Appropriations.

Also, memorial of the Legislature of the State of Kansas, asking revision of the immigration and naturalization laws of the United States; to the Committee on Immigration and Naturalization.

PRIVATE BILLS AND RESOLUTIONS.

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

By Mr. ASHBROOK: A bill (H. R. 12612) granting an increase of pension to Emma B. Showalter; to the Committee on Invalid Pensions.

By Mr. BENHAM: A bill (H. R. 12613) for the relief of Adam G. Ritz; to the Committee on Claims.

By Mr. CANTRILL: A bill (H. R. 12614) granting an increase of pension to John H. Slatton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 12615) granting a pension to Robert S. Miles; to the Committee on Pensions.

By Mr. CRAGO: A bill (H. R. 12616) to advance Maj. Charles C. Pierce, United States Army, retired, to rank of colonel on the retired list of the Army; to the Committee on Military Affairs.

By Mr. DOMINICK: A bill (H. R. 12617) granting an increase of pension to Emma F. Buchanan; to the Committee on Pensions.

By Mr. GRAHAM of Illinois: A bill (H. R. 12618) granting a pension to John O'Neil; to the Committee on Invalid Pensions.

By Mr. HICKEY: A bill (H. R. 12619) granting a pension to Thomas N. Swearingen; to the Committee on Invalid Pensions.

By Mr. KENDALL: A bill (H. R. 12620) granting a pension to Catherine Shipley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 12621) granting a pension to Mary Shipley; to the Committee on Invalid Pensions.

By Mr. MAPES: A bill (H. R. 12622) granting a pension to David Funk; to the Committee on Pensions.

By Mr. MOORE of Ohio: A bill (H. R. 12623) granting a pension to David G. Levere; to the Committee on Pensions.

By Mr. RANDALL of Wisconsin: A bill (H. R. 12624) granting a pension to Edwin M. Brainard; to the Committee on Invalid Pensions.

By Mr. SELLS: A bill (H. R. 12625) granting a pension to Robert A. Edwards; to the Committee on Pensions.

By Mr. SMITH of Idaho: A bill (H. R. 12626) for the relief of certain persons to whom, or their predecessors, patents were issued to public lands along Snake River, in the State of Idaho, under an erroneous survey made in 1883; to the Committee on the Public Lands.

By Mr. SMITH of Michigan: A bill (H. R. 12627) granting an increase of pension to Henry J. Patterson; to the Committee on Invalid Pensions.

PETITIONS, ETC.

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

1636. By the SPEAKER: Petition of J. M. Fowler and seven other citizens of Washington, D. C., protesting against the proposed sale of former German ships, etc.; to the Committee on the Merchant Marine and Fisheries.

1637. Also, petition of Mary St. Clair and James E. Haccohoy, of Washington, D. C., opposing the sale of the former German ships; to the Committee on the Merchant Marine and Fisheries.

1638. By Mr. BRIGGS: Petition of Texas Bankers' Association, indorsing Federal farm loan system and urging that no change be made in such system which would in any way impair its efficiency; to the Committee on Banking and Currency.

1639. Also, petition of convention of chambers of commerce, county commissioners' courts, and State highways departments, favoring passage of Sheppard bill and opposing Townsend bill; to the Committee on Roads.

1640. By Mr. COLE: Petition of International Brotherhood of Boiler Makers, Iron Shipbuilders, and Helpers of America, of Bucyrus, Ohio, protesting against passage of railroad legislation that does not control the roads for a period of at least two years; to the Committee on Interstate and Foreign Commerce.

1641. Also, petition of International Association of Machinists, of Bucyrus, Ohio, and Galion, Ohio, and also the Brotherhood of Railway Car Men, of Galion, Ohio, protesting against the passage of railroad legislation that does not provide for Government control for at least two years; to the Committee on Interstate and Foreign Commerce.

1642. By Mr. CULLEN: Petition of Post No. 719, the American Legion, on the U. S. S. *Tampa*, urging an increase in pay for the officers and enlisted men of the Coast Guard, etc.; to the Committee on Military Affairs.

1643. By Mr. DALLINGER: Resolution of Commonwealth of Massachusetts, requesting the United States Shipping Board to cause the steamship *George Washington* to be repaired at the Charlestown Navy Yard; to the Committee on the Merchant Marine and Fisheries.

1644. Also, resolution adopted by the New England Women's Medical Society, indorsing the Interdepartmental Board of Social Hygiene and the United States Public Health Service; to the Committee on Expenditures in the Treasury Department.

1645. By Mr. DONOVAN: Petition of Nylec Post, American Legion, of New York City, relative to pending legislation regarding welfare of the soldiers of the late war; also petition of Prof. Herbert R. Moody, of the College of the City of New York, regarding permanent establishment of Chemical Warfare Service as a distinct part of the National Army; also petition of New York Post, No. 717, American Legion, in favor of Senate bill 3792, relative to reorganization of the Army; to the Committee on Military Affairs.

1646. Also, petition of Rotary Club of City of New York, favoring increase of salary for employees of United States Customs Service; also, petition of E. W. McKinney, president Local 128, National Federation of Federal Employees, to maintain the present bonus to Federal employees; to the Committee on Appropriations.

1647. Also, petition of Adolph Lewisohn, of New York City, relative to lower taxes on profits and incomes; to the Committee on Ways and Means.

1648. By Mr. FESS: Petition of citizens of Rosewood, Ohio, in regard to American Indians; to the Committee on Indian Affairs.

1649. By Mr. LEHLBACH: Petition of sundry citizens of Massachusetts, for passage of retirement bill, House bill 3149; to the Committee on Reform in the Civil Service.

1650. By Mr. LINTHICUM: Petition of Edwin Dixon and John D. Bowers, of Baltimore, Md., urging support of the Dallinger bill in regard to United States customs guards and night inspectors; to the Committee on Interstate and Foreign Commerce.

1651. By Mr. LUFKIN: Petition of the Senate of the State of Massachusetts, relative to the sale of former German ships; to the Committee on the Merchant Marine and Fisheries.

1652. By Mr. MERRITT: Petition of sundry citizens of Fairfield County, in the State of Connecticut, praying for the passage of the so-called Lehlbach-Sterling retirement bill; to the Committee on Reform in the Civil Service.

1653. By Mr. NELSON of Wisconsin: Petition of the Milwaukee County Fair Price Association in reference to the California Associated Raisin Co.; to the Committee on Agriculture.

1654. By Mr. RAKER: Petition of Christof Boscof, of Colfax, and Mr. and Mrs. J. T. Gibbons, of Marysville, both in the State of California, protesting against the sale of former German ships; to the Committee on the Merchant Marine and Fisheries.

1655. By Mr. SMITH of Idaho: Petition of City Council, Gooding; Board of Highway Commissioners of the Gooding highway district; mayor and City Council of Burley; commissioners of the Scenic Better Roads Highway Commission, district of St. Maries; the Wallace Board of Trade, Wallace; citizens of Washington and Fayette Counties; the Rotary Club of Twin Falls; Homedale highway district, Homedale; the mayor and City Council of Rigby; Chamber of Commerce of Gooding; Chamber of Commerce of Coeur d'Alene; Coeur d'Alene Merchants' Association; bureau of roads and bridges of the Chamber of Commerce of Twin Falls; the Rigby Club of Commerce, Rigby; Board of Highway Commissioners of the Potlatch highway district, Potlatch; Board of County Commissioners of Wallace; Board of County Commissioners of Franklin County, all in the State of Idaho, urging Federal appropriations for highway construction, etc.; to the Committee on Roads.

1656. By Mr. TAGUE: Petition of Richard Carter and 26 others of Massachusetts, opposing the sale of the former German ships; to the Committee on the Merchant Marine and Fisheries.

1657. By Mr. TEMPLE: Petitions of Central Labor Union, New Brighton; Local Union No. 115, United Association of Plumbers and Steam Fitters, Beaver Falls; and Local No. 217, International Molders' Union of North America, of Beaver Falls and New Brighton, all in the State of Pennsylvania, protesting against the enactment of the Sterling-Graham sedition bills; to the Committee on the Judiciary.

1658. By Mr. TILSON: Petition of citizens of New Haven, Conn., for the enactment of legislation for retiring civil-service employees; to the Committee on Reform in the Civil Service.

1659. By Mr. WATSON: Resolution of Middletown Grange, No. 684, opposing any change in time or the passage of any bill adopting the daylight-saving plan; to the Committee on Interstate and Foreign Commerce.

1660. By Mr. WINSLOW: Petition of 23 citizens of Worcester, Mass., for the support of House bill No. 1112; to the Committee on the Judiciary.

1661. By Mr. YATES: Petition of J. M. Ocheltree and others of Homer, Ill., urging universal military training; to the Committee on Military Affairs.

1662. Also petition of furniture and casket manufacturers of Chicago protesting against House bill 10615; to the Committee on the Judiciary.

1663. Also, petition of C. F. Wolff & Son, of Chicago, protesting against legislation favoring labor organizations; to the Committee on Interstate and Foreign Commerce.

1664. Also, petition of Belden Manufacturing Co., of Chicago, Ill., urging legislation preventing strikes, in the present railroad bill; to the Committee on Interstate and Foreign Commerce.

1665. Also, petition of Manz Engraving Co., by F. D. Montgomery, secretary, urging the inclusion of the antistrike clause in the Cummins bill; to the Committee on Interstate and Foreign Commerce.

1666. Also, petition of Baltimore Board of Trade, Baltimore, Md., urging a fixed rate of return to the railroads of 5½ per cent as provided by section 6 of the Cummins bill; to the Committee on Interstate and Foreign Commerce.

1667. Also, petition of Cole Manufacturing Co., Chicago, Ill., urging the passage of the antistrike provision in the railroad bill; to the Committee on Interstate and Foreign Commerce.

1668. Also, petition of Stewart Warner Speedometer Corporation, Chicago, Ill., urging the return of the railroads to their owners; also favor the antistrike provisions in the railroad bill; to the Committee on Interstate and Foreign Commerce.

1669. Also, petition of George D. Roper Corporation, Rockford, Ill., protesting against House bill 10543, but approve the adoption of certain changes set forth by the National Association of Railway and Utilities Commissioners; to the Committee on Interstate and Foreign Commerce.

1670. Also, petition of Interstate Iron & Steel Co., Chicago, Ill., urging the restoration of carriers to private control; to the Committee on Interstate and Foreign Commerce.

1671. Also, petition of David M. Yates, 121 North State Street, Chicago, Ill., urging the passage of the antistrike provisions contained in the railroad bill; to the Committee on Interstate and Foreign Commerce.

1672. Also, petition of the Heppes Nelson Roofing Co., 4500 Fillmore Street, Chicago, Ill., urging the return of the railroads to their owners by March 1; to the Committee on Interstate and Foreign Commerce.

1673. Also, petition of Altorfer Bros. Co., Peoria, Ill., protesting against House bill 10453; also against the creation of a transportation board; to the Committee on Interstate and Foreign Commerce.

1674. Also, petition of Chamber of Commerce, Danville, Ill., urging the ratification of the peace treaty at once, with such reservations as will fully safeguard every fundamental principle of the Government of the United States; to the Committee on Foreign Affairs.

1675. Also, petition of 40 Spanish War Veterans, of the Soldiers' Home, Tenn., urging the pensioning of Spanish War veterans suffering from tuberculosis, making the rate $80, the same as given the World War veterans for tuberculosis; to the Committee on Pensions.

1676. Also, petition of Chicago, Milwaukee & St. Paul Railroad, urging the passage of Senate bill 2232 and House bill 6649, providing a national public works department; to the Committee on Expenditures in the Interior Department.

1677. Also, petition of Rotary Club of Canton, Ill., urging the passage of universal training bill; to the Committee on Military Affairs.

1678. Also, petition of Lieut. Reed G. Landis, aviator, New York, urging separate air service, headed by Cabinet officer, controlling all governmental and regulating safety of civilian aviation, maintenance of large merchant air marines as best possible preparedness for defense; to the Committee on Military Affairs.

1679. Also, petition of Cairo Retail Merchants' Association, of Cairo, Ill., urging the passage of the Dial-Madden bills; also opposing the efforts of magazine publishers to secure repeal of zone-system law; to the Committee on the Post Office and Post Roads.

1680. Also, petition of Clinton Commercial Club, Clinton, Ill., urging the defeat of the efforts of publishers to repeal the zone-system bill; to the Committee on the Post Office and Post Roads.

1681. Also, petition of Col. J. R. Lindsay, Forty-second Infantry, Camp Upton, N. Y., urging the passage of the bill giving increase of pay to officers and privates of the Army, Navy, and Marine Corps; to the Committee on Naval Affairs.

1682. Also, petition of Paul Schulze Baking Co., Chicago, Ill., urging the passage of the Gronna bill, terminating the wheat-guaranty period; to the Committee on Ways and Means.

1683. Also, petition of Tonk Manufacturing Co., urging the passage of House bill 10650, and opposing House bill 10615, believing it would be unfair to establish furniture factories in Federal prisons; to the Committee on the Judiciary.

1684. Also, petition of the Moline Branch, National Association for the Advancement of the Colored People, representing 250 citizens of Rock Island, urging the passage of the Dyer bill, or some legislation on lynchings; to the Committee on the Judiciary.

SENATE.

THURSDAY, *February 19, 1920.*

(Legislative day of Wednesday, February 18, 1920.)

The Senate met at 12 o'clock noon, on the expiration of the recess.

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

The VICE PRESIDENT. The Secretary will call the roll.

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

Ashurst	Gay	Knox	Pomerene
Ball	Gore	Lenroot	Ransdell
Beckham	Gronna	Lodge	Sheppard
Brandegee	Hale	McKellar	Sherman
Capper	Harris	McLean	Smith, Ga.
Chamberlain	Harrison	McNary	Smith, Md.
Colt	Henderson	Moses	Smoot
Culberson	Hitchcock	Nelson	Spencer
Cummins	Johnson, Calif.	New	Sterling
Curtis	Jones, N. Mex.	Norris	Sutherland
Dial	Jones, Wash.	Nugent	Thomas
Dillingham	Kellogg	Overman	Trammell
Elkins	Kendrick	Page	Walsh, Mont.
Fernald	Kenyon	Phelan	Warren
Fletcher	Keyes	Phipps	Williams
France	King	Pittman	Wolcott
Frelinghuysen	Kirby	Poindexter	

Mr. DIAL. I desire to announce that the Senator from South Carolina [Mr. SMITH] is detained by illness. I ask that this notice may continue during the day.

Mr. GRONNA. I wish to announce that the Senator from Wisconsin [Mr. LA FOLLETTE] is absent, due to illness. I ask that this announcement may stand for the day.

Mr. McKELLAR. The Senator from Virginia [Mr. SWANSON] is detained by illness in his family.

The Senator from Rhode Island [Mr. GERRY] is detained at home by illness.

The Senator from Virginia [Mr. GLASS], the Senator from Arkansas [Mr. ROBINSON], the Senator from North Carolina [Mr. SIMMONS], the Senator from Kentucky [Mr. STANLEY], and the Senator from Massachusetts [Mr. WALSH] are absent on official business.

The VICE PRESIDENT. Sixty-seven Senators have answered to the roll call. There is a quorum present. The Senate resumes the consideration of House bill 12046, the deficiency appropriation bill, and the Senator from Illinois [Mr. SHERMAN] is entitled to the floor.

Mr. WARREN. Will the Senator from Illinois yield to me for a moment until I present a matter?

Mr. SHERMAN. Certainly.

ENFORCEMENT OF PROHIBITION.

Mr. WARREN. Mr. President, as the committee was about to close its labors upon the pending deficiency appropriation bill, and after we had agreed to a proposed appropriation of $1,000,000 placed in the bill by the House to guard the 59,000,000 gallons and more of whisky that are held in the possession of the manufacturers, and we had also added a new item of $1,000,000 for the Customs Service, to protect the borders of our country against incoming whisky, there came an estimate with a proposed amendment from the Secretary of the Treasury which, while it covered the appropriation of $1,000,000 already included in the bill, was not a real estimate for an item of appropriation, but a matter of legislation covering a large number of pages. It starts in and provides for the handling and disposition of the whisky. It provides for the buying of land and the building of storehouses. It provides for guarding the present storehouses where the whisky is held in bond. It provides for the collection of the customs when the whisky is taken out for sale. It provides how it shall be sold and it carries penalties up to 5 or 10 years' imprisonment, and so forth. It provides for bottling plants at the various places so that it can be bottled and sold.