of undesirable aliens; to the Committee on Immigration and Naturalization.

355. Also, petition of the St. Paul Association of Public and Business Affairs, regarding railroad problem; to the Committee on Interstate and Foreign Commerce.

356. By Mr. DYER: Petition of the Missouri Aeronautical Reserve Corps, pertaining to the future welfare of the Air Service; to the Committee on Military Affairs.

357. Also, petition of Anthony Kessler's Sons, of St. Louis, Mo.; St. Joseph Paper Box Co., of St. Joseph, Mo.; Columbia Transfer Co., of St. Louis, Mo., all favoring 1-cent postage on drop letters; to the Committee on the Post Office and Post Roads.

358. Also, petition of Commodore Barry Branch, Friends of Irish Freedom, commending Congress on rejection of the league of nations; to the Committee on Foreign Affairs.

359. By Mr. FULLER of Illinois: Petition of Father Eugene O'Growney Branch, Friends of Irish Freedom, for House bill 3404; to the Committee on Foreign Affairs.

360. Also, petition of Haddorf Piano Co., of Rockford, Ill., for 1-cent postage on drop letters; to the Committee on the Post Office and Post Roads.

361. By Mr. GALLIVAN: Memorial of the Commonwealth of Massachusetts, on the deficiency in the sugar supply; to the Committee on Agriculture.

362. By Mr. GOODWIN of Arkansas: Petition of Washington-Lee Camp, No. 80, American Legion, of Lewisville, Ark., for legislation to curb anarchy and for punishment of murderers of the soldiers at Centralia, Wash.; to the Committee on the Judiciary.

363. By Mr. LINTHICUM: Petition of sundry ex-service men, favoring passage of Johnson bill, providing for bonus for soldiers, sailors, and marines; to the Committee on Military Affairs.

364. Also, petition of Joseph S. West, of Baltimore, Md., favoring passage of the Cummins bill; to the Committee on Interstate and Foreign Commerce.

365. Also, petition of the Central Fire Insurance Co. of Baltimore, Md., regarding railroad legislation; to the Committee on Interstate and Foreign Commerce.

366. Also, petition of Grace Bell Micheau Post, No. 44, American Legion, for deportation of undesirable aliens; to the Committee on Immigration and Naturalization.

367. Also, petition of M. P. Hubbard & Co. and Home Fertilizers & Chemical Co., both of Baltimore, Md., regarding railroad legislation; to the Committee on Interstate and Foreign Commerce.

368. Also, petition of Stuart, Keith & Co., of Baltimore, Md., favoring 1-cent postage on drop letters; to the Committee on the Post Office and Post Roads.

369. Also, petition of Berndt & Co., of Baltimore, Md., offering amendments to the Esch bill, to take care of refrigerator cars; to the Committee on Interstate and Foreign Commerce.

370. By Mr. MAHER: Petition of Poughkeepsie Lodge, No. 275, Benevolent and Protective Order of Elks, for deportation of undesirable aliens; to the Committee on Immigration and Naturalization.

371. Also, petition of the Private Soldiers and Sailors' Legion, of Washington, D. C., favoring House bill 10373; to the Committee on Military Affairs.

372. By Mr. O'CONNELL: Petition of Poughkeepsie Lodge, No. 275, Benevolent and Protective Order of Elks, for deportation of undesirable aliens; to the Committee on Immigration and Naturalization.

373. Also, petition of St. Paul Association of Public and Business Affairs, regarding railroad problem; to the Committee on Interstate and Foreign Commerce.

374. Also, petition of southern Illinois editors, indorsing the zone postal law; to the Committee on the Post Office and Post Roads.

375. By Mr. STINESS: Petition of the City Council of Providence, R. I., indorsing legislation for a daylight-saving plan for New England; to the Committee on Interstate and Foreign Commerce.

376. By Mr. TILSON: Petition of Wadhams Post, No. 49, Grand Army of the Republic, favoring House bill 9369; to the Committee on Invalid Pensions.

377. By Mr. TINKHAM: Petition of Brookline Lodge, No. 886, Benevolent and Protective Order of Elks, condemning activities of I. W. W. and Bolshevists; to the Committee on the Judiciary.

378. Also, petition of sundry citizens of Brockton, for release of political prisoners arrested during the war; to the Committee on the Judiciary.

SENATE.

MONDAY, *December 15, 1919.*

(Legislative day of Friday, December 12, 1919.)

The Senate met at 11 o'clock a. m., on the expiration of the recess.

CHARLES B. HENDERSON, a Senator from the State of Nevada, appeared in his seat to-day.

CHICAGO (BROADVIEW) HOSPITAL (H. DOC. NO. 518).

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting, pursuant to law, information relative to the Speedway or Broadview Hospital in Cook County, Ill., which, with the accompanying paper, was referred to the Committee on Military Affairs and ordered to be printed.

ANNUAL REPORT OF UNITED STATES SHIPPING BOARD (H. DOC. NO. 435).

The VICE PRESIDENT laid before the Senate the third annual report of the United States Shipping Board, which was referred to the Committee on Commerce.

FINDINGS OF THE COURT OF CLAIMS.

The VICE PRESIDENT laid before the Senate a communication from the Assistant Clerk of the Court of Claims, transmitting, pursuant to the order of the Court, a certified copy of the findings of fact and conclusion filed by the court in the case of Fore River Shipbuilding Co. *v.* The United States, which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had passed a bill (H. R. 8819) to amend an act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 3, 1920, and for other purposes," approved July 11, 1919, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. 1199) to prohibit the purchase, sale, or possession for the purpose of sale of certain wild birds in the District of Columbia, and it was thereupon signed by the Vice President.

PETITIONS AND MEMORIALS.

Mr. McLEAN presented a petition of Local Lodge No. 19, Benevolent and Protective Order of Elks, of Hartford, Conn., praying for the enactment of legislation providing for the deportation of undesirable aliens, which was referred to the Committee on Immigration.

He also presented resolutions adopted at a conference of New England governors held in Boston, Mass., favoring a rank for Maj. Gen. Clarence R. Edwards commensurate with the services rendered by the Twenty-sixth Division, and also that the United States Shipping Board be requested to allocate some of its large ships to the New England owners, operators, and managers of steamers, which were referred to the Committee on Military Affairs.

He also presented a petition of the Yankee Division Veterans' Association, of Willimantic, Conn., praying for the enactment of legislation granting to soldiers a bonus based on the time spent in the service, which was referred to the Committee on Military Affairs.

He also presented a resolution adopted at a conference of New England governors held in Boston, Mass., favoring the return of the railroads to their owners only under certain conditions, which was referred to the Committee on Interstate Commerce.

He also presented a memorial of the Fairfield County Farm Bureau, of Danbury, Conn., remonstrating against the reports by the daily press that the farmers are in sympathy with those who desire to reduce the hours of labor and curtail production, which was referred to the Committee on Education and Labor.

He also presented a memorial of sundry Jewish citizens of Waterbury, Conn., and a memorial of the combined Jewish organizations of Bridgeport, Conn., remonstrating against the treatment of the Jews in the Ukraine and favoring action on the part of the Government to prevent a repetition of these outrages, which were referred to the Committee on Foreign Relations.

He also presented a petition of Thomas Ashe Branch, Friends of Irish Freedom, of New Britain, Conn., and a petition of Local

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Division, No. 7, Ancient Order of Hibernians, of New Haven, Conn., praying for the freedom of Ireland, which were referred to the Committee on Foreign Relations.

Mr. CAPPER presented a resolution adopted by the Council of Clubs and sundry organizations and citizens of Kansas City, Kans., favoring the passage of the so-called Smith-Towner bill creating a Department of Education, which was referred to the Committee on Education and Labor.

He also presented a petition of the board of directors of the Chautauqua Association, of Beloit, Kans., praying for the exemption of Chautauquas from the operations of the so-called luxury tax, which was referred to the Committee on Finance.

He also presented a memorial of sundry citizens of Willard, Kans., remonstrating against the adoption of compulsory military training, which was referred to the Committee on Military Affairs.

He also presented memorials of Prairie View Division, No. 276, Order of Railway Conductors, of Goodland; of Local Lodge No. 1095, Brotherhood of Carpenters and Joiners, of Salina; and of the Central Labor Union, of Dodge City, all in the State of Kansas, remonstrating against the passage of the so-called Cummins railroad bill and praying for a two-years' extension of Government control of railroads, which were ordered to lie on the table.

BILLS AND JOINT RESOLUTION INTRODUCED.

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

By Mr. McLEAN:

A bill (S. 3550) granting a pension to James B. Webster; (with accompanying papers); to the Committee on Pensions.

By Mr. McNARY:

A bill (S. 3551) granting a pension to Harriet A. Erb; and

A bill (S. 3552) granting a pension to Joseph B. Doan; to the Committee on Pensions.

By Mr. JONES of Washington:

A bill (S. 3553) making provision for the irrigation of Indian lands within the limits of the Curlew irrigation district in the State of Washington; to the Committee on Indian Affairs.

By Mr. NORRIS:

A bill (S. 3554) to regulate interstate commerce, to incorporate the Federal railroad company, and for other purposes; to the Committee on Interstate Commerce.

By Mr. POINDEXTER:

A bill (S. 3555) authorizing the Secretary of Agriculture to make a survey of pulp woods on the public domain and to prepare a plan for the reforestation of pulp-wood lands, and appropriating the sum of $1,000,000 for these purposes; to the Committee on Agriculture and Forestry.

By Mr. SMITH of Georgia:

A joint resolution (S. J. Res. 138) authorizing the Secretary of War to furnish material, forces, and help for the construction of a pontoon bridge for temporary use across the Chattahoochee River at West Point, Ga.; to the Committee on Military Affairs.

CHATTAHOOCHEE RIVER PONTOON BRIDGE.

Mr. HARRIS. Mr. President, a serious condition in my State exists on account of a flood which has occurred. The Army engineers are giving assistance to relieve the distress there and it is desired to construct a pontoon bridge across the Chattahoochee River to take the place of the only bridge. I introduce the joint resolution, which I send to the desk and ask to have read.

The joint resolution (S. J. Res. 137) authorizing the Secretary of War to construct a pontoon bridge across the Chattahoochee River at West Point, Ga., and for other purposes, was read the first time by its title and the second time at length, as follows:

Resolved, etc., That in order to provide immediate temporary relief for the city of West Point, Ga., necessitated by the recent flood of the Chattahoochee River, which washed the bridge away at that point, the Secretary of War is hereby authorized and directed to detail the necessary engineers to construct and maintain a pontoon bridge across the Chattahoochee River at West Point, Ga., it being understood that the city of West Point will provide the necessary materials not owned by the Government and loan material and to permit the use of such bridge as a highway, under the supervision and regulation of the mayor or other proper authorities of such city, for such time as the Secretary of War shall determine to be necessary.

Mr. HARRIS. If there is no objection to the joint resolution, and if it may be passed without debate, I ask unanimous consent for its present consideration. The necessity for the legislation, as I have stated, arises because of a flood which has occurred in my State. All the main streets of the city are under water, all the business houses and many residences are surrounded by water. The Army engineers are on the ground and desire to construct a pontoon bridge over the Chattahoochee River. West Point is one of the most important manufacturing cities of our State, and is situated in Troup County, which purchased more Liberty bonds than any county of similar population in the United States.

Mr. SMOOT. Mr. President, as I understand, this is a joint resolution?

Mr. HARRIS. It is a joint resolution.

Mr. SMOOT. Let it go to the committee.

Mr. HARRIS. Very well, but I should like to have it acted upon immediately.

The VICE PRESIDENT. The joint resolution will be referred to the Committee on Military Affairs.

Mr. LENROOT subsequently said: From the Committee on Military Affairs, I report back favorably without amendment the joint resolution (S. J. Res. 137) authorizing the Secretary of War to construct a pontoon bridge across the Chattahoochee River at West Point, Ga., and for other purposes. This is a joint resolution which was introduced to-day by the Senator from Georgia [Mr. HARRIS].

Mr. HARRIS. Mr. President, I ask unanimous consent for the immediate consideration of this resolution on account of the great distress of the people residing in and near West Point, Ga. The only bridge for pedestrians, wagons, and automobiles across the Chattahoochee River at this place was washed away by the floods. As I stated this morning, the town has been under water several days, the water being several feet high in the main streets and in a large number of residences, and there is great distress, and for that reason I sincerely hope that no Senator will object to the passage of the resolution.

There being no objection, the joint resolution was considered as in Committee of the Whole.

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

AMENDMENTS TO RAILROAD-CONTROL BILL.

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

THE AMERICAN MERCHANT MARINE.

Mr. SMITH of Georgia. Mr. President, I desire to ask whether a letter written by the chairman of the Shipping Board has been brought to the attention of the Senate. It is a letter written by Judge Payne, addressed to the Southern Commercial Congress, and presented a week ago to that congress in Savannah, Ga. If it has not been brought to the attention of the Senate, I ask permission that it be printed in the RECORD.

The VICE PRESIDENT. The letter will be printed, if that action has not heretofore been taken.

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

UNITED STATES SHIPPING BOARD,
Washington, D. C.

Statement made by John Barton Payne, chairman of the United States Shipping Board, to the Southern Commercial Congress, Savannah, Ga., Monday, December 8.

Subject: American merchant marine and what must be done to permanently establish it.

The purpose of the Shipping Board is to establish a permanent American merchant marine, ultimately resting on private enterprise and private capital, supported by the grain and cattle growing farmers of the Mississippi Valley and the West and the Northwest, by the cotton growers of the South, by the miners of the East and West, and by the producing labor and capital of our great manufacturing institutions.

If the American people are to maintain their present high standards of living and retain even approximately their present position in finance and trade, our annual surplus must be sold in foreign markets, and we can not do this without ships—ships owned and controlled by Americans flying the American flag into every port of the world.

The war has given us ships. We now have 1,300 Shipping Board ships, operating 41 trade routes, carrying our products under our own flag into the important world ports. By the end of 1920 this number will be increased to some 2,250. Sales of ships to Americans are being made, but the sales do not keep pace with the new launchings.

The problem of establishing a permanent merchant marine presses for solution. No question of Government ownership is involved. The question is not between public and private ownership, but between American and foreign ownership. We want an

established American merchant marine; how it shall be owned is less important. We desire that every ship now Government owned shall be sold to and be privately owned and operated by Americans for Americans, but that will come later. Now, the chief thing in hand is to create a merchant marine. Ships alone will not do this. Indeed, unless we have men, money, and brains in the shipping business ships may become a liability rather than an asset.

How, then, may a merchant marine be established? It can not be done in a day. It can not be done by legislation alone. It requires time, habit, growth, and individual capacity, initiative and enterprise. Many seem to think the Shipping Board can do this by reducing the price of ships and instantly shipping men will spring up and all our ships will be bought by private owners, and, presto, a merchant marine is a fact. This is a serious error. A substantial reduction in price would undoubtedly sell some 300 of our best ships, but this would not touch the problem. Ships can not be sold in large numbers until the country is prepared to buy them. It is not now prepared.

We have only a few successful shipping companies; they, however, insist that we reduce our prices, and we would thereby be able to sell the ships. That this is a fallacy is of easy demonstration, as is also their claim that there is a world market price for ships.

There is no such market price. No other country has ships ready for immediate delivery, hence there can be no world market price. The demand for ships for present use can not be met by building ships for future delivery; the need for tonnage is instant and pressing, and is now greater than ever before, and cargo rates are higher. We alone have ships for sale, ready for spot delivery. Our prices are based on a fair estimate of cost, and a regular schedule of prices and terms is maintained, the same to all persons. When can we build ships cheaper? Certainly there is no indication here or abroad that labor and materials are getting cheaper. How, then, can ships be cheaper? England's costs are rising and she has no ships for sale; indeed, she is in the market to buy ships. You ask, then, "Why do not we sell our ships?" Because we want to sell to our own people for use under our own flag, and our country has not yet begun to think in terms of ships. We have not acquired the ship habit. Who loans money on ships? Whom of your acquaintances would buy a ship mortgage? Are your neighbors sending their boys to sea? These things must come to pass before we are a maritime Nation, prepared to buy over 2,000 ships.

The few American shipping companies now in the market can not and will not buy all our ships. To illustrate: We had a conference recently with one of our largest shipowners. He had urged Congress to require us to reduce our price of $200 to $225 per ton to $125 to $140 per ton. We asked him how many ships his companies would buy at his prices. He replied, "About 100." We then asked how many the entire shipping interests of the country would purchase. He replied, "About 200 more." We then asked, "How does that leave the Government? We sell you 300 of our best hand-picked ships at 40 per cent less than cost. We are left with more than 1,800 ships of all sorts on our hands, which the Government must operate in competition with the better ships of the private owners. That will not solve the problem. Your few companies with 400 or 500 ships do not make a merchant marine adequate to the needs of the country. Must the Government, after selling you its best ships at much less than cost, less than you can possibly build them for, keep the poorer ships, and operate them at this great disadvantage?" He admitted that his plan would not solve the problem and that he was probably looking at it from his own rather than the Government's point of view.

What, then, is the solution?

Congress should let it be understood that it will not compel the board to sell ships. Agitation to this end keeps conditions unsettled and prevents sales. The hope that Congress will compel us to sell the ships in a short time heads buyers off, hoping for low prices.

The Shipping Board must be left to deal with the problem. We are making a number of sales, and the demand at present prices is increasing, but much time must pass before the ships can be sold. No new enterprise, involving billions of capital, was ever established in a day.

My conclusion is, it is not possible to have a successful American merchant marine until the country grows into the ship habit.

(a) The American newspapers and magazines must arouse the thinking men among manufacturers, investment bankers, farmers, and labor to the necessity for a merchant marine; teach the people to think and act in the language of shipping. They must first understand, then they will act. Already great strides are being made. Even now we have 300 firms or companies operating Shipping Board ships. They employ on land and sea nearly 60,000 men in this service. We maintain a recruiting service and schools to teach officers, engineers, and sailors how to do the work and fit them for the sea.

(b) The Congress is giving the matter close attention, and besides the Greene bill should pass a mortgage bill substantially like the one now before the Merchant Marine and Fisheries Committee, to guarantee investors a lien for the purchase price of the ships which will, in financial circles, have as much value as a railroad mortgage, and investment bankers and the public may freely invest in ship securities.

(c) American insurance is essential. Companies must be encouraged and new ones established that we be not dependent on foreign companies for our ship insurance, as we are now. This is of great importance.

(d) The American Bureau of Shipping must be developed and strengthened, to the end that in all technical matters affecting shipping we may be independent of any foreign institution.

Meantime, with the aid of individual operators, we operate the ships with as much profit as unsettled conditions of the time permit, but nevertheless with a profit, and the work of creating an American merchant marine goes on.

These are the high lights.

To accomplish this great task all Americans of all classes must pull together. The tales of the sea must become the gossip of the nursery and of the fireside.

It is not possible for America to hide her head in the sand. Will she attempt a splendid but decaying isolation or will she go down to the sea in ships, and, using her own Panama Canal, unite the Americas, the Orient, and the Occident in friendly trade, and lend her aid toward an enduring peace?

HOUSE BILL REFERRED.

H. R. 8819. An act to amend an act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1920, and for other purposes," approved July 11, 1919, was read twice by its title and referred to the Committee on Military Affairs.

RAILROAD CONTROL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 3288) further to regulate commerce among the States and with foreign nations, and to amend an act entitled "An act to regulate commerce," approved February 4, 1887, as amended.

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

The VICE PRESIDENT. The Secretary will call the roll.

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

Ashurst	Gronna	McKellar	Smith, Ga.
Ball	Hale	McLean	Smith, Md.
Bankhead	Harding	McNary	Smoot
Borah	Harris	Moses	Spencer
Brandegee	Harrison	Nelson	Stanley
Calder	Henderson	New	Sterling
Capper	Johnson, S. Dak.	Newberry	Sutherland
Culberson	Jones, Wash.	Nugent	Thomas
Cummins	Kellogg	Overman	Townsend
Curtis	Kendrick	Page	Trammell
Dial	Kenyon	Phipps	Walsh, Mass.
Dillingham	King	Poindexter	Walsh, Mont.
Edge	Kirby	Pomerene	Watson
Fernald	Knox	Ransdell	Williams
Frelinghuysen	La Follette	Sheppard	
Gay	Lenroot	Sherman	

Mr. WALSH of Montana. I wish to announce that the Senator from Nebraska [Mr. HITCHCOCK] is absent from the city on important business.

I desire also to announce that the Senator from Nevada [Mr. PITTMAN] is absent on account of death in his family.

Mr. McKELLAR. The Senator from Kentucky [Mr. BECKHAM], the Senator from Florida [Mr. FLETCHER], the Senator from New Mexico [Mr. JONES], the Senator from Tennessee [Mr. SHIELDS], the Senator from North Carolina [Mr. SIMMONS], and the Senator from South Carolina [Mr. SMITH] are detained on official business.

Mr. SHEPPARD. I have been requested to announce that the Senator from Virginia [Mr. SWANSON] is detained by illness in his family.

Mr. BANKHEAD. I wish to announce that my colleague [Mr. UNDERWOOD] is detained on official business.

Mr. KING. The Senator from Oregon [Mr. CHAMBERLAIN], the Senator from Montana [Mr. MYERS], and the Senator from Missouri [Mr. REED] are absent on public business.

The VICE PRESIDENT. Sixty-two Senators have answered to the roll call. There is a quorum present. The pending amendment is the amendment of the Senator from New York

[Mr. CALDER]. [Putting the question.] The noes seem to have it.

Mr. CALDER. I ask for a division.

Mr. WALSH of Montana. May the amendment be stated?

The VICE PRESIDENT. The Secretary will read the amendment.

The SECRETARY. On page 76, after line 4, insert the following as a new section:

SEC. 34½. That the first paragraph of section 1 of the act to regulate commerce, as amended, be further amended by striking out the words "natural or" after the second occurence of the word "except" in such paragraph.

Mr. CALDER. Mr. President, there seems to be a lack of information on the part of some Senators as to the purpose of the proposed amendment.

The amendment is offered so as to put natural gas, where it is taken from one State to another, under control of the Interstate Commerce Commission. I have here a letter from a member of the public service commission of New York State, who says:

I believe that a very small amendment to the interstate-commerce law so as to include instead of exclude natural gas would largely solve the problem. The Interstate Commerce Commission would deal with both aspects of the question, first, the conservation of the supply in so far as interstate use is involved for the benefit of the communities which have adapted themselves to the use of this fuel, and, secondly, the just and fair distribution of the remaining supply as among those communities. The States can not do it, but if we had this interstate control provided the individual States might well be left and ought to be left with full and exclusive powers to regulate prices and service of the gas after transportation.

We are in this difficult situation in the counties in New York State bordering on the Pennsylvania line. The gas comes from Pennsylvania transmitted by pipe lines. We have no control over the price or the amount of gas that comes into our State, and the consumers and municipalities of our State are at the complete mercy of the Pennsylvania Gas Trust. The same thing, it seems to me, might occur in other States. I know that in Ohio gas is obtained from West Virginia.

I can not for the life of me understand why the amendment should not be agreed to. There is no Federal control over natural gas at the present time. The Government has supervision over oil that is piped from one State to another, from the producer into the State where it is consumed, and it seems to me that this same supervision should extend to natural gas.

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

Mr. CALDER. Certainly.

Mr. KING. It seems to me that under the law of the State of New York, under the ordinances of the municipalities into which the gas is taken, there is sufficient power now to regulate the price and the standard. I do not understand that because gas may be brought from some other State into a given State the latter does not have power to regulate the price to the consumer. If it is brought into a municipality a franchise must be obtained and the city may impose such reasonable limitations as it may deem necessary. It may fix the price at which the vendor shall supply the gas to the inhabitants of a city.

I do not quite understand the broad statement of the Senator that the State of New York and the municipalities within the State have no control over the gas that is brought into that State from the State of Pennsylvania.

Mr. CALDER. Of course the municipalities in New York State can deal with the Pennsylvania companies, and they can refuse to purchase the gas if they so desire. But the difficulty is that these companies have their pipe lines across the border and laid in the streets of our cities; they have a complete monopoly; they can cut the supply off if they wish, and in fact they have threatened to do so; they can raise the price unduly and we are without relief. We are powerless without this legislation. Our public service commission insist that they have control over these commodities which are purely intrastate, but they have no control where the gas originates in an adjoining State.

Mr. KING. If the Senator from New York will pardon me, conferring upon the Interstate Commerce Commission the power to regulate rates for artificial or natural gas would not compel, as I conceive the law, the producer of the gas in one State to convey it into another State. It is entirely at his option whether he will cross the line and vend his product in some other State. It seems to me the municipalities in which the gas is used may fix the price and may prescribe the terms under which it may be sold within the municipal limits.

I have no doubt that county regulations may be prescribed by the county commissioners with respect to conveying gas along the public highways within the counties in order to reach the municipalities, and I have no doubt that the county officials have authority under the laws of the State of New York to prescribe regulations with respect to the sale of gas within the limits of the counties.

Mr. CALDER. In reply to what the Senator suggests, I desire to call his attention to a brief filed recently in the court of appeals in New York in relation to this very subject:

Recently the Pennsylvania company attempted to raise its rates. A citizen of Jamestown filed a complaint with the New York Public Service Commission, alleging that the new rates were exorbitant. The gas company was directed to answer the complaint. It filed with the commission a demurrer to the jurisdiction of the commission, which the commission overruled. The gas company then sued out a writ of prohibition. Its petition alleges that the attempted regulation of its rates is an unconstitutional interference with interstate commerce.

The writ was granted at special term and vacated at the appellate division.

The matter is now pending in our court of appeals in New York. Then the brief goes on to state the details regarding the matter.

It seems to me, Mr. President, that the transportation of natural gas is a subject which ought to come under the control of the Interstate Commerce Commission. There is no other governmental department that can supervise it. This commodity is now entering into interstate commerce in such large volume that it ought to be regulated in the manner provided by the amendment.

Mr. POMERENE. Mr. President, this question was only incidentally before the Interstate Commerce Committee during its hearings. I think I personally spoke about it at the time. I have had some information bearing upon the subject growing out of some litigation in which I represented the city of Canton some years ago, before I came to the Senate.

In eastern Ohio the larger part of the natural-gas supply comes from West Virginia. Nearly all of the cities in eastern Ohio are supplied, to a greater or less extent, by the East Ohio Gas Co., which gets its supply largely from another company in West Virginia. Both of these companies are subsidiary companies of the Standard Oil Co. The gas is delivered by the West Virginia company—I am not giving its corporate name—to the medial line of the Ohio River. Thence it is received by the East Ohio Gas Co. In the several cities in Ohio gas rates are fixed by the municipalities.

The franchises of the gas companies are granted for a limited period of years. They are now having very serious trouble in securing a sufficient quantity of gas in Salem, Alliance, Canton, Cleveland, and other cities. A large part of the gas produced in Ohio is piped into the State of Michigan and consumed there.

I had hoped that we might have fuller information upon the subject than we now have, but as this amendment has been presented, I expect to vote for it. It seems to me that when gas is delivered from one State into another it is a proper subject for the jurisdiction of the Interstate Commerce Commission. Legally speaking, I see no difference between the Federal Government taking control of pipe lines which are used for the interstate conveyance of oil and of interstate lines which are used for the conveyance of gas. It may be that in the practical administration of the subject there are difficulties which I do not now have in mind.

Mr. KING. Mr. President, will the Senator from Ohio yield to me?

Mr. POMERENE. Yes.

Mr. KING. If it is the function of the Federal Government to take control of gas which is produced in one State and carry it into another, why may not the Federal Government take charge of the coal which is produced in Ohio, in Wyoming, and in Pennsylvania, and regulate its price and distribution throughout the United States? Why may it not take charge of wool which is produced in the States of the West and regulate that; and of salt which is produced in my State and regulate its price and distribution throughout the United States?

Mr. POMERENE. Mr. President, it is a sufficient answer to that question to say that Congress has jurisdiction of the regulation of interstate commerce. Of course, when it comes to the practical application of the rule, we might meet with difficulties as to the several commodities.

I may say that at the first session of this Congress I asked the Appropriations Committee for a small appropriation for the Geological Bureau in order to enable them to make a survey of the gas territory. A similar survey was made in Oklahoma, and, I think, in Kansas, and to the benefit of the people generally in those sections. I felt there should be a similar survey made in the eastern gas fields. The distinguished chairman of the Appropriations Committee considered that it was unwise to take up that subject at that time; and I had it in mind to ask the Appropriations Committee for a similar appropriation when the regular appropriation bills of the session are brought before the Senate.

Mr. CUMMINS. Mr. President, before the Senator from Ohio finishes I desire to suggest to him, especially in view of the question just put by the Senator from Utah [Mr. KING], a phase of

the matter which has troubled me. I make the suggestion to the Senator from Ohio, for I want him to consider the subject from that standpoint.

I have no objection whatever to making pipe lines for the conveyance of natural gas operated between States subject to the jurisdiction of the Interstate Commerce Commission, and that is all that is accomplished by the amendment of the Senator from New York; but the relief which he hopes to secure through the subjection of pipe lines to the jurisdiction of the Interstate Commerce Commission will, in my judgment, be entirely impossible.

We can make pipe lines as common carriers subject in their operation to the Interstate Commerce Commission; that is, we can regulate the commerce in that way; but we can no more prevent the State of Ohio from passing a law which will limit the distribution of natural gas in that State to the State itself than we can prevent the State of Pennsylvania from saying that certain of its coal shall not be transported beyond the State. Much less could we give to the Interstate Commerce Commission the authority to fix the price of the commodity when it is delivered in Jamestown or at any other point in New York. In other words, the whole effect of the amendment, if it were adopted, would simply be to regulate the operation of the common carrier, prescribe, if you please, the terms upon which the gas should be carried through the pipes by the common carrier; but we can no more give to New York the relief which it seeks in this amendment than we could give to the public of my State relief in connection with the price of coal that might be shipped in from Ohio or from Pennsylvania. We can prescribe the terms on which the common carrier shall deliver the commodity, but we can not further interfere with it. I have not believed therefore that the amendment proposed by the Senator from New York would be of any avail whatsoever, so far as the relief which the people of New York seek to secure is concerned. That is my only objection to the amendment.

Mr. POMERENE. Mr. President, I think I am in accord with the views expressed by the Senator. The only thing we can do is to regulate the transportation of the commodity; we can not, I am sure, fix the price of the gas.

Mr. CALDER. Mr. President, I have a brief prepared on this very subject, and, if I am correct in my understanding of it, the decision of the Supreme Court is entirely at variance with the views just uttered by the Senator from Iowa. I quote from that brief as follows:

In West v. Kansas Natural Gas Co. (221 U. S., 229–255), the question was whether a State had a right to prohibit the sale or shipment of its products to other States. Oklahoma undertook to prevent the piping of natural gas out of the State. She claimed that this statute was enacted to conserve her natural resources.

The United States Supreme Court pointed out that the object of the statute was to prevent waste, and politely indicated the selfish nature of the measure. Justice McKenna used this language:

Gas, when reduced to possession, is a commodity; it belongs to the owner of the land, and, when reduced to possession, is his individual property, subject to sale by him, and may be a subject of intrastate commerce and interstate commerce. The statute of Oklahoma recognizes it to be a subject of intrastate commerce, but seeks to prohibit it from being the subject of interstate commerce, and this is the purpose of its conservation. In other words, the purpose of its conservation is in a sense commercial—the business welfare of the State, as coal might be, or timber. Both of those products may be limited in amount, and the same consideration of the public welfare which would confine gas to the use of the inhabitants of a State. If the States have such a power a singular situation might result. Pennsylvania might keep its coal, the Northwest its timber, the mining States their minerals. And why may not the products of the field be brought within the principle? * * * To what consequences does such power tend? If one State has it, all States have it—

And so forth.

The court held that no legislature had the right to provide that such a commodity could not be shipped.

Mr. CUMMINS. Mr. President, I am not asserting that we could pass a law that would prohibit a man who has a commodity to sell from selling it outside of the State. If I was understood as saying that, I was misunderstood. What I was saying is that when we adopt the amendment which the Senator from New York has offered we simply make a pipe line which crosses the boundaries of two States a common carrier and subject that common carrier to the provisions of the act to regulate commerce. It is supposed that every person in Pennsylvania or Ohio who has gas to distribute can put the gas into this pipe line. The common carrier is not the vendor of gas. The common carrier is the carrier of gas, and it has nothing to do with the ownership or the distribution of the commodity except to transport it through its pipe line from one State to another.

Mr. WILLIAMS. Like an oil pipe line.

Mr. CUMMINS. Precisely as on oil pipe line. Every person who has gas to sell, if he is proximate to a pipe line, has the right to connect with the pipe line and put his gas into it. There are great difficulties, of course, in the practical administration of a law of that kind, just as it has been found to be practically worthless in transporting oil from Oklahoma to Texas, and possibly in other communities; but I have no objection on the ground of the difficulty in its operation. I am only saying that when a pipe-line company is made a common carrier and subjected to the jurisdiction of the Interstate Commerce Commission it will not give the relief to the people of New York that the Senator has in mind. That is my judgment.

Mr. CALDER. Mr. President, I know that this will not give complete relief, but I am anxious, as the people of the southern section of New York are, that there should be some tribunal to which we might appeal for investigation, or information, or perhaps relief in some way or other. There is no other place to go to to-day. This whole subject is entirely out of the purview and control of the public-service commissions of the respective States, and it ought to be lodged somewhere.

Mr. THOMAS. Mr. President, I think the last remark of the Senator from New York indicates the motive—and I use the term in the most proper sense—that has inspired this amendment. The Senator says, in effect, that he hopes to bring relief in some way or other to a condition which perhaps is not satisfactory. That position graphically illustrates the tendency to come to Congress to secure relief for every imaginary human ill. If a man is dissatisfied with his gas bill, or with his sugar bill, or with his physician's bill, he at once wants either an investigation or a congressional law, or both, if he can get them. We have been making progress in that direction very rapidly since the outbreak of hostilities, although the tendency was manifest for a good many years before that time.

The Senator from Iowa [Mr. CUMMINS], who is one of the best-informed men upon everything regarding interstate commerce, has, to my mind, very clearly drawn the distinction between the regulation of a carrier and the regulation or control of the product which is the subject of carriage. I do not see how the creation of an added jurisdiction of the Interstate Commerce Commission over the subject of transporting gas from Pennsylvania to New York is going to relieve the unsatisfactory conditions which seem to pervade the communities of southern New York where the commodity is consumed. It will not get relief of some sort, or of any sort, but it will add very materially to the burdens of the Interstate Commerce Commission.

That brings me to the real objection which I have to the amendment.

The Interstate Commerce Commission already has more duties to perform under the law than it is possible for it to accomplish. One reason why the staff of assistants, examiners, experts, inspectors, and so forth, is so numerous is the enormous amount of business which Congress has seen fit to impose upon its shoulders. Now, we propose by this amendment, instead of relieving an overburdened commission, to add to it another duty, which the Senator from Iowa says will be practically perfunctory, in so far as any material benefit is concerned, but which will inevitably result in the establishment of another subbureau on natural gas, with a superintendent and deputy superintendent, a secretary and a deputy secretary, scores of stenographers and their deputies, and perhaps another million dollars of appropriation for the purpose of enabling the Interstate Commerce Commission to oversee merely the carriage of a commodity, but not to provide for its distribution, fix a price upon it, or otherwise exert any authority over the matter of bargain and sale of the commodity.

Mr. President, it seems to me that if this sort of legislation is desirable, we ought not to confine it to natural gas. Artificial gas may equally be produced in Pennsylvania and piped into New York, or vice versa. The sale of cotton and wheat and coal may also form, as it does form, a very large proportion of interstate commerce.

Why not authorize the Interstate Commerce Commission to take charge of and control these very desirable and necessary commodities? Where will we draw the line between the regulation of the carriage of material and the price or distribution of the material itself? The distinction may be very clear in our minds; it is not clear at all to the man who is suffering from prices and who thinks it is a matter of carriage; and if he fails to get the relief which he thinks ought to come through the enactment of a measure of this kind, then his discontent increases, and he either damns Congress for its incompetency and stupidity or else he attributes some improper motive to those having charge of the administration of the law.

I think, Mr. President, that if we are going to create some Federal jurisdiction or authority over this particular subject we ought to put it somewhere else. There are a number of bureaus in the city of Washington whose duties overlap each other. Some time ago, in a magazine article, I read quite an interesting

account of this evil of overlapping of jurisdictions; and the extent to which it goes is remarkable, even under lax conditions such as prevail here in Washington in the administration of public affairs. We have a Trade Commission; we have a number of others that have been created, or if the pinch comes we might shut our eyes and establish one more. The Senator from Utah [Mr. KING] suggests the Bureau of Mines. Then there is the Bureau of Standards; in fact, there are lots of bureaus here. A man can not go on the street and throw a stone without endangering the life or the limb of half a dozen people representing as many bureaus in the city.

The Interstate Commerce Commission is, as I have stated, worked to death. There is no question but that it has the public confidence. It tries and tries very nobly and constantly to carry the obligations that we have placed upon it. It has failed in certain instances. It may break down altogether if we keep increasing the load, and thus adding to its difficulties of functioning.

I hope the amendment will be rejected.

Mr. HARDING. Mr. President, I simply want to add that there is a very great interest in some helpful regulation of natural-gas service; but I can not understand how it is possible to bring about this regulation under any authority of the Interstate Commerce Commission or in any harmony with its service as a transportation division.

The Senator from Colorado [Mr. THOMAS] has just touched upon a rather interesting phase of the matter. The present complaint in Ohio, notably, is due to the waning supply of natural gas and the attending advancement in the rate charged for service. I have never understood that the interstate-commerce function, the regulation of interstate commerce, regulated rates on service to the consumer. The Senator from Colorado brings up the point that we are ultimately to have interstate transportation of artificial gas. That is one of the big enterprises of the very near future. Unquestionably we are to have gas manufactured at the coal mine and translated in pipe lines to the various sections of the country. Moreover, we are soon to have the tremendous enterprise of producing power at the coal mine and transmitting power over State lines to various sections of the country. It opens up a very large question, and I do not think we are going to meet it by shunting off a momentary proposition on to the Interstate Commerce Commission. If the various States are unable to meet this situation with their public-utilities commissions, it ought to be taken up as a separate matter, quite apart from the ordinary transportation of commerce.

I think, therefore, that the Senator from New York will best serve his purpose if he omits shunting this into the railroad bill and insists upon taking it up in a much broader way.

Mr. KING. Mr. President, just a word.

Within the past month I have received three letters which are somewhat paralleled by the position taken by the Senator from New York. One letter was written by a constituent of mine, stating that the price of the lumber which we obtain in Utah from Oregon is too high; that the venders are charging too much; and that inasmuch as it is interstate commerce—that is to say, that it comes to us by a common carrier engaged in interstate-commerce business—the Congress of the United States has power to take up the price of lumber in the State of Utah, or in any of the States to which it is sent, and regulate the prices and regulate the distribution. I received another communication recently because of the acute coal situation. It was written from California, and the contention was made that the mines in Utah and the mines in Wyoming producing coal, which is transported to the Pacific coast, were either charging too much, or that the railroads were charging too much, and that Congress should pass a law regulating the sale and distribution in California, or in those States to which the coal is sent, of coal mined in Utah or Wyoming.

So the spirit seems to be, Mr. President, that Congress has the power not to regulate the instrumentalities of transportation under the interstate-commerce clause of the Constitution but to regulate the sale and the vending of the articles and the commodities that enter into interstate commerce. In other words, Congress is to assume police power and jurisdiction over commerce, over the States, regulate the price of products manufactured and vended within the States or brought within the States and there sold. Of course, such a position is manifestly absurd, and reveals a failure to appreciate the limitations upon the Federal Government and the powers and the duties of the State government.

The Senator from Iowa [Mr. CUMMINS] very properly indicated the limitations upon the Federal Government. There is no complaint here, as I understand the Senator from New York [Mr. CALDER], that the gas company discriminates against some other gas company that is engaged in the transportation of gas from one State to another, or that the instrumentality employed in transmitting the gas is improper; that it is wasteful; that the pipe line is inadequate; or that it is insufficient; or that there should be some regulation of the instrumentality. The theory seems to be that Congress should regulate the price and the distribution within the municipalities of the State of New York.

Mr. POMERENE. Mr. President, I think the Senator, with all due respect, is wrong when he says there is no complaint in the communities where the gas is furnished. The fact is there is a very great deal of complaint. I am not clear that the difficulty can be met in the way indicated by this amendment, but it is charged in Ohio, for instance, that when the municipal franchises are about to expire they threaten to cut off the supply in one town because they can get a larger price in another town, and the consumers are in this way subject to the mercy of the company. I do not say that is true, but I simply say that is the complaint which is being made.

Mr. KNOX. May I inquire of the Senator from Ohio if that is not a matter subject to regulation by your State public utilities commission?

Mr. POMERENE. Mr. President, I think they have tried to deal with it somewhat. I am not entirely clear as to the statutory authority which has been conferred upon the State commission. But the franchises are usually given by the several municipalities themselves, and they set out the terms and the conditions, and the price at which the company shall furnish the gas.

Mr. KNOX. If the Senator from Utah will permit me, it is pretty generally the case that all public utilities of that character are bound to furnish their service without discrimination, either as between individuals or as between communities.

Mr. POMERENE. That power should exist. It did not exist some years ago in Ohio; but whether or not the law has been changed, I do not know.

Mr. KNOX. If I may be permitted to advert to something that the Senator from Ohio said a moment ago, I am not a particle apprehensive about the imminence of our having to pipe the country for the transportation of artificial gas. Most extraordinary things are occurring in the gas fields which the public know very little about. Within the last 60 days, within 15 miles of the courthouse of the city of Pittsburgh, there have been discovered, on what were supposed to be old, worked-out fields, from which no gas had been obtained for years, the most tremendous gushers that have ever been discovered anywhere. When I was there a week or 10 days ago I visited one well that is producing 50,000,000 cubic feet of gas a day, and that comes from finding a new sand. They have gone down deeper, some 3,200 or 3,300 feet, and it is the consensus of opinion among what are known as the gas "scouts" out in that part of the country that all that sand, which extends up the Allegheny River toward New York, will be as fertile, or practically as fertile, as that portion of it which was tapped so near the city of Pittsburgh. Rather an amusing incident connected with it is that we were depending largely on West Virginia, just as Ohio has been depending on West Virginia for her gas, and has been for the last 10 or 15 years. When they turned this 50,000,000 cubic feet well into the pipe lines they blew the West Virginia gas back on them.

Mr. HARDING. Mr. President——

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

Mr. KING. I yield to the Senator from Ohio.

Mr. HARDING. There would be an equalization of rates by the State utilities commission; but what is clearly a shortage of gas as compared with the demand leads to discrimination. If the gas supply were abundant it would be very natural for a gas company to wish to distribute to all the consumers it might enlist; but very recently in my home city there has been promulgated a new schedule, and a rather considerate one, I think. Aiming to serve the greatest number of people in domestic consumption, the minimum price is given to the domestic consumer based on a limited supply. For instance, the minimum price of gas is on 5,000 feet. To the consumer who uses a second 5,000 feet the price is raised, and for each additional 5,000 the rate goes up, until the consumer who used to buy gas in 100,000 lots at 15 cents per thousand now pays about 70 cents a thousand, or something like twice what the domestic consumer pays.

That reflects the waning supply of natural gas, and on the waning supply are based the discriminating prices in various communities of the State. My colleague has pointed out one wrong with which he is very familiar, because it comes from his home county. A local council refused to grant the gas company a franchise at a rate which it thought comparable to other rates existing in Ohio. Instantly the gas company makes the complaint that it has not the gas to furnish them the supply they

desire, and the proposal is to shut them off. No community wishes to be shut off from so desirable a commodity, and then this conflict arises. But I am at a loss to understand, though I am willing to vote for any measure that will bring the thing under a broad consideration, how the Interstate Commerce Commission can become the successful arbiter in this very important question.

Mr. CALDER. Will the Senator yield?

Mr. HARDING. Certainly. If the Senator will permit me, the Senator from Utah has the floor.

Mr. KING. I yield to the Senator.

Mr. CALDER. This amendment does not go as far as I would like to have it go.

The trouble to-day is we have no place to go to get accurate information of all these things, and it seemed to me this is the way, without unnecessarily burdening the commission. New York, Buffalo, Dunkirk, and Jamestown, in New York, get gas from over the border in Pennsylvania. We can be shut off from the supply, if they seek to raise the price and we are not willing to give it, and our public-service commission has no control over that situation. I am trying to get somewhere with it, and while I know it does not quite meet what the Senator from Iowa [Mr. CUMMINS] would like to do, or I would like to do myself, it seemed to me this was a way whereby we could get information about the subject and have some control over at least part of it.

Mr. KING. Mr. President, as I understood the Senator from New York—and his later remarks corroborate his former statement—there is no complaint with respect to the instrumentalities employed in transmitting gas. There is no contention that the corporation that owns the gas pipe lines for transmitting the product from Pennsylvania to New York is discriminating against producers, or proposes to ship or sell the gas in some other State. I can readily perceive the necessity of some legislation, if there is one gas line which is a common carrier for the product of a number of producers from one State to another, and it discriminates and favors A by giving him a rate of transportation in preference to the rate which is given B or C. But that is not the condition here, and the contention of the Senator from New York seems to me to be that the Federal Government, through the power of the Interstate Commerce Commission, whether it has it now or whether we shall confer it upon it, shall fix the prices at which gas shall be sold and the regulations under which it shall be sold in the various States, obviously matters which belong to the States themselves, or to the municipalities into which the gas may be carried by the manufacturer of the product.

Mr. CALDER. Mr. President, under my amendment the Interstate Commerce Commission can not fix the price of gas. I know that. It can fix the price, perhaps, of the transportation of gas, but under this amendment the Interstate Commerce Commission can find out how much gas there is, where the supply is, if it is available for transportation, and all such information. There is no other place to go to-day to get that information that I know of.

Mr. KING. Mr. President, I do not think we ought to devolve upon the Interstate Commerce Commission the fishing excursions which the Senator suggests. This information is readily available. The States may obtain it and doubtless the States are obtaining it as fast as the exigencies require. It seems to me that we ought not now to increase the burdens of the Interstate Commerce Commission. As the Senator from Ohio [Mr. HARDING] said a moment ago, when the power bill is passed, doubtless there will be created some board that will have to do with the question of power, treating it from the interstate-commerce standpoint; and if it becomes necessary then to increase the power of the board which may be created and it becomes apparent that pipe lines that are used in the transmission of gas should be placed under the supervision of some organization or board created by the Federal Government the matter can then be considered in a comprehensive manner.

Mr. SUTHERLAND. Mr. President, I suggest that in addition to the governmental agencies which already exist, and which might properly take control of this subject, there is the Geological Survey; and if the Senator from New York will apply, or his State will apply, to the Geological Survey, he can obtain the data in regard to the whereabouts of gas, the quantity that flows through the pipes, and other information.

It has been mentioned that the gas companies are already resorting to the production of artificial gas. In some sections of my State, and no doubt in Pennsylvania, they are already engaged in the manufacture of natural gas through great producer gas plants. The Government itself has built near Fairmont, in West Virginia, for the primary purpose of securing essential ingredients for the manufacture of explosives, a great producer gas plant, which will inevitably come into the possession of some of the pipe-line companies sending gas from our State to other States. These pipe-line companies, realizing that the supply of gas is constantly waning, are themselves engaged in the enterprise and looking over the field carefully for the purpose of establishing great producer gas plants.

It seems to me that the Interstate Commerce Commission is not the body which would naturally take hold of this subject. It would rather come under the jurisdiction of the Bureau of Mines or the Geological Survey, which already has an immense amount of data relating to the subject. Inasmuch as has already been pointed out by the Senator from Iowa [Mr. CUMMINS] and by the Senator from Utah [Mr. KING] under the interstate-commerce clause of the Constitution the Federal Government can not fix the price of this commodity—and that is the primary complaint which is made—it would be unwise to saddle upon the Interstate Commerce Commission this additional duty when it has no organization at hand ready to take it up.

Mr. CALDER. Mr. President, in the discussion a moment ago the junior Senator from Utah [Mr. KING] inquired whether or not I had any information as to the waste of gas. The remarks of the Senator from West Virginia [Mr. SUTHERLAND] prompt me to call attention to a report of Samuel S. Myer, of Columbus, Ohio, published by the Smithsonian Institution. The statement he made is as follows:

> In tests on over 1,000 oils wells in West Virginia it was shown that the waste of natural gas of each well was at the rate of 12 M. cubic feet a day, or 4,380 M. cubic feet of natural gas a well per annum. There are at least 16,000 oil wells in West Virginia, and at this rate the annual waste from this source would be at least 70,000,000 M. cubic feet of natural gas, equivalent to about one-third of all the natural gas used for domestic consumption in the United States.
>
> In a recent publication there is a picture of a gas well in West Virginia showing two 4-inch lines on a hillside blowing at least 5,000,000 cubic feet of natural gas into the air in order to get oil.

Mr. President, it seems to me that the legislation is meritorious. It would lead ultimately to legislation that would enable the people of the country to know just where the gas was, just how it could be obtained for the country at large, and at a reasonable figure.

The VICE PRESIDENT. The question is on the amendment of the Senator from New York [Mr. CALDER]. He has asked for a division.

On a division, the amendment was rejected.

Mr. LENROOT. I do not think that the railway problem has ever been better stated than in the report of the Interstate Commerce Commission of last year, where they said:

> The fundamental aim or purpose should be to secure transportation that will be adequate for the Nation's needs, even in time of national stress or peril, and to furnish to the public safe, adequate, and efficient transportation at the lowest cost consistent with that service.

Mr. President, in the attempted solution of the problem there are three elements that must be considered—the interest of the investor, the interest of the employee, and the interest of the public. While the Committee on Interstate Commerce has devoted many months to a consideration of the problem, as one reads the hearings one is convinced that the interest of the investor and the interest of the employee constituted by far the major portion of the presentation to the committee. I, of course, most freely acknowledge that the committee, in its consideration of the problem, had primarily in mind the public interest; but, while there are those three items that must be considered—the interest of the investor, the interest of the employee, and the interest of the public—the interest of the public is the first and greatest consideration. In order to secure such a solution as is suggested by the Interstate Commerce Commission, from the public standpoint, two things must be sought—a reasonable rate and efficient service. Those things can not be secured unless there be protection to the legitimate investor and justice to the employees upon the railroads.

There are several plans that have been proposed, and I shall discuss the pending plan in some detail a little later, but I want to spend a little time upon the general outline of some of the different plans that have been proposed. So far as the pending plan is concerned, I can not support the bill, because I believe that if it should be enacted into law it would only further complicate a very badly complicated situation. I do not believe that it would result in efficient railway transportation with reasonable rates or efficient service.

One of the plans that has been presented and concerning which a great propaganda is now going on over the country I wish to analyze at some length. I refer to the Plumb plan of railroad control. I am glad to say that it is apparent that no Senator upon either side of the aisle has been found who is willing to introduce in the form of a bill that plan. It seems to me clear that the plan is destructive of every principle of legislation in the public interest, and yet we are told that there is a fund of $4,000,000 which has been raised to further the plan.

I do not believe that up to this time there has been placed in the CONGRESSIONAL RECORD any analysis or outline of what the plan is.

In the first place the Plumb plan, according to the bill that was introduced in the House by request—and I am glad to say that I understand that the Representative who introduced it has since stated that he himself is not in favor of it—proposes to immediately vest in the Government upon a date to be named in the bill all of the railroads in the country, and a scheme of valuation is laid down in the bill, under which the author of the plan, Mr. Plumb, states that the railroads of the country, while carrying a book investment of about $19,000,000,000, will be acquired at an expenditure of about $12,000,000,000. It is provided in the bill—

That all values not included in the grants made in the charters of the corporate owners or the laws under which they operate or in the grants made to individual owners shall be regarded as values retained by the public in the public highways of the United States and not subject to compensation.

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

Mr. LENROOT. Certainly.

Mr. KING. I do not want to interrupt the thread of the observations which the Senator is making, but I understood the Senator a moment ago to say that an analysis of the Plumb plan had not been called to the attention of the Senate.

Mr. LENROOT. If I am mistaken in that, I wish the Senator would correct me.

Mr. KING. The Senator from Ohio [Mr. POMERENE] wrote a very full and complete analysis of the Plumb plan and transmitted it as a letter to some of his correspondents in the State of Ohio. I deemed it so important a contribution to the subject that I asked that it be inserted in the RECORD, and it was placed in the RECORD sometime ago.

Mr. LENROOT. I am very sorry that it escaped my attention, and I am very glad that it has been done by the very able Senator from Ohio. The author of the Plumb plan seems to be of the opinion that elements of value can be fixed by legislative declaration.

Of course, Congress can not fix the basis of value nor determine the elements of value. That is not a legislative question. That is a judicial question solely. The committee in the pending bill has recognized that by not attempting in any way to determine or fix elements of value. There can be only one object to be secured in any legislative declaration of value, and I think that something can be accomplished by such legislative declaration sometimes, and that is in the way of negotiation in securing an agreement between the owners of the railroads and the Government if the Government is to purchase, or as to what elements are to be considered in those negotiations.

But, of course, if the railroads are not satisfied with those elements as the basis of valuation, the courts are, and must be, open to them, and a legislative declaration has no bearing upon the subject. So that when Mr. Plumb says that under their plan the railroads of the country can be secured for the sum of $12,000,000,000 it is not true under his plan more than under any other plan. The amount to be paid for the railroads would be the same under the present pending Senate bill as it would be under the Plumb plan, because eventually that question must be determined by the courts and not by Congress.

Mr. POMERENE. May I offer the suggestion that Mr. Plumb has also suggested that the roads could be bought and paid for by Government bonds at 4 per cent?

Mr. LENROOT. I am just coming to that. That is my next point.

It is next provided that to pay for the roads—

That any capital sum payable under an agreement or award made by said appraisement board to said owner, or under any final judicial review of such award, or for new extensions and capital improvements directed to be made by such appraisement board, shall be discharged in whole or in part by cash payments, or, if the Secretary of the Treasury so direct and said owners shall so agree, by the issuance to such owners of bonds as hereinafter provided of a par value not exceeding in amount the total amount of such agreement awarded by the appraisement board or by judicial determination.

That for the purposes of paying such amount of compensation so determined, the Secretary of the Treasury, with the approval of the President of the United States, is hereby authorized, from time to time as required, to issue bonds in such form and subject to such terms of issue, conversion, redemption, maturities, payments, and rate and time of payment of interest as the Secretary of the Treasury may prescribe.

As the Senator from Ohio [Mr. POMERENE] has suggested, it is contended by the advocates of the plan that the bonds can be issued at a 4 per cent rate. When one remembers that the last issue of Liberty bonds, appealing to the patriotism of the people of the country, were required to be issued at the rate of 4¾ per cent, and when one contemplates an issue of bonds here of anywhere from $12,000,000,000 to $16,000,000,000 or $18,000,000,000, of course it is idle to say that any such rate could be secured. No one can say, of course, how high a rate would be necessary in order to float such an issue of bonds, but I wish to call attention to the fact that the bill places in the Secretary of the Treasury unlimited power to fix the rate of interest. If my recollection serves me correctly, even during the stress of war Congress always prescribed the maximum rate upon bonds which might be issued by the Secretary of the Treasury, but in the pending bill there is delegated to the Secretary of the Treasury the right to issue bonds with an unlimited rate of interest, and he might issue them at 6 or 8 or even 10 per cent, if he sees fit, something that Congress has never heretofore authorized, and something which I hope Congress never will authorize, to place any such authority or power in the hands of the Secretary of the Treasury.

Mr. KELLOGG. Mr. President——

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

Mr. LENROOT. I yield.

Mr. KELLOGG. I should like to call the Senator's attention to the fact, in connection with his reference to the question of the rate of interest, that Government bonds which make a return to the investor of 4.70 or 4.75 per cent are exempt from all taxation except surtaxes; and it is, therefore, very doubtful if the Government could sell even a 5 per cent Government bond at par subject to State and Federal taxation, as railroad securities are now.

Mr. LENROOT. Of course, under present conditions it is very clear that the rate of interest would have to be at least 5 per cent in order to sell the bonds.

The next provision of the bill is the one relating to the creation of a sinking fund to pay off bonds:

There is hereby appropriated out of the operating revenues of the national railways operation corporation, to be paid to the Treasurer of the United States, the sums provided for in paragraph (c), section 2, article 3, of this act, or out of any money in the Treasury not otherwise appropriated, an amount equal to 1 per cent per annum upon the aggregate amount of bonds outstanding on July 1 of each year.

Mr. President, my attention has just been called to the fact that some Senators think I am discussing the pending bill. I am very sure that there are not many Senators who will so understand, for there is nothing of the kind that I am now discussing in the pending bill. I am discussing, let me again say, the so-called Plumb plan of railway control as embodied in a bill not introduced in the Senate but in the House of Representatives.

The appropriation is here made directly out of the Treasury—an annual appropriation—of 1 per cent of the amount that may be issued; and even under the lowest possible minimum amount it is herein provided that there may be an annual appropriation of $120,000,000 out of the Treasury for a sinking fund.

An appraisement board is created by the bill, consisting of the members of the Interstate Commerce Commission and three members of the directors of the railway operating corporation.

I next wish to call attention to the fact that this appraisement board is made superior to the Congress of the United States, and under the bill the United States Government is controlled and bound by the action and the decision of the appraisement board as to appropriations that Congress must make. Section 10 of the proposed act provides—

That the appraisement board may approve and the Federal Government shall build new extensions and capital improvements, including the construction of railroads along such route or routes as the national railways operating corporation shall designate and locate, with the necessary branch lines, feeders, sidings, switchings, and spurs.

Mr. President, to restate this proposition, we have the board of directors of a corporation having no responsibility, having no capital except that which Congress itself appropriates, given the right to determine when and where railroads shall be built, and whenever the appraisement board approves such determination, Congress, without inquiring into the merits of the proposition, is obligated to furnish the millions and, perhaps, billions of dollars that may be necessary to construct the roads.

The next provision we find is this:

And the appraisement board shall provide for the construction and extension of light railways, or less than standard-gauge railways, bridges, ferries, harbors, docks or piers, canals, or inland navigation facilities, which it deems necessary, and shall classify railroads in such manner as the board of directors shall deem fit.

In other words, there is delegated to the appraisement board the right to order the Congress of the United States to appropriate money for the improvement of harbors wherever this board may designate and to such an amount as the board may designate, and to construct bridges, terminal facilities, and purchase canals; in fact, there is reposed in the board all of the power which Congress now has over these subjects, Congress being left only the obligation to appropriate the money which the board may ask for. This subordinate body, its officials ap-

pointed in part by other parties, is made superior to the Congress of the United States and to the Government itself.

Another authority which is given to the appraisement board is that, with the approval of the President of the United States, it may "withdraw, locate, and dispose of, under such rules and regulations as it may prescribe, such area or areas of the public domain along the line or lines of proposed new railways for town-site purposes as it may from time to time designate."

Then the very next section is one that I am very sure will be of interest to every Western State, for it is provided that as to all public lands hereafter entered there shall be reserved to the United States a right of way over such lands for the construction of railroads, telegraph, and telephone lines. In other words, a homesteader to-morrow, if this bill should become a law to-day, might acquire a homestead, and years hence his farm be practically destroyed by a railroad going through it from one corner to the other, yet not a dollar could he receive in damages.

I am now coming to the really vital part of the bill. Ordinarily the matters of which I have spoken would be considered vital, but they are of very minor importance compared with the provisions of the bill to which I shall now address myself. After the railroads have been purchased with the money of the people, or the obligations of all of the people, it is provided that a corporation shall be created. It is then provided that the railroads of the country shall be turned over to this corporation controlled by the employees of the roads for operation, without any responsibility to the Government, without any obligation to the Government. This is provided through the means of a corporation to be known as the national railways operating corporation, which is to be managed by a directorate consisting of 15 members. Five of the members are to be appointed by the President, representing the public, and 10 of the members are to be selected by the employees of the roads divided into two classes, designated in the bill as official employees and classified employees, but nevertheless all of them employees of the roads. Where the line would be drawn as to who constitute "official employees" and who constitute "classified employees" I do not know, nor do I believe that there is any standard created at this time by which such a line could be drawn. I have understood, however, that it is contemplated that there would be about 20,000 so-called "official employees" who would come within one class and the remainder of the railway employees would come within the other class. So that we have here the railroads of the country bought by the people, paid for by the people, but their management turned over to a corporation in which the public, the owners of the properties, shall only have a representation of one-third, while the employees of the corporation shall have a representation of two-thirds. I believe that employees should have a voice in management, but they should not have a controlling majority.

Mr. President, in this country the endeavor to secure a transportation system not primarily in the interest of the owners of the roads but primarily in the interest of the public has involved a long struggle. It has been a long struggle, lasting nearly half a century now, to secure legislation denying the right to the owners of the roads, the stockholders, to exact any rate they thought fit to charge and with no limit upon the dividends they might receive. That struggle resulted in the final enactment of the interstate commerce act as we find it to-day, the purpose of which was to secure reasonable rates and prevent excessive returns to the owners of the railroads. It was a special privilege that was fought during that extended battle, and here, after that battle has been won, we find exactly the same kind of a special privilege insisted upon, not by the stockholders but by the employees of the railroads of this country.

Mr. POMERENE. Mr. President, if it will not interrupt the Senator, I should like to make a suggestion.

Mr. LENROOT. I yield.

Mr. POMERENE. I should like also to observe that the provisions of this scheme are not limited to the railroads themselves, but the bill as presented authorizes the purchase of trucks and drays and all manner of vehicles that may be necessary to convey commodities from the manufacturer or producer to the railroad and from the railroad to the consignee.

Mr. LENROOT. That is true; it proposes to extend the system of transportation so that the product to be transported shall be called for at the factory or the home of the shipper and delivered to the ultimate consignee, which, of course, again would involve many millions of dollars, indeed running into the billions, aside from the value of the railroad property itself. But while two-thirds of the directorate is composed of employees of the roads, when it comes to actual operation the author of the bill has been careful to see to it that even the one-third of the directorate representing the public shall be squeezed out, for it is provided—

> That the board of directors shall, for the purpose of operating and carrying on the business of said corporation, divide into operating districts the territory of the United States and its possessions and shall in each such district constitute a district railway council of —— members, which shall be elected in the following manner: One-third of the members of the council shall be elected by the classified employees within their district below the grade of official employee, one-third of the council shall be elected by the official employees within said district, and one-third, of whom one shall be designated as chairman, shall be appointed by the board of directors.

Now, then, let us see where the public comes in. Two-thirds of the management, it is provided here, shall be appointed directly by the employees, and then it is provided that the other third shall be appointed by the directorate; but the employees having a two-thirds majority of the directorate, of course one can easily see that the entire management of the operating regional systems will be in the hands of the employees, because the two-thirds majority in the directorate will have the power, and undoubtedly would exercise it, to see to it that the one-third appointed by the board of directors shall represent the employees and not the public.

As to the powers of this corporation, under section 4 it is provided—

> That the corporation is hereby empowered, authorized, and directed, for the period of its existence as herein set forth, to lease, operate, and maintain as a single system all of the railway lines and transportation properties of the United States and its possessions, and to do and perform every act, thing, or function which the Government of the United States could do or perform were it exercising the function of operating said railways, subject, however, to the limitations imposed by this act.

In other words, all of the powers of the Government are attempted to be delegated to this corporation, controlled by the employees of the roads, with no other restrictions than are found in the bill itself.

As to this board of directors, while it is provided that there shall be created wage boards, as in the pending Senate bill, one-half of whom shall be selected by the employees and one-half of whom shall be selected by the directors of the corporation, it would naturally follow that those wage boards would be constituted wholly of representatives of employees. The public would have nothing to say about the constitution of the wage boards, because when the employees constitute two-thirds of the directors of the corporation and they are empowered to appoint one half of the membership of the board and the employees directly the other half, it follows just as surely as night follows day that all of the members of these wage boards would be men representing the employees upon the roads, and there is no limitation upon the wages that can be fixed by these boards. The board of directors has the final determination of the matter of wages, and, of course, the employees having a two-thirds majority upon the board, the very natural and inevitable result would be that the wages would be fixed at the very highest point possible; and it would become the duty of the Interstate Commerce Commission, as it is its duty to-day wherever wages are fixed by a tribunal created by law with authority to fix wages, to permit such rates to be charged to the public as will pay all operating expenses, including whatever the wages may be.

But it is said that this is guarded against by the provision for a division of net earnings; that inasmuch as the official employees receive twice the rate of dividend which it is provided in the bill that the classified employees shall receive, therefore the directors representing the official employees would never permit an unreasonable wage, because it would reduce the net earnings of the corporation if they did that, and their desire to secure large dividends would compel them to act, not upon the side of the classified employees, but upon the side of the public.

Let us see, Mr. President, how that would work out.

In the first place, I feel sure that there would be no dividends; there would be no net earnings to divide; and why? What incentive would there be, under this plan, for the official employees to keep wages down to a reasonable level in order that they might secure dividends?

Let us assume that there were some year net earnings to the extent of $500,000,000. Under the terms of the bill that $500,000,000 would be divided equally between the Government of the United States and the employees of the roads, so that there would be $250,000,000 to divide, and then it is provided that the official employees shall receive twice the rate of dividend that the classified employees will receive. Mark you, Mr. President, it is not an equal division of that $250,000,000 between the official employees and the classified employees. If it were that, there might be some argument that the official employees would be interested in securing as large net earnings as possible; but the provision is only that the official employees, according to

the pay roll, shall receive twice the rate of dividends that the classified employees receive.

Now, let us assume that there will be 20,000 official employees, and that all the balance of them are classified employees. Assuming that there are 2,000,000 classified employees and 20,000 official employees, let us see whether the official employees would be more interested in increasing wages than they would in securing net earnings for the payment of dividends.

Assume that the average wage of the official employee is $4,000 per year and that the average wage of the classified employees is $2,000 per year. If there was this $250,000,000 to divide, the classified employee would receive at the end of the year $122.50, while the official employee would receive as his dividend $245. But at the end of the year the directors representing the classified employees would naturally say to their associates representing the official employees upon the directorate, "Why should we give this $250,000,000 to the Government? Let us absorb all of this in wages, and if you will vote with us to increase the wages of the classified employees by twice the amount of the dividend they receive this year we will agree that we will vote with you to increase your salaries by four times the amount of the dividend." Human nature, Mr. President, is the same with railway employees that it is with anyone else; and does anyone think that temptation would not be so strong that it would not be accepted? And what would be the result?

The next year the salaries of the official employees could be increased $980 a year, four times the amount of the dividend they received, the salaries of the classified employees could be increased $250 a year, twice the amount of the dividend they received the year before, and absorb the $500,000,000, and there would not be a penny for the Government to receive.

Would they do it? Will a duck swim? Of course it would be done, and it is no reflection upon the railway men when I say that they would do it.

So it is fair to say that there would be no net earnings under this plan. But it is provided in the bill that this interest upon the twelve or fifteen billion dollars, or whatever the amount may be, that is paid for the railroads, is not an obligation of this railway corporation unless they have net earnings after paying such wages as they see fit to fix for themselves and such operating expenses as may naturally occur. If there is any money left, then it is paid to the Treasury to pay the interest upon the bonds; but if there is no such money, the people of the United States, in addition to paying for the railroads or issuing bonds for the railways, must themselves pay the interest on the bonds out of the Treasury of the United States.

Mr. POMERENE. Mr. President——

Mr. LENROOT. I yield.

Mr. POMERENE. Can the Senator from Wisconsin give an estimate as to the amount of money which probably would go into the United States Treasury?

Mr. LENROOT. No; nor can the Senator from Ohio.

Mr. POMERENE. Mr. President, I would not even undertake to do so.

Mr. LENROOT. This, Mr. President, is a very rough outline of what is known as the Plumb plan of railway control. To my mind there is only one difference between this plan and the Bolshevist soviet plan in Russia with reference to taking over railroads and other industries. The difference can be stated in a word. Over in Russia they boldly take the property and manage it themselves without paying anything for it. Under this plan they take the property and manage it themselves, but have the people pay for it. Otherwise, I can see no distinction between the two systems.

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

Mr. LENROOT. I yield.

Mr. KING. The Senator might add that in Russia they have one advantage which they claim under the present system—namely, they send the commissaire around from time to time, and he can compel the men to do their duty.

Mr. WATSON. Mr. President, I should like to ask the Senator which of the two plans, as described, he prefers?

Mr. LENROOT. Well, I will say that this plan does present a constitutional method of acquiring railway property, and does present a constitutional plan for the operation of railway property. If the representatives of the people in the Congress of the United States shall utterly forget and disregard the interests of the people of this great country, shall forget and disregard the interests of the farmer and every other class, and remember only the desires of one class, and extend this special privilege to them, of course they can do it; but when it is done, the beginning of the end of our institutions in this country is in sight.

Mr. WATSON. In other words, which while nominally constitutional, if pursued would overthrow the Constitution.

Mr. LENROOT. It would. And it is stated by the advocates of this plan, Mr. President, that they expect when once applied to the railroads it will be generally applied to every phase of activity in the country.

Let me just take a moment to apply it to the most important industry that we have in this country. Let us apply it to the farms of the United States. Under this plan ownership of all the farms of the United States would be vested in the Government, and then it would be provided that bonds should be issued, the obligations of all of the people of the country, to pay for these farms; and the Government of the United States having secured title to all the farms of the country would then do what? Turn them over to the farmers, the original owners, to operate? No. Turn them over to anybody with any obligation or responsibility to operate? No. Under the Plumb plan the farms of the United States would be turned over to the hired men upon the farms to operate, with the right expressly given to them, if they chose to do it, to take the entire product of the farm as compensation for their own services, and the people of the United States could pay the interest out of the Public Treasury upon the bonds that were issued to pay for them.

Mr. CUMMINS. Mr. President, if the Senator intends to mention the point I am about to suggest, I hope he will not allow me to refer to it; but if he does not, I ask what provision is made in the Plumb plan for the additions and betterments and extensions which will necessarily occur in developing our railroad system? I think everybody agrees that we must spend for many years to come from five hundred million to a thousand million dollars each year in order to keep our railroads in a position to render adequate transportation service. I would be glad if the Senator from Wisconsin would mention that point if he has it not already in mind to refer to it later.

Mr. LENROOT. I will be very glad to state what the plan contemplates. It contemplates that this irresponsible railway corporation, without capital except such as Congress appropriates, shall have, in the first instance, the right to determine when and where extensions shall be made and improvements and betterments constructed, and that whenever the board of appraisement approves it, it becomes the duty of the Congress of the United States to appropriate whatever sum is found by these bodies to be necessary out of the Public Treasury.

Mr. POMERENE. Mr. President, may I make another suggestion.

Mr. LENROOT. Certainly.

Mr. POMERENE. At the present time, with probably about eighteen billions of United States bonds outstanding, most of which are nontaxable, all of which are nontaxable except under the supertax, these bonds are now selling at a discount, down perhaps as low as 94 cents on the dollar.

Mr. SMOOT. Lower than that.

Mr. POMERENE. Lower than that, I am advised. I have not seen the last quotations.

Mr. SMOOT and Mr. GRONNA. Ninety-two and a fraction.

Mr. POMERENE. I am advised by the Senator from Utah and the Senator from North Dakota that they are selling down as low as ninety-two and a fraction. If on top of that you were to sell twelve or fifteen billion dollars worth of railroad bonds, even though they are guaranteed by the United States, what would be the effect upon the market value of the other bonds?

Mr. LENROOT. I will say that under the Plumb plan they are not guaranteed by the United States; they are direct obligations of the United States.

Mr. POMERENE. The Senator is right.

Mr. POINDEXTER rose.

Mr. LENROOT. Mr. President, I feel very certain that when this plan is once understood by the people of the country it will not receive any support, even from organized labor, outside of the railway employees themselves, because a proper title of this plan would be "a plan to further increase the high cost of living," for that would be the inevitable result of the operation of the plan. I have such confidence in the judgment and the patriotism of the railway employees of this country that I am satisfied that when they thoroughly understand the viciousness of this plan they will not ask any such unjust special privilege for themselves. I yield to the Senator from Washington.

Mr. POINDEXTER. Mr. President, I was just going to suggest when I rose that when the removal of all the ordinary safeguards for the proper conduct of business is considered, and the effect of the establishment of a railway system such as provided in the so-called Plumb plan, the removal of those safeguards and the removal of the incentive to the proper conduct of business, would inevitably lead to the paralysis of the business itself and consequently the destruction of the employment

of these men; and when it is thoroughly considered, the railway employees themselves would not be in favor of it.

Mr. LENROOT. I think that is true. So much for the Plumb plan. Now a word, Mr. President, with reference to the general plan that is now pending before the Senate. I wish to discuss it in detail a little later, and I shall touch upon some of the legal questions involved, which are very serious. But for the present I merely wish to speak of the general outline of this plan, and why, in my judgment, it does not offer a solution of the railway problem.

Under this plan it is contemplated that the transportation business of this country shall be conducted by between 20 and 35 independent systems, controlled, so far as the directorate is concerned, by the stockholders themselves; and it is urged, as against unification and complete consolidation, which I am in favor of, and which I believe offers the only correct solution, that this is necessary in order to preserve competition among the railroads and secure efficiency of service.

Mr. President, I have always recognized that through competition we do secure greater efficiency in service. Of course, so far as rates are concerned, there is no competition to-day, and has not been for many years, and there is the best of reasons why there should not be. But if the competitive system is to continue—and it is contemplated in this bill that it shall continue—the only possible purpose of the continuation of the competitive system is efficiency in service. And unless there be an incentive to secure that efficiency, competition will be nothing but a name, and very much more injurious to the public than any possible dangers connected with complete unification. This bill, as we all well know, practically removes all of the incentive to efficiency.

Assuming that when the plan is completed we will have 25 different systems of railroads in this country, when it is remembered that two-thirds of all of the earnings of a railroad in excess of 6 per cent is taken from the railroad by the Government, what becomes of the incentive to efficiency? What becomes of the incentive to compete, and, in order to secure the business, render the best possible service?

Let me give an illustration: Take the Pennsylvania road in competition with the Baltimore & Ohio, both in the same group. When the Pennsylvania Road has earned its 6 per cent, possibly on the 1st of July, around the middle of the year, will you tell me what great incentive there is to efficiency, when they know that two-thirds of all that they will thereafter earn, with the greatest economy, with the greatest efficiency, will be taken from them by the Government? Is there any incentive to efficiency with that kind of a situation? No. We have lost by that proposition the benefits of competition and gained nothing.

We have lost more than that as against a unified system of railroads throughout the country, in that we can not hope to secure the conduct of the railway business of the country as a business proposition in the interest of the investors, the public, and the employees, until we remove the temptation to regard railroad properties as chips in a poker game. So long as we have with us the opportunity for gambling and speculation, the wrecking of railroads, and then building them up so that a few men may gain vast fortunes for themselves, just so long will the railroad question never be solved in the United States.

Mr. President, so far as the outline of that plan is concerned, this is my objection to it. By the very terms of the bill the efficiency that is sought to be secured through competition is done away with by the taking away of excess earnings.

Now, a word before I get to the details of the bill. I have introduced a bill in the Senate. I shall not offer it as a substitute for this bill, because the bill I have introduced is not intended to take care of what I believe must be a temporary situation, but it is offered as what I believe to be a permanent solution of the railway question, and I shall take just a moment in giving its outlines.

One Federal corporation is provided for, as against 20 to 35 in the pending bill. This corporation is authorized to acquire all of the railroad properties in the country. The capital stock is limited only by the value of the railway property as found by the Interstate Commerce Commission, but no stock can be issued without its approval. The stock is to be sold to the public or exchanged for railway properties, the Government guaranteeing a minimum return of 4 per cent and allowing a maximum return of 6 per cent, or a less amount if the stock can be sold at par with a lower maximum. Stockholders will, however, in addition, share in excess earnings, as I shall in a moment point out.

The corporation under this bill may purchase the physical properties of the railroads, or a controlling interest in their capital stock, upon valuations fixed by the Interstate Commerce Commission. It may also exercise the right of eminent domain.

The management is vested in a board of 11 directors appointed by the President and confirmed by the Senate, selected as follows: One shall be a member of the Interstate Commerce Commission, who shall remain ex officio, as it may be termed, a member of the board of directors. In other words, he is a member of the board if appointed by the President only so long as he remains a member of the Interstate Commerce Commission.

One shall be a member of a State railway commission, to be selected by the President out of five recommended to him by the National Association of Railway and Utility Commissioners. Two shall be appointed from six persons proposed by employees of the railroads controlled by it. Two shall be appointed from six persons recommended by the United States Chamber of Commerce. Two shall be selected from six persons proposed by the agricultural and farm interests of the country. Three shall be selected from nine proposed by the stockholders of the corporation.

In the plan, I wish to emphasize, there is no element of Government ownership or Government operation, but every group interest will have representation upon the board. The dominant motive of at least a majority of the board will be efficient operation at a reasonable cost.

It has been objected that the owners will not control their property; that there will be private ownership of the roads under this plan as under existing plans, but they will have only a minority of the directorate. But every honest investor, who does not go into railroad investments merely as a gambling speculation would infinitely rather have the Government guarantee to him 4 per cent than to have a majority control upon the board of directors. When the Government does give the guaranty of 4 per cent it is eminently proper that the public, not the Government but the public, shall have the controlling voice in the management of the property.

Political appointees would be impossible under the plan, for under the bill the President is restricted in his appointments to nominations made by nonpolitical organizations. There is only one member that might in any sense be said to be political, and that is the member of the Interstate Commerce Commission. We all know that up to this time, or at least until a very few years ago, the appointees of the Interstate Commerce Commission were absolutely without regard to politics.

The board of directors shall choose a general manager, charged with the duty of operating the road under the supervision of the directorate. The country is to be divided into regional operating systems. The Interstate Commerce Commission is directed to permit rates that will pay the maximum return. Earnings in excess of the maximum allowed on the stock will be divided as follows: Forty per cent to employees, 30 per cent to the stockholders, and 30 per cent to the Government. Here, Mr. President, is the inducement to efficiency that the old competitive system was expected to furnish, but which under the committee bill is practically obliterated. If we would have efficiency in railroad operation, there is one of two things which must occur. Either the railroad must have the opportunity to earn and keep all that it can make under the most efficient management with reasonable rates, or else there must be a reward to those who are directly responsible for efficiency to become efficient. That is what is lacking under the pending bill.

Under the pending bill now before the Senate where the Government takes two-thirds of the earnings, the employees upon the road, however efficient they may be, do not receive a penny of it. There is no incentive to the employees upon the road to become efficient, and two-thirds of the incentive upon the part of the directors representing the stockholders to become efficient is taken away. Under the plan I propose there is the incentive to the stockholders equal with the present bill for there will be a 30 per cent return to them for efficiency. In addition to that, there is a 40 per cent return to the employees upon the road to induce efficiency. In addition to that there is the economy of complete unification, which all admit is a very great economy in the operation of a transportation system.

Wage boards are provided for in the bill very similar to those in the bill now pending in the Senate, with this distinction: While under the bill wage boards are provided for, one-half to be selected by the employees and one-half to be selected by the directors, the directors of the road are given the ultimate authority to fix the wages. Under the pending bill the transportation board is given that ultimate authority, but there is this distinction: Under the plan that I propose the directorate will represent primarily the public interest, while I am very much afraid—and I shall discuss it at more length when I come to it—that the transportation board will inevitably be consti-

tuted of men who have given their lives not to consideration of the rights and equities of the employees, but their experience, their entire experience, has been upon the side antagonistic to the employee, and therefore the transportation board will not constitute such an impartial tribunal as the employees have the right to demand to finally fix the wages that they shall receive.

Mr. KING. Mr. President, will the Senator permit an inquiry?

The PRESIDING OFFICER (Mr. HALE in the chair). Does the Senator from Wisconsin yield to the Senator from Utah?

Mr. LENROOT. Certainly.

Mr. KING. Does not the Senator think public opinion together with the power of confirmation of the Senate—and I understand they have that power—will largely control the personnel constituting the board to which the Senator is referring, and that it is only a question of a little time when that public opinion and the pressure of the Senate and the attitude of the Senate will demand that the board shall not be a political board or representative of interests hostile to labor, but that it shall be a fairly representative board of all the interests that may be involved in the question.

Mr. LENROOT. I assure the Senator from Utah that when I come to discuss the details of the bill I shall go into that a little more fully. I will only say now that considering the very important duties devolving upon the transportation board I think that public opinion would demand that those men constituting the majority at least of the transportation board should be men who had had long experience in the operation and management of the roads. That being true, of course they would naturally be antagonistic to the demands of the classified employees.

Mr. CUMMINS. Mr. President——

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

Mr. LENROOT. Certainly.

Mr. CUMMINS. I should hope, of course, that the men would be competent for the performance of the duties which the law would require of them, but I do not look at their duties in just that way. For instance, one of the most useful, and I think one of the most influential, men upon the Interstate Commerce Commission was taken directly from a high office; in fact, from the presidency of the Order of Railway Conductors.

If we have a President at that time who understands the duties which are to be performed by the board, I can not see any fair apprehension with regard to the constitution or the creation of a board that can and will do as nearly justice as can be done by human beings. I understand perfectly well that all of us are frail and there can not be expected from us that absolute perfection which we would be glad to have, but I think the Senator from Wisconsin will give due regard to the complete liberty and discretion of the President in selecting the men who will, all things considered, be best adapted to perform the several duties.

Mr. LENROOT. Of course, I do not question that the Senator from Iowa is expressing his very best judgment upon the question, but when I come to the details of the bill I shall examine with some care the duties devolving upon the transportation board, and considering the nature of the duties, I am impelled to believe that in the very nature of things the majority of that board will be selected from men who are not impartial in the consideration of wage disputes between employees and the roads.

Further, with reference to the bill that I have introduced, it is made a criminal offense for any Federal officer, legislative or executive, to influence the appointment of any of the employees or officers of the corporation.

Next is the basis of valuation of the property of the railroads, and when I speak of valuation I speak of it only in the sense we speak of valuation in connection with negotiations. The bill, of course, does not attempt to lay down a final rule of valuation. It only lays down a rule upon which negotiation for purchase is permitted. But, as I heretofore said, the determination of value is not a legislative but is solely a judicial question.

The plan that is authorized for negotiation is a combination of three factors—first, the original cost of the property less depreciation on March 1, 1913; second, reproduction value on the same date less depreciation, plus in each case the cost of additions and betterments made since that time. From those two factors added the average is taken of the two, and we secure thus one of the final factors to produce the result.

Next and third, it is provided that the earnings of the railroads for a 10-year period prior to their being taken over by the new corporation shall be capitalized at 5 per cent, and that produces another factor. The average of the cost obtained through the cost and reproduction value with the capitalization of earnings furnishes the final amount found by the Interstate Commerce Commission and that the board of directors are permitted through negotiation to pay for the property.

I will say that the capitalization of the earnings on the computations I have made for the 10-year period immediately past would amount to the sum of $16,500,000,000 for the railroads of the country. I think we will all agree that when the courts shall finally fix the matter of valuation that the sum will be found to be somewhere between $15,000,000,000 and $18,000,000,000.

This is a general outline of a plan that I have introduced in the form of a bill. It offers complete unification and consolidation of the railroads of the country under private ownership, and with no element whatever of Government operation. I believe that some such plan as this—I do not say in its details; of course, it is subject to modification—will sooner or later be adopted as a solution of this problem.

We are not going to have a solution of the problem, in my judgment, under the Senate bill, not only for the reasons I have stated but for another reason. I do not believe that if the pending bill should become a law to-morrow it would be possible for the railroads of this country to secure the credit or money necessary for betterments, additions, and extensions. It would be an impossibility. We hear it said upon the part of railway executives that the reason for the loss of railway credit was because of the action of the Interstate Commerce Commission prior to their being taken over in refusing to increase railroad rates as the railroads demanded. Mr. President, the Interstate Commerce Commission, in my judgment, deserves no such criticism. As the figures will show, in every case where the Interstate Commerce Commission refused to increase the rates as demanded by the railroads the net earnings of the railroads, subsequent to that refusal, were the largest in the history of the railroads.

Then, why was the credit of the railroads lost? Why had they failed to function at the time the Federal Government took them over? I think the cause is very apparent. There are two primary reasons: One, the reckless, not to say criminal, mismanagement of some of the railroads. When the New Haven road, whose stock was supposed to be the safest investment in the United States next to a Government bond, was wrecked, as it was wrecked, is it any wonder, Mr. President, that the confidence of the investors of this country was lost in all railroad investments? And the New Haven road was not the only one as to which that occurred. Every Senator can recall to his mind road after road which had exactly the same kind of history as that disclosed in the New Haven road. So it is not to be wondered at that men who were not merely speculators but investors were not willing to invest their money in railway stocks or in railway securities.

In addition to that, even when the roads were making the largest returns in their history, we found advertisements and found placards in every passenger station in the United States telling the public that the railroads were facing bankruptcy unless their rates were increased. Mr. President, if a department store in Washington should to-morrow morning announce in an advertisement that it was facing bankruptcy and the next morning should insert another advertisement offering its stock for sale, how much of an investment do you think there would be in its stock? That was exactly the situation with reference to the railroads. The railroads were crying that they were facing bankruptcy; and is it to be wondered at that investors refused any longer to invest in their stocks and securities? In my judgment, so long as we have this competitive system, so long as we have even from 20 to 35 railroad systems that can become the subject of financial manipulation for the purpose of enhancing or depressing the market price of stocks, just so long, in view of past experience, will it be impossible for the railroads to finance themselves further without such rates as will bring exorbitant returns, such as will induce the investor to invest in a hazardous enterprise with the prospect of such large returns that he can afford the hazard. Unless we do that, under this bill or under any bill that does not provide for complete unification and control in the interest of the public, the public will refuse to furnish to the railroads the money that is necessary for their improvement and for extensions, additions, and betterments.

Mr. KING. Mr. President, has the Senator from Wisconsin concluded his argument in favor of the unification plan?

Mr. LENROOT. I have, unless there are some questions which are desired to be asked.

Mr. KING. Unfortunately, I was called out of the Chamber during a portion of the Senator's remarks. I was wondering

if the Senator had discussed—if he has, I shall not ask him to repeat and apologize for interrupting him—the problems that would be involved by one immense national system; the difficulties of managing the roads of this country from Washington; the lack of initiative that would result from having a sort of overlordship functioning here in Washington?

It seems to me, if the Senator will pardon me, that one objection to a unification plan, putting all of the railroads of the country under one management, would be that it would break down because of its bigness. The Senator will remember the statement made years ago by Mr. Justice Brandeis, in which he clearly elucidated the thought that enterprises, corporations, businesses, might become so big, so gigantic, as that they would cease to be efficient, would cease to be operated efficiently, intelligently, and economically.

I have somewhat studied the plan embodied in the unification theory or proposal, and it occurred to me that it would not work because of its bigness; that it would break down because the machinery would be so tremendous.

Mr. LENROOT. I will say in reply that, of course, I very well remember the statement of Mr. Justice Brandeis which is referred to by the Senator from Utah; but the Senator will remember that Justice Brandeis based that wholly upon the proposition that because of bigness there would not be the efficient management that would result in the case of smaller corporations where there was competition. If it were possible to have the full play of competition and at the same time a control in the public interest, I would at once agree that we ought to preserve competition; but under this bill competition is practically wiped out. There is no incentive to efficient management under this bill after a road has reached an earning point of 6 per cent. There exists exactly the same objection to the establishment of the corporations provided for by this bill, whether they be 20 or 35, which the Senator now states in relation to one unified corporation.

Mr. CUMMINS. Mr. President, the Senator has stated several times that there was no incentive to competition under this bill. I want him to reexamine that subject a little. I assume the Senator will agree that with respect to every railroad that does not earn 6 per cent there is abundant incentive. The road that earns more than 6 per cent retains one-half of the excess between 6 and 7 per cent.

Mr. LENROOT. Up to a certain point.

Mr. CUMMINS. Up to the point of an accumulation of a company reserve fund equal to 5 per cent upon the value of its property. Now, assume that the excess between 6 and 7 per cent would amount to $50,000,000, does the Senator think that there is no incentive in the possibility of earning $25,000,000? Does not that furnish substantially the same incentive, the same stimulus, as though all the excess earnings could be kept? How can they divide their energy? In my judgment, a railway company will be just as anxious to earn that portion of the return above 6 per cent as though it were permitted to keep it all, and unless it is competent and efficient it will not get anything above 6 per cent.

Mr. LENROOT. I can not agree to that. There are some roads which I have in mind—and the Senator no doubt has them in mind as well—that can earn 6 per cent with practically the lowest point of efficiency possible. For such roads it does not require an effort along the line of efficiency to earn 6 per cent. The Senator speaks of $25,000,000 in connection with the accumulation of a fund equal to 5 per cent of the value of the property; but that would only apply in the case of a prosperous road for a period of a few years, because it would not take very long to build up that 5 per cent, and from that time on only one-third is retained by the road.

Mr. CUMMINS. Has the Senator looked into that to find out how long it will require any given road, specifying it, to put aside a fund equal to 5 per cent of the value of its property out of an earning of one-half of 1 per cent?

Mr. LENROOT. Out of one-half of 1 per cent?

Mr. CUMMINS. Yes.

Mr. LENROOT. It would be more than one-half of 1 per cent——

Mr. CUMMINS. It is one-half of 1 per cent——

Mr. LENROOT. Between 6 and 7 per cent.

Mr. CUMMINS. That is of the excess between 6 and 7 per cent.

Mr. LENROOT. Yes.

Mr. CUMMINS. That is one-half of 1 per cent upon the value of its property. Therefore, it would require any company, if it earned no more than 7 per cent, 10 years at the very least to accumulate 5 per cent on the value of its property.

Mr. LENROOT. Suppose it earned 10 per cent.

Mr. CUMMINS. If it earned 10 per cent then it would take one-half of 1 per cent, between 6 and 7¼ only of the excess above 7 per cent; but there are not many roads which earn any such sum of money.

Mr. LENROOT. How about the Burlington?

Mr. CUMMINS. The Burlington does not earn that much. I have the exact figures here, and can give them.

Mr. LENROOT. How much did it earn during the period of the standard return?

Mr. CUMMINS. About 7 per cent.

Mr. LENROOT. More than that, I think.

Mr. CUMMINS. No. The Senator from Wisconsin probably does not discriminate between the earnings upon the capital stock of the Chicago, Burlington & Quincy and the earnings upon the value of its property.

Mr. LENROOT. But that is not known.

Mr. CUMMINS. The Interstate Commerce Commission has said—and I have no doubt it is true—that the railway property of the Chicago, Burlington & Quincy is worth possibly more than its capitalization, because it has pursued a policy to bring about that condition. According to investment account, concerning which very much has been said here, the Chicago, Burlington & Quincy is worth something like $200,000,000 more than its capitalization. On the contrary, take a road that may lie side by side with it; take the Chicago Great Western, for instance, and until very recently, at least, it was capitalized for twice as much as it was worth; but this bill deals always on the basis of the value of the property and never on the basis of capitalization.

Mr. LENROOT. I understand that.

Mr. CUMMINS. According to the statements presented to the committee, my recollection is that the earnings of the Chicago, Burlington & Quincy upon investment account—and I do not assert that investment account is the correct measure of the value of the property—are about 7 per cent.

Mr. LENROOT. Upon the investment account.

Mr. CUMMINS. Upon the investment account.

Mr. KING. Mr. President, will the Senator yield? As I understand, after a fund has been accumulated by the road out of these excess profits, it may not use that fund unless there shall come a lean year, when it ceases to yield the revenue permitted, and it may then draw upon that fund for the purpose of paying its dividends.

Mr. CUMMINS. It never loses it. It belongs to the railway company. It is kept in its possession. It is drawn upon when the earnings of the company for any given year are less than 6 per cent upon the value of its property, and when drawn upon it must be immediately reaccumulated.

Mr. KING. Oh, yes; I understand that. It may be drawn upon; but if it is a prosperous road and its earnings do not get below the standard permitted, it never would have an opportunity of using it, so that it would be there as a nest egg without creating or procreating or yielding any benefit to anybody.

Mr. CUMMINS. Oh, I can not think that, because it can be invested and make a return to the company which owns it, and that return would not be included within the income from operation, just like any other outside investment; but after the fund is accumulated up to the point indicated, then, as the Senator from Wisconsin says, the road retains for its own purposes, for distribution or any other legitimate purpose, one-third of the earnings above 6 per cent. I differ with the Senator from Wisconsin about the incentive which that would furnish. I think that would furnish all the incentive of which railroad management is capable.

Mr. KING. If the Senator will pardon me, the Senator may be right as to its being able to enjoy the profit derived from the investment of the fund. I am inclined to think, however, that a very critical and strict interpretation of the act would require any profit resulting from the fund that might be invested to be included in the return of the road, and it would have to be divided again with the larger fund which is created.

Mr. CUMMINS. No; if the Senator will recur to the provision of the bill in that respect he will find that it says, "if the income from operation in any year exceeds 6 per cent upon the value of the property." It is definitely limited to the income from the operation of the railroad as an instrumentality of commerce.

Mr. KING. It seems to me, Mr. President, that to make it an incentive and an inducement for efficiency and economies to the highest degree of perfection of railroading the fund might with propriety be distributed from year to year to the railroad.

Mr. CUMMINS. The whole purpose of that fund, as the Senator from Utah will agree with me, is to furnish stability to the

credit of the railroad company, so that it can secure the funds that are necessary for its enlargement and betterment.

Mr. LENROOT. Now, Mr. President, I wish to take up in a very brief way one or two of the legal questions involved in the bill; and if I may have the attention of the chairman I should like to call his attention to page 11, line 15. This is the provision for the limited guaranty of not exceeding four months. It is provided—

That if, during the period the guaranty is in force, the railway operating income of any carrier exceeds the amount of the guaranty, it shall forthwith pay such excess into the Treasury of the United States.

I should like to ask the chairman of the committee under what theory he contends that after the roads have been turned back to their owners, and with no contractual relation between the owners of the road and the Government, if they make more than a certain amount of money we can simply take the excess and put it into the Treasury?

Mr. CUMMINS. Mr. President, to answer that from the standpoint of the committee, the Government is under no obligation to guarantee to the roads about to be returned any income whatever.

Mr. LENROOT. Certainly not.

Mr. CUMMINS. And I assume that it can attach to its guarantee any condition which it may desire to attach.

Mr. LENROOT. Certainly, as a contractual relation.

Mr. CUMMINS. As a contractual relation; and it is believed by the committee—at least, I have always looked upon it from that standpoint—that we are about to return these properties to their owners; we are proposing that during that transition, when everything is somewhat disturbed, they shall have the standard return, just as they have had it for the last two years; but if they make more than that, if they accept the standard return during these four months, they must pay any excess in their hands into the Treasury.

Mr. LENROOT. Yes; but suppose they do nothing?

Mr. CUMMINS. They will not get the guarantee.

Mr. LENROOT. Let us see whether they will not. Why not?

Mr. CUMMINS. They ought not to have the guarantee unless they are willing to comply with this condition.

Mr. LENROOT. Exactly; but where do you find in the bill any acceptance required by the carrier?

Mr. CUMMINS. There is no acceptance required, but, in my opinion the acceptance of the guarantee itself creates the contractual relation.

Mr. LENROOT. How do they accept the guarantee under the bill?

Mr. CUMMINS. If we are called upon to pay anything to them——

Mr. LENROOT. Suppose we are not?

Mr. CUMMINS. Then I assume that the obligation probably would not be enforceable.

Mr. LENROOT. But the language is that the obligation is there. Of course, if they make more than the amount of the standard return there is nothing to call upon the Government for, and yet we require them to pay into the Treasury of the United States the excess.

Mr. CUMMINS. I should be very glad, then, if the Senator from Wisconsin would offer an amendment requiring an acceptance of that kind, so that there would be no question about it. I can see the point made by the Senator from Wisconsin, and I should be very glad to make it beyond question.

Mr. LENROOT. The purpose of my inquiry was to know whether there was any reason for omitting that acceptance.

Mr. CUMMINS. There is no reason at all. If the point is well taken, it is a mere oversight on the part of the committee——

Mr. LENROOT. Oh, I was not criticizing it.

Mr. CUMMINS. Because we intended that the guaranty should be conditioned upon an agreement of that sort on the part of the carrier.

Mr. LENROOT. Before discussing group rates, if the Senator will turn to page 28, section 11, I call his attention to this language:

If it finds that a carrier can not, by reason of the congestion of its lines, properly handle its traffic it shall have power to require the distribution of such obstructed traffic over other lines of roads upon such terms as between the several carriers it may find under the circumstances to be just and reasonable.

Now:

If, under the power in this paragraph contained, any traffic shall be diverted from a carrier which it is ready and able to handle properly, then such carrier shall be entitled to recover from the carrier or carriers to which such traffic shall be thus diverted the revenue accruing on such diverted traffic in excess of the actual out-of-pocket cost of transporting the same.

On what theory does the Senator contend that a carrier can be compelled to transport property without compensation?

Mr. CUMMINS. Mr. President, I desire always to be absolutely frank in the discussion of any question of this sort, and personally I have very grave doubt about some of the provisions of the section to which the Senator is now calling my attention. Without attempting to bring anyone else into this discussion, I may say that I think these ideas largely emanate from the Interstate Commerce Commission. They are no part of the general plan which the chairman of the committee had in mind; but I think the Senator from Wisconsin, after all, has misunderstood that particular section.

The board has the power to divert traffic if it finds that a congested line can not handle it properly and promptly, and it sends it upon some other line; but if the board makes a mistake in that respect and diverts traffic from a line that is ready and able to handle it properly the profit which would have come to the carrier from which the traffic was taken may be recovered from the carrier which actually transports the business.

I have very grave doubts whether the carrier which is thus compelled to carry the traffic can be required to carry it without proper compensation. I do not believe that any carrier can be compelled—that is, if the carrier does it rightfully—to carry anything for simply cost; and there is another provision in this bill which recognizes that principle. Where a shipper routes traffic, and the routing is disregarded, and some carrier takes that traffic wrongfully and carries it to its destination, then I think that in such a case the entire revenue derived by the carrier can be recovered by the carrier from which it was diverted.

Mr. LENROOT. I certainly would agree with the Senator about that proposition.

Mr. CUMMINS. But I am quite ready to say that I have serious doubts about the right of the board, or the commission, or anyone else, to divert traffic and then have the innocent carrier which does the business called upon to respond on account of a mistake of the board or of the commission, as the case may be. I do not think it can be done.

Mr. KING. Mr. President, if the Senator will permit me, I should like to ask the Senator from Iowa, in the event that a mistake is made by the board and traffic is diverted that ought not to be diverted from a road that is ready to care for it, in what way would both of them receive compensation?

Mr. CUMMINS. They could not both receive compensation. The carrier which actually does the business must have its reasonable rate, and the carrier from which the traffic is wrongfully diverted can have no other recourse except upon the United States.

Mr. KING. It seems to me, Mr. President, that there ought to be some provision that would more effectually protect both of the carriers in cases of that kind against the mistakes of the board. It seems to me that the delay of requiring either of the carriers to present claims to the Government of the United States and have them adjusted, passed upon, or appropriations made, would be practically a denial of justice, and serious and perhaps irreparable harm would come to one or both carriers. It seems to me that some amendment should be made that would more effectually protect the carriers in contingencies of that kind.

Mr. CUMMINS. I will say very frankly that so far as the chairman of the committee is concerned, he will not resist an amendment upon that point.

Mr. LENROOT. I will say that it is my intention to move to strike out all of that portion of the paragraph following the word "reasonable," in line 23. It seems to me that when you give the authority to divert traffic upon such terms as may be just and reasonable, you have afforded a full remedy and an opportunity to secure justice between the two carriers. The balance of it, to my mind, is not only clearly unconstitutional but it would be incapable of being carried out, because it would be a human impossibility for one carrier to determine the out-of-pocket cost of transporting any particular article or commodity.

Coming, then, to this matter of group rates, Mr. President, which is really one of the foundation stones of this bill, I have read very carefully the speech of the chairman upon the subject, and the briefs that have been presented upon both sides of the question, and while I, of course, would readily admit that this is a doubtful question, the best that can be said for it is, being a doubtful question, it is very clear that it must go to the Supreme Court of the United States before the constitutionality of this bill can be settled; and until that is done, it not only will be open to grave doubt but it will very greatly interfere with the application of this plan.

Mr. CUMMINS. Mr. President, I wish the Senator from Wisconsin would suggest the specific question which he regards as doubtful.

Mr. LENROOT. I am about to do so.

Mr. CUMMINS. There is in that section a provision upon which I said, when I opened the discussion, lawyers may differ, and honestly differ. I do not personally reckon that difference as creating a doubt in my mind, although I think there is a difference between declaring that a certain question is a doubtful one and declaring that it is one upon which men may reasonably and honestly differ. I put one of the questions in this section in the latter category. If it is to that the Senator refers I readily grant his premise.

Mr. LENROOT. I will say to the Senator very frankly that I am referring to two questions, the power of Congress to compel transportation at an adequate rate upon the one hand, and the power of Congress, after fixing a rate, to take an excess of return over that rate.

Mr. CUMMINS. The latter is the question I had in my mind when I made my last observation.

Mr. LENROOT. I supposed so.

Mr. CUMMINS. So far as the former is concerned I do not quite catch the Senator's point of view, because I do not look upon that as having any doubt in it at all; accompanying that with the statement that any regulation which the Interstate Commerce Commission might put upon the railroads is subject, of course, to certain provisions in the Constitution of the United States, and the railway companies must all necessarily have the right to appeal against any regulation of commerce, either by Congress or under the authority of Congress by the commission, which takes its property without due process of law; or, in other words, which confiscates its property or, I am willing to go further, which requires service without just and reasonable compensation. The carrier will always have that remedy, whenever it chooses to seek it, and the Interstate Commerce Commission can make no rate or be responsible for no rate that is not open to that inquiry. That, in my judgment, is the only inquiry which the carriers can make. I am not now speaking about the point as to excess earnings. I have already dealt with that, and I will be glad to speak upon it a little further; but I am speaking about the group rate.

Mr. LENROOT. I would agree with the Senator if it were not for the fact that, as I construe the language of this section, the Interstate Commerce Commission is not only authorized to fix such group rates as will result in a 5½ per cent upon the aggregate value of the property within the group, but they are prohibited from prescribing any rate that would of itself create a higher return except the additional one-half per cent that is provided for in the bill. It might, of course, produce a higher return, I understand, but not with the intention of producing any higher return.

Mr. CUMMINS. I think the Senator is in error with respect to that. As I remarked a moment ago, the carrier has a right to complain if the Interstate Commerce Commission establishes any rate which is contrary to the constitutional rights of the carrier. Let us assume that in these districts rates are established, and that with respect to a particular commodity, or several commodities, the rates established are claimed by the carrier to be confiscatory, contrary to the Constitution, if that plan is sustained in the courts, those rates or that rate must be advanced. The Senator, as I understand him, thinks that there is nothing in the bill which gives the commission the latitude or discretion to meet that contingency.

Mr. LENROOT. I would agree that they might raise those rates, but if they raise those rates they would have to lower the others.

Mr. CUMMINS. In a broad way that is true, although there is a discretion here within reasonable limits.

Mr. LENROOT. Oh, I understand. They would have to lower them so far as, in their judgment, permitting them to remain would allow the returns to be more than 6 per cent.

Mr. CUMMINS. If a decision of that kind involved a general raising of the basis of rates above 6 per cent upon the value of all the property I think the conclusion suggested by the Senator would probably follow. The Senator is familiar, of course, with the decisions on that point, which indicate very clearly that any declaration by a legislative body, or any policy established by a regulatory body, if it yields 6 per cent upon the value of the property rendering the service, is not confiscation and is constitutional. So the contingency mentioned by the Senator from Wisconsin never could arise.

Mr. LENROOT. The Senator does not get my point. Here is a direction, as I take it, to the Interstate Commerce Commission, to allow rates that will yield 5½ per cent, plus, in its discretion, an additional one-half per cent, or a total of 6 per cent. We will assume that in a group they fix such rates as will yield to all the railroads of that group 6 per cent. But here is a weak road, weak not because there is not a need for the road, not because it is not efficiently operated and managed, but solely because of conditions of traffic along its line, where, under this group rate system, it will not receive an adequate return upon its property. Of course the Senator concedes that the 5½ per cent is not 5½ per cent upon all the property of each individual road. It may be 10 per cent upon one road and it may be 2 per cent upon another road. That is true, is it not?

Mr. CUMMINS. Mr. President, that is true.

Mr. LENROOT. The road, then, that receives under this rate-making power only 2 per cent goes into court, and the court says it is entitled to 5 per cent. That rate is then increased by 3 per cent, so far as that road is concerned. What becomes of the provision in the bill that the rates as a whole in the group shall only afford a return, in so far, of course, as it is intentional upon the part of the commission, of an aggregate of 6 per cent, without lowering the rates upon the other roads?

Mr. CUMMINS. Mr. President, that presents the insoluble problem of railway regulation under the system now in force, which I attempted to discuss the other day, and which nothing but Government ownership and operation, or complete consolidation into one system, can wholly remove. But the Senator from Wisconsin will remember that in the 5 per cent advance rate case and in the 15 per cent advance rate case the Interstate Commerce Commission discussed this whole subject. It was then considering rates for the so-called eastern district in the United States, and it was recognized as impossible, being in a competitive area, to raise the rates so that the weaker roads, even though they be efficiently and honestly managed, could receive what everybody would accept or agree was a fair, adequate return upon either the capitalization or the investment account, or any other basis for the value of property, except the sheer basis of capitalized earnings.

If the point raised by the Senator from Wisconsin should be sustained, then every railroad is worth just what its earnings, capitalized, will secure for it, and the only way of overcoming the difficulty is to reduce the value of the railroad according to the rules of capitalization, for it is simply unthinkable that we shall raise the rates in a competitive area to a point at which the weakest road can earn an adequate return upon the value of its property, if the value be ascertained by the cost of reproduction, either with or without depreciation, or the original investment, if you please, without any depreciation.

My answer to the suggestion of the Senator from Wisconsin is that the Supreme Court, or any court, must take these circumstances into consideration and hold that the road which can not earn a fair return upon the value of its property, ascertained according to the plan which I have just suggested, can not insist upon rates being established at a point which will enable it to do it, if those rates enable its competitor to earn an inordinate or excessive income.

Mr. KING. Will the Senator permit an interruption?

The PRESIDING OFFICER. Senators will please observe the rules of the Senate and address the Chair.

Mr. KING. Mr. President——

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

Mr. LENROOT. I yield.

Mr. KING. I do not understand the position of the Senator from Wisconsin to be supported by the bill, certainly not by the position as announced by the chairman of the committee. Under the group system, taking the aggregate value of the property and fixing as a basis for rate making 5½ or 6 per cent, I do not understand that the bill provides that the poor roads which may only get 2 per cent may go into court or by invoking any provision of the bill secure a raise in the rate above the 2 per cent. I do not understand that because one road may earn 6 per cent a poor road within the district, being poor because of physical environment, because it goes into a district where there is a sparse population and but a small amount of exports, can get a rate of interest in excess of the 2 per cent, if that be the amount which it would earn under the competitive system established by the group system.

Mr. LENROOT. I think the Senator from Iowa in that respect was speaking only of the constitutional right of the carrier, that it might be entitled to a higher rate than 2 per cent.

Mr. KIRBY. Mr. President——

Mr. LENROOT. I yield to the Senator from Arkansas.

Mr. KIRBY. I should like to ask the Senator a question right at that point. Suppose a case of this kind: A road was built through difficult country which was not thickly settled at the time and which has not since developed. It cost $60,000

a mile to build the road. It would cost $80,000 a mile to reproduce it at this time. The rates which other railroads are charging in the State will not pay a dividend of 2 per cent on the traffic carried on the basis of $60,000 a mile, and the rates allowed under the bill would pay only a dividend of 2 or 3 per cent on the $60,000 per mile basis.

What is to become of a road of that kind? It can not operate. Certainly it ought not to be allowed to increase the rates of all the roads in the region in order that it shall have 5½ per cent when some of them are making 10 or 15 or 20 per cent under rates already fixed under the level-rate proposition.

That is only a suggestion as to the actual condition that must be met.

Mr. LENROOT. For myself, in a word, the distinction seems very clear concerning the proposition that the railroad may be transporting traffic at such rates as will pay only a return of 2 per cent, as was the fact in many cases before the railroads were taken over, as is the case to-day so far as returns are concerned. That is a very different proposition than the Government compelling them to so transport property.

There has been no compulsion in the past under the present interstate-commerce act to compel any railroad that is properly managed and that fills a public need to transport property at anything less than a fair return upon the value of its property. The result is that through competition if a rate is fixed, for instance, upon the Pennsylvania Railroad, even though the Baltimore & Ohio Railroad would, as a matter of law, be entitled to a higher rate, the very circumstances prevent them from charging it. There, I think, is a distinction that should be made between compelling a return that will confessedly be an adequate return, and the railroad itself, for its own reasons because of business conditions, receiving an inadequate return.

Mr. KELLOGG. Mr. President——

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

Mr. LENROOT. I yield.

Mr. KELLOGG. In the case tried by the Interstate Commerce Commission involving the 5 per cent increase of rates in the district east of Chicago and north of the Ohio River, the commission made an order refusing to permit the railroads to increase the rates more than 5 per cent. That order was binding on all the railroads, the Pennsylvania as well as the Baltimore & Ohio and the Erie. I ask the Senator whether, if that yielded the Pennsylvania Railroad, say, 6 per cent, it was constitutional as to the Pennsylvania Railroad?

Mr. LENROOT. Certainly; I concede that.

Mr. KELLOGG. Very well. Then that rate as a whole was made by authority of Congress vested in the Interstate Commerce Commission, and the commission by virtue of the authority prevented the rate from being raised on the Baltimore & Ohio and the Erie more than the 5 per cent.

Mr. LENROOT. I would not agree with the Senator that Congress could constitutionally say to the Baltimore & Ohio, throwing aside the question of possibly it not being well managed, and those other things, and assuming all those things, that it can be compelled to transport traffic at less than a fair return.

Mr. KELLOGG. I am not speaking of the constitutionality as to the Baltimore & Ohio or the Erie. As a matter of fact, the order did prevent them from charging any more unless they went into court to test it, which they did not do. So long as any railroad rate is that way, either under the law as it now exists or under this bill, the result would simply be that the rates would be made upon the more favored roads and the others would be obliged to accept them. That has always been the provision. The order of the Interstate Commerce Commission in the 5 per cent case was not attacked; it could not be attacked, because otherwise the rates would have been made on the favored roads.

Mr. LENROOT. I would agree to that, but the Senator will readily understand that the constitutionality of this provision is going to be attacked, and even though that provision with relation to excess rates might be sustained, even though, as a matter of fact, it would not do the railroads the slightest good, nevertheless if a compulsory, inadequate rate is found in this section, as it seems to me it fairly is, because the chairman has admitted it, then the whole section or the whole scheme falls. That is the point I am making and that is why I am discussing the inadequate rate. As a practical question, of course, it would not be thought of for the Baltimore & Ohio to be permitted to charge rates that would yield 6 per cent and the Pennsylvania charge the same amount, because the rates upon the Baltimore & Ohio would be very much higher than those upon the Pennsylvania, and they would not get the business and they would not make the money.

Mr. KELLOGG. I wish to invite the Senator's attention to this proposition: There is in the bill a direction that the commission shall take into consideration all of the circumstances in fixing a fair rate. The bill then goes further and names a percentage which it thinks is a fair return on all of the railroad property. If the courts should hold that was constitutional as to the Baltimore & Ohio, they would be exactly under the other provisions of the bill which give them power to fix a fair return, and if the commission should fix 5½ or 6 per cent the roads would be in no better position than they are to-day.

Mr. LENROOT. My point is that if the courts should hold that it is not within our power to impose an inadequate rate in a given case, the whole scheme of group rates falls to the ground.

So much for that side of the question, the inadequate rate. Now, let us come to the question—and I am not going to discuss it at great length, because it has been discussed by lawyers much abler than myself—of the power of the Government to take from a carrier or a shipper the excess earnings of the carrier over and above a given rate.

A railroad is entitled to have such rates imposed as will pay a fair return upon the value of the property devoted to the public use. On the other hand, the shipper is entitled to have his property transported at no higher rate than will afford such return. If we attempt to compel a railroad to transport property at a rate that will not afford it a fair return we are confiscating the property of the carrier. If we attempt to compel a shipper to pay a rate higher than is necessary to afford the carrier a fair return, we are confiscating the property of the shipper.

It seems to me that is exactly what this bill does. It fixes 6 per cent as a fair return to the carrier. The excess over that 6 per cent either belongs to the carrier or else it belongs to the shipper. I can not see how it can be said to belong to the public.

I am not going to quote authorities at length. I just want to call attention to the very familiar and leading case of Smyth against Ames, wherein the court said:

> What the company is entitled to ask is a fair return upon the value of that which it employs for the public convenience.

That is one side of it. The court continues:

> On the other hand, what the public is entitled to demand is that no more be exacted from it for the use of a public highway than the services rendered by it are reasonably worth.

When you fix in the bill the standard that 6 per cent is a fair return on any rate that designedly produces a greater return, it is exacting property of the shipper without compensation, it seems to me. If it does not do that, if this is not to be considered as a return secured through an excessive rate, then it is property of the carrier, it seems to me, that we are not entitled to take under the Constitution. One of the two things must be true.

Let us see how this would work out in operation. Under the group-rate system we may have in a group a line of road the value of which is one-third of the value of all of the roads within the group. It is a weak road and it may not be competitive at all with another road within the group. Taking the aggregate value as the basis for rates, the shipper upon the prosperous road is compelled to pay a very much higher rate than he would be if that road were considered by itself alone. If there be no competition between the two roads, under what theory of constitutional authority can the money of the shipper be taken in excess of what would be a fair return upon the only road upon which he does business and the public take it from him? It seems to me, Mr. President, that this is a proposal, to say the least, of such doubtful constitutionality that we ought not to experiment with it at this time.

To my mind there are only two ways by which we can lawfully take the excess returns of a carrier. One is through the exercise of the power of taxation. I have no doubt that we can, through the power of taxation, take all of the revenues of the railroads in excess of 6 per cent. Another, of course, is to provide for Federal corporations. Then any road that becomes a Federal corporation is bound, under contractual obligations, by any provision that may be found in the charter which it accepts; and it may well be that we could lawfully provide in the charter of a Federal corporation that the Government will take all of the earnings in excess of a given rate upon the value of its property.

With reference to who owns the excessive return, I have in my hand the case of the Southern Pacific Co. *v.* Darnell-Taenzer Co. (245 U. S., 534), where the court says:

> The carrier ought not to be allowed to retain his illegal profit, and the only one who can take it from him is the one that alone was in relation with him, and from whom the carrier took the sum.

What right has the public to step in and take from the carrier something received by the carrier in excess of a fair return? If the rate is fair, the carrier ought to be entitled to make all that it is able to make through efficient management and economy. If the rate is not fair, if the rate is excessive, the money can not belong to the public; it must belong, as the court here says, to the shipper. For these reasons, Mr. President, I can not bring myself to the support of this plan which is so doubtful as to its constitutionality and, to my mind, so unworkable in its practicable application.

Mr. KING. Mr. President, will the Senator permit me to interrupt him?

The PRESIDING OFFICER (Mr. NEWBERRY in the chair). Does the Senator from Wisconsin yield to the Senator from Utah?

Mr. LENROOT. Yes.

Mr. KING. Going back to the question which the Senator from Wisconsin was discussing a moment ago, in connection with group rates under which certain roads might only make 2 per cent and others might make 6 per cent, I did not quite understand the position of the Senator. I understood him to say, however, that there would be no power upon the part of Congress to compel one of the roads with a small earning capacity under the group system to transport the freight that was tendered to it where it did not receive a sufficiently compensatory rate.

Mr. LENROOT. The statement was that it would be entitled to such rates, if it could secure the business, as would give it fair compensation. Whether the road can secure the business or not is not for the Government to determine; that is a chance that the railroad must take.

Mr. KING. Then, do I understand the Senator's position to be that any grouping which would put roads so different from each other under one rate-making scheme would be improper?

Mr. LENROOT. Yes; that is my position.

Mr. KING. Will the Senator permit me to call his attention, briefly, to one or two roads, in order to show some of the difficulties and problems which are incident to working out the scheme that is provided in this bill?

Mr. LENROOT. I yield to the Senator for that purpose.

Mr. KING. I have here some tables compiled by the Interstate Commerce Commission which show certain facts. For instance, the Pennsylvania Railroad Co.'s ratio of operating expenses to operating revenue was 78.63; the average receipts per ton mile were $0.637; number of revenue tons carried 1 mile per mile of road, 6,115,450; operating revenues per mile of road, $56,173; total railway capital per mile of line, $279,629. Yet I find some roads the average receipts of which per ton per mile are $2.157; operating expenses, 81.85 per cent; and the ratio of operating expenses to operating revenues of one road was 128.70. That is, there was a minus quantity. Its average receipts per ton per mile were only $0.65; the number of revenue tons carried 1 mile per mile of road, 3,441,423; operating revenues per mile of road, $22,617; and the total railway capital per mile was $93,025.

I find that the total railway capital per mile of various roads reaches great inequalities. For instance, one road shows $625,000 plus; and others the following amounts: $964,000 plus; $399,000 plus; $136,593, $64,000, $38,000, and so forth. Those disparities exist as to all of the roads, differing only in degree or amount.

It seems to me very difficult, in view of these great discrepancies and disparities, to establish a group system under which any sort of justice can be done.

Mr. LENROOT. I think that is true.

Coming now, Mr. President, to the discussion of the provisions of the bill concerning the prohibition of the right to strike, I am opposed to that proposition, not because I do not think that there should be some remedy afforded for the existing situation, but because I believe that the provisions of the pending bill are not fair and will not afford justice to the railroad employees. In that connection, we have heard a great deal upon the proposition that this section is only intended to reach conspiracies to interfere with interstate commerce and that it is not designed to affect in any way the right to quit either singly or collectively. I wish to read from the majority report of the committee what seems to me very clearly to be the construction of the committee in this regard:

A proposal to prohibit an agreement among workers to quit their employment at a given time without substituting some other instrumentality for securing justice would not receive at the hands of Congress a moment's consideration. In making the strike unlawful, it is obvious that there must be something given to the workers in exchange for it. The thing substituted for the strike should be more certain in attaining justice and should do what the strike can not do, namely, protect the great masses of the people who are not directly involved in the controversy. The committee has substituted for the strike the justice which will be administered by the tribunals created in the bill for adjudging disputes which may hereafter arise.

It is as to that last expression that I particularly take issue with the committee, for I insist that they have not provided in the bill for a just and impartial tribunal to adjust disputes between wage employees and their employers.

I fully agree that some other method should be substituted for the present condition. I noticed in a newspaper yesterday a synopsis of a speech delivered by the junior Senator from Iowa [Mr. KENYON] concerning this subject, and I fully agree with his statement that we ought to provide for impartial tribunals to settle these cases and make final decisions in disputes between railway employees and their employers. I believe that should be done; and, if we would create an impartial tribunal and make the decision of that tribunal final for a given length of time, it would not be necessary to provide any sort of a prohibition of strikes in the law. Remove the incentive to strike, Mr. President, and you remove the strike itself wherever it is instituted for any wrongful purpose.

But a distinction should always be made between the right to strike for the purpose of coercion into a given line of action and the right to quit work, singly or collectively, because employees no longer are satisfied with the conditions of employment. Under the report of the committee where they specifically treat the strike provision of the bill as the prohibition of an agreement to quit work I say it is denying a right to the employees that we have no constitutional right to deny to them and which we ought not to deny to them. For instance, suppose after the railroads are returned to their owners they attempt to reduce the wages of railway employees 25 per cent, would you, sirs, deny them the right to agree that they will not accept that reduction and to quit work, not for the purpose of coercing the railroads to pay them a higher wage or restore the old wage scale, but because they do not propose to remain in the employment of the railroads with that reduction of wages?

So we should always distinguish between the right to quit work, either singly or collectively, and quitting work for the sole purpose of coercing the employer, through the restraint of interstate commerce and interference with it, to grant the demands that the employees may make.

If we had provided or could provide in this bill for a fair and impartial tribunal with the right finally to pass upon wage disputes between employers and employees, and provide in the bill that the decision of that tribunal should be final for a period of three months or six months, as the case may be, there would be no strike upon the part of railway employees for the purpose of securing increases in wages, because in that event there would be no power in the tribunal thus created to grant their demands within the time fixed by the law itself. Now, is such an impartial tribunal created by the terms of this bill?

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

Mr. LENROOT. Yes.

Mr. KING. The Senator says with a good deal of emphasis, as I interpreted his remarks, that if the character of tribunal to which he has referred were created, without any penalizing clause or provision, there would be no strike, because the decision of this board or tribunal would be final for three months or six months.

Mr. LENROOT. Yes.

Mr. KING. Why does the Senator say there would be no strike because the tribunal could not grant relief? The strike might go ahead, and the distress of the public might be of such a character as would compel the owners of the roads—whether the Government was operating or whether private individuals were operating—to go around the award and the decision and grant the demands of the striking employees anyway.

Mr. LENROOT. They could not increase the wages thus fixed without violating the law.

Mr. KING. Well, suppose the strike was had because the employees said that the decision of the arbitrators or the tribunal was unfair, and they did not propose to work for wages which they considered inadequate, and they struck, and the people, as was the situation a short time ago, were without coal, or, this being a railroad strike, the people in the cities were devoid of food—does the Senator say that it would be beyond the power of the railroads to grant higher wages to save the people from starvation?

Mr. LENROOT. I say it would be, to those employees. There would be nothing in the plan that I suggest to prevent the railroads or the Government from granting higher wages to others, because it is deciding only the dispute between those employees and the road; but there would not be a strike that in any sense of the word could be termed wrongful if that were the case. The only kind of a strike that anyone can

object to is the coercive strike; and if they can not obtain their ends through coercion, because it is beyond the power of the authorities to grant it, there never will be that kind of a strike.

But there should be an impartial tribunal in such a case, and, in my judgment, an impartial tribunal can not be secured by selecting a portion of them from the employees and a portion of them from the employers. An impartial tribunal should be created, and the persons who are appointed to it should be men who have no relations either with the railroads or with the employees, and they should consider the matter solely upon the question of what is just and right as between the contending parties under the circumstances.

Mr. President, under this bill the transportation board is given this authority. Under this bill the chairman of the committee thinks that such a tribunal as I have suggested will be created—a tribunal that will be just and impartial to the employees and the railroads. Let us examine the character of the duties devolving upon this tribunal.

In the first place, under section 10, they are to prepare plans for the consolidation of all of the railroads of this country. Will anyone say that for that very important duty men who are familiar with the financial operations of railroads will not be selected by the President? Are not men of that character, who have a wide knowledge of transportation problems, who have had long experience in transportation problems, the kind of men that would be selected for this transportation board?

It is also provided that they shall inquire into the transportation needs of the country and into the state of credit of the railways, and that they shall also inquire into what new credit is required for the efficient operation of the railroads, and the findings of this board are prima facie evidence. Up to this point these very important duties, the most important referred to in the bill, necessarily require men who have had long experience in railway management, and have been closely in touch with the financial operations of railways.

The next section gives them authority over the diversion of traffic.

Section 13 gives them the power to incorporate Federal railways, and gives them the power to exercise the right of eminent domain.

Under another section they are given the power to guarantee an operating income to the railroads pending reorganization.

These are the most important duties devolving upon this transportation board; and while there are transferred to this board certain other duties with reference to safety appliances, inspection, and so forth, they are very minor compared to the important duties that I have now suggested, and which I have taken from the bill; and it is very clear that in the minds of the committee in the drafting of this bill it was these financial and practical operations of railroads that were regarded as the most important by the committee, because the bill provides that when these consolidations have been complete the board shall then be reduced from five members to three members.

Mr. KELLOGG. Mr. President——

The PRESIDING OFFICER (Mr. HARRIS in the chair). Does the Senator from Wisconsin yield to the Senator from Minnesota?

Mr. LENROOT. I do.

Mr. KELLOGG. Do I understand the Senator to object to the Board of Wages and Working Conditions as a preliminary board?

Mr. LENROOT. Not at all. They are mere representatives for negotiation. That is all they are. They are not tribunals in any sense of the word.

Mr. KELLOGG. I should like to ask the Senator one other question—if he thinks the Interstate Commerce Commission would be such an impartial board?

Mr. LENROOT. Very much better than the transportation board.

Mr. KELLOGG. Personally, so far as I am concerned, that would be entirely satisfactory to me. I can not speak for the chairman.

Mr. LENROOT. I say "very much better," because I think it is clear that in the creation of this transportation board the committee had in mind that this board must be composed of expert railroad men, having long experience in finance and in operation; and I insist that that kind of a board is not that impartial tribunal that should be given the final decision in wage disputes between railroads and their employees.

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

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

Mr. LENROOT. I do.

Mr. KING. The other day, when this matter was under consideration, I suggested that in my opinion the Interstate Commerce Commission would be a better agency for the determination of the wage question than the transportation board, and for a number of reasons, but one of the reasons being that an increase in the wage would of course necessitate an increase in the rates, and the body that had to do with the fixing of wages ought to have before it the broad principle of the fixing of rates; and therefore it seems to me that the Interstate Commerce Commission, notwithstanding the tremendous burdens placed upon it, would be in a far better position to pass upon the question of wages as the ultimate tribunal than the board of transportation.

Mr. LENROOT. I agree with the Senator.

Mr. CUMMINS. Mr. President——

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

Mr. LENROOT. I yield.

Mr. CUMMINS. Again I desire to say that so far as that question is concerned, there was very great difference of opinion in the Committee on Interstate Commerce in regard to it. It is merely a matter of good, sane judgment, and I recognize that there are a great many reasons which make toward the selection of the Interstate Commerce Commission rather than the transportation board; and so far as I am concerned I would not regard it as any invasion of the principle of this bill to substitute for the transportation board in that respect the Interstate Commerce Commission.

Mr. LENROOT. I think it would be a very great improvement over the bill if that were done.

Mr. POMERENE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Ohio?

Mr. LENROOT. I do.

Mr. POMERENE. I am not sure that I fully understood the objection which the Senator from Wisconsin makes. Do I understand that it is to the transportation board as an appellate board in labor disputes?

Mr. LENROOT. Having the power of final decision; yes.

Mr. POMERENE. And the Senator's suggestion was that there should be substituted for it the Interstate Commerce Commission?

Mr. LENROOT. I suggested an impartial tribunal, and I do not believe this would be such a tribunal. The Senator from Utah [Mr. KING] suggested the substitution of the Interstate Commerce Commission, and I replied that I believed that would be preferable to the transportation board.

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

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Tennessee?

Mr. LENROOT. I yield.

Mr. McKELLAR. In addition to what has been said, is not this true also: It will be put into the hands of both boards to operate in the matter. It will be easier for the transportation board to grant increases of wages, because it has no responsibility for taking care of the wages after the wages are increased. It just transfers that responsibility to the Interstate Commerce Commission, and thereby its line of least resistance would be simply to grant whatever increase in wages might be asked and benignly pass them on to the Interstate Commerce Commission to fix the rates to take care of the wages. That seems to me to be an objection also.

Mr. LENROOT. Well, my own fear is quite the opposite, not because of any lack of intention on the part of the transportation board to be fair, but because their whole experience and environment have been such that they have occupied a position of antagonism to the employees of the railroads.

Mr. McKELLAR. Mr. President, if the Senator will permit me again, I agree with the Senator about that. The point that I was endeavoring to make was that whichever horn of the dilemma the transportation board took the public would be hurt by it.

Mr. LENROOT. That may be true.

Mr. CUMMINS. Mr. President——

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

Mr. LENROOT. I do.

Mr. CUMMINS. I can not allow that remark to go unchallenged. The public can not be hurt by faithful performance of duty on the part of any public official. The suggestion of the Senator from Tennessee is that the transportation board would be without any sense of responsibility. I deny that. If they are honest men and agree to an advance in wages, they know that

they are responsible for a corresponding increase in rates, or the rates that are necessary to pay these wages. I see some reason in the objection of the Senator from Wisconsin, namely, that the Interstate Commerce Commission would be further removed from the actual management of the railway property, and therefore might be thought to be more impartial and possibly more sympathetic. But the notion that we are creating in this bill a board that is without a sense of public duty and which would unnecessarily fasten burdens upon the public I can not allow to go without challenge.

Mr. LENROOT. I have not suggested that.

Mr. CUMMINS. I know the Senator from Wisconsin has not suggested it.

Mr. McKELLAR. Nor have I. I was just pointing out what might occur when these two organizations were created.

The PRESIDING OFFICER. Senators will please address the Chair.

Mr. LENROOT. Now, Mr. President, returning to the details of the bill for a moment, if I may direct the attention of the chairman to the provision on page 10 regarding the four months' guarantee, as I read the provisions of this section, the guarantee covers not only all of the railroads now in possession of the Government and under Federal control, but also covers railroads that were originally taken over, and it provides that whatever the deficit may be in those railroads over which the Government has no control, whatever the deficit may be for that period of four months, it will pay the deficit. Am I correct?

Mr. CUMMINS. Substantially correct.

Mr. LENROOT. Does the Senator think that in the interest of the Government, and with fullest sympathy with these short-line roads and the fullest desire to be of some help to them, it is safe for the Government to say to them, "You can operate as many trains as you like, as extravagantly as you wish, and the Government will pay all of the bills"?

Mr. CUMMINS. No, Mr. President; that would not be wise; and I think the Senator understands how complicated a subject this is.

Mr. LENROOT. I do.

Mr. CUMMINS. And how difficult it is to properly safeguard every point in it. A review of the bill has convinced me that there ought to be, on the part of the Interstate Commerce Commission, complete power to revise the cost of maintenance and operation of every road which falls within the guarantee, and correct it if it be found excessive or exaggerated. The clause to which the Senator refers has this protecting provision:

Provided further, That in computing the actual railway operating income for the purposes of this section, the commission shall not allow as operating expenses, for maintenance of way and structures, or for maintenance of equipment, respectively, for any month of the period covered by such guaranty, more than the monthly proportion of the amount fixed by the commission as the amount applicable for such maintenance of way and structures or such maintenance of equipment under the proviso in section 5 of paragraph (a) of the standard contract, but the cost of fire insurance may be included in such expenses. The commission may, in its discretion, make further allowance as operating expenses, in accordance with paragraph (e) of section 5 of the standard contract, to the extent that, in its judgment, will be necessary, so that the amount of the guaranty shall be the substantial equivalent, proportionately for the time being, of the standard return.

I am quite ready to grant that the proviso I have just read may not be broad enough and comprehensive enough to enable the Interstate Commerce Commission to revise the operation of the road and exclude expenses that ought not to have been incurred. But, so far as the principle of the matter is concerned, I believe in this provision profoundly. I think it ought to go further than it does, and I understand that the Senator from Kansas [Mr. CURTIS] has an amendment which he will offer at the proper time.

I will give the Senator from Wisconsin just one instance which actually occurred in Kansas. The Kansas City & Northwestern road was taken into Federal control. The Government did not enter into any contract with it, refused to enter into any contract with it; they were never able to agree upon terms; but the Government actually directed the expenses of the road, the purchase of its materials and its equipment, if any were purchased for the road, and practically governed the management of the property. That road at the beginning, when the Government took it over, had no debt at all, had no bonds or any other sort of debt, but under the manipulations of the Government in connection with it, it is now in debt $400,000, mainly to the people along its line who have furnished it supplies.

Mr. CURTIS. Mr. President, may I state right there that it had netted $17,000 the last year before the Government took it over.

Mr. CUMMINS. It was a paying road before the Government took it over. The Government diverted traffic from it and refused to deliver to it the freight which ought to have been delivered to it, with the result that about a month or more ago—I do not know just how long ago—it passed into the hands of a receiver. The road has actually been abandoned and is not now in operation, and has not been for more than a month, and the people whom it formerly served are left without the transportation facilities to which they are entitled. I think the Government ought to pay the deficit for a road of that kind.

Mr. LENROOT. The Senator understands that the only point of my inquiry was a proper protection to the Government against paying excessive deficits, deficits that would not have been created except for the guaranty.

Mr. CUMMINS. I agree entirely with the Senator from Wisconsin upon that point, and I renew my statement that upon going over this proviso again I think it might well be broadened so as to cover, on the part of the Interstate Commerce Commission, the power to do the very thing which the Senator from Wisconsin suggests.

Mr. LENROOT. Mr. President, I think I have only one other criticism or suggestion in connection with the details of the bill, and that is the provision found upon page 35, if I may have the attention of the chairman to this language, speaking of the transportation board, relating to the reorganization and consolidation of railroads under the plan provided in the bill:

It shall have the power, subject to the approval of the commission, to make contracts with such existing railway corporations as will cooperate with the board in effecting the aforementioned plan of reorganization and as may agree with the board upon the valuation of the railway properties upon the aforesaid basis—

Now I come to the point.

Providing for a guaranteed operating income pending the reorganization, whether the reorganization and consolidation shall be carried out under an original incorporation under this act or a reincorporation of an existing company, and until, with reference to any particular system, the reorganization and consolidation are complete.

If I correctly construe the language of this section, it delegates to the transportation board the power to obligate the Government to the payment of an operating income limited only by the limits that now exist under the Federal control. It seems to me that under this language, after the board has once made its plan of reorganization, and some weak, struggling road comes in and says that it desires to adopt that plan, pending that reorganization, which might cover several years, the transportation board is authorized to obligate the United States to pay a guaranteed income to that railroad. If I am correct in that, surely the Senator from Iowa will agree that no such authority should be reposed in the transportation board.

Mr. CUMMINS. I can only suggest what I think the committee had in mind. The committee had in mind the period of voluntary consolidation, seven years from the passage of the bill, because the basis of the sentence read by the Senator from Wisconsin is that an incentive or motive shall be presented for consolidation. The thought in the minds of the committee was that here is a plan for ultimate consolidation. As a part of that plan A road and B road are to come together. That would be in furtherance of the plan; it would be a partial consolidation. In that event the two roads would, during the process of their voluntary consolidation or reorganization—and, of course, a temporary disorganization as well, or probably internal disturbance—have the security or the guaranty for each of those roads during that period. It was not intended by the committee that that period should pass over into the period of compulsory consolidation, nor do I think it does. At least, that was not in my mind. I had in my mind just the thought I have attempted to express, that if two railway companies desired to come together in accordance with or in furtherance of the plan proposed by the transportation board, and approved by the commission, this guaranty would protect them during that period of reorganization, when their affairs were likely to be somewhat disturbed. It commended itself to me, because I am a friend of consolidation. I want to see the railroads of the country so consolidated that we can apply reasonable regulation to them and be just both to the capital invested in them and to the public as well.

That is the thought in my mind, and I believe that is the thought in the mind of the committee.

Mr. LENROOT. I, like the Senator from Iowa, am a friend of consolidation, complete consolidation and unification, but I say that I think under this provision the price the Government may be called upon to pay out of the Treasury of the United States under this provision will be altogether too high for such advantages as may be gained under the consolidation that is contemplated in the bill.

Mr. CUMMINS. It is not likely, I hope, that very many roads will be found earning less than the standard return.

Mark you, the standard return is not applied to the district or the country as a whole.

Mr. LENROOT. I understand.

Mr. CUMMINS. The standard return is applied and is ascertained by reference to the affairs of the particular road. If there are very many roads which do not earn in the years to come the average return of 1914, 1915, 1916, the transportation of the country will be in a bad way.

Mr. LENROOT. That is exactly the point. So long as the railroads are prosperous and are making at least the standard return I do not look for any voluntary consolidation, but if there is industrial depression throughout the United States, as is quite possible, then is the time that the railroads will take advantage of the provision, then is the time they will ask for the reorganization, then is the time that they will want the guaranty of the Government. In an industrial depression like that through no fault of the Government, with the railroads under private control, why should not the owners of the railroads take their share of the depression instead of having a provision of law whereby they may go to the Government and get the same returns that they did during prosperous times?

Mr. CUMMINS. If I may interrupt the Senator from Wisconsin further, I have given the reason which I think actuated the committee. I believe it is a good reason, but I want all Senators to observe that the provision is not vital to the bill in any way. It does not concern the technical life of the bill.

Mr. LENROOT. Oh, no; I understand that.

Mr. CUMMINS. Whether it is to be eliminated or not, any motion made to that effect would be a question simply of sound judgment on the part of Senators. I want them to know that I do not regard it as vital in principle. I am fighting here for the principle of the bill, but I do not intend to be dogmatic with regard to particular provisions which may be presented to the Senate and reasons furnished possibly which were not laid before the committee.

Mr. LENROOT. Mr. President, I have now occupied very much more time than I had expected to in the discussion of the bill. With reference to what the Senator from Iowa has just said, I shall offer an amendment striking out that portion of the bill.

With reference to some other suggestions or criticisms which I have made concerning the details of the bill, I am frank to say that I have not attempted to frame such amendments to many of the provisions as I would have been inclined to do had it not been for the fact that it is apparent to all of us that such railway legislation as will be enacted by Congress in all probability will not be this bill or the House bill that is pending in the Senate, but will be a bill written in conference. I have, therefore, said the things that I have and made the suggestions that I have not so much with the idea of taking the time of the Senate now and fighting them out, but rather to get before the committee the views that I hold with respect to certain features of the bill, knowing that they will give them consideration.

Mr. KING. Will the Senator permit an inquiry?

Mr. LENROOT. Certainly.

Mr. KING. I apologize to the Senator for recurring to a matter which he passed some time ago, and as to which I did not quite get his views.

The Senator called attention to the fact that within a rate group there might be a road that was not competitive, and yet which, under the system of rate making provided by the bill, would be brought down to a return of 2 or 3 per cent upon any basis established to ascertain the value of the roads. What plan does the Senator suggest, consistent with the general framework of the bill, by which that road might get a higher rate than that provided by the bill—one which would be fair, measured by any standard to be ascertained of the value of the roads?

Mr. LENROOT. Naturally, as I am not in favor of this plan at all, I would not be perhaps competent to make any suggestion; but it seems to me that, while we might in a general way take the value of a property within the group in arriving at some general conclusion with respect to rates, after all, justice can not be done unless there is a valuation of the different units within the group and rates approximated that will be just, in so far as justice can be done, to those different units within the group.

Mr. KING. May I propound one other question relating to another subject discussed by the Senator? Does the Senator distinguish between the duty of Congress in dealing with public utilities—common carriers such as railroads that are so indispensable to the life of the Republic and the people and private corporations in their dealings with their employees? That is to say, a public corporation such as a railroad chartered by a State or by the Federal Government is in a sense a public instrumentality. The owners of the road may not do with that road as they please; they may not suspend operations if they desire to do so. The public is interested in the operation of the road.

Does the Senator think that in dealing with the relations between common carriers and their employees there should be adopted by the Government the same policy and course of procedure as that employed in dealing with disputes between employers and employees of private corporations or private individuals? In other words, are the employees of transportation companies so related to the public that the public ought to exercise any control over controversies or disputes between such companies and their employees, and for that purpose over the employees themselves?

Mr. LENROOT. Of course, there is a distinction between railroads and other public utilities and private corporations. That is largely academic, perhaps, so far as any different treatment by Congress is concerned because it is only under existing war powers that we have the right to deal with the subject of private corporations at all, and once peace is restored Congress, I take it, has no power whatever over the subject in so far as private industry is concerned.

As I have said heretofore I believe the remedy is by the creation of impartial tribunals to finally determine disputes between railway employees and their employers, and with that power of final determination, with an impartial body, I believe that the strike question will settle itself without any possible suggestion concerning compulsory service or interference with the constitutional right of the employee to quit work, aside from any contractual relations, at any time that he sees fit.

In conclusion, Mr. President, I have only this to say: As I said in the beginning, I do not believe that the pending bill offers a solution of the railway problem. For that reason I can not support it. I believe that it will only further complicate a very badly complicated problem. I do not believe that it is possible to operate the railroads in the future and secure the capital that is necessary for successful operation without a guarantee from the Government. I do not believe that Congress will and I feel very certain that Congress should not give such a guarantee while the railroads are managed under the old system. I do not believe that Congress will ever be warranted in affording a guarantee unless the majority control is not in the hands of the Government, not in the hands of political appointees, but in the hands of a body that will have as its first consideration, not the interests of the stockholder, not the interests of the employees, but the interests of the public. I believe that solution which I have suggested will bring it about. I do not expect any such legislation will be reached now, but I would very much prefer that the Senate should take the House bill and build upon that rather than to launch now into such an experiment as is embodied in the pending bill, of doubtful constitutionality, and, to my mind, absolutely impractical in its operations.

Mr. SMITH of Georgia. Mr President, I wish to ask the Senator a question.

Mr. LENROOT. Certainly.

Mr. SMITH of Georgia. Does the Senator believe it is possible for us to reach a satisfactory conclusion in this matter before the Christmas holidays? Is it not probably true that if we let the matter go over until January we can come here and reach a conclusion that will be satisfactory to all Senators? I have heard quite a number of them say that they are not satisfied with the measure and not ready to vote on it, and I believe they will vote against the bill at the present time. As the Senator has evidently given a great deal of study to the matter, may I inquire what are his views on that question?

Mr. LENROOT. I will say, as I said the other day, that my views are that the railroads ought not to be returned to their owners the 1st of January. I do not believe that it is in the interest of the railroads, the public, or anybody else that they should be returned at the period of their highest expense and lowest revenue. I think the railroads should not be returned until next April or May. If that were done, we would have more opportunity to consider this very important question as it ought to be considered. But we have been told by eminent Senators upon the other side of the aisle that they believe the President intends to return the railroads upon the 1st of next January, about two weeks hence. It does not seem possible that the President would take any such responsibility as that of driving the major portion of the railroads of the country into bankruptcy, but I do not know what the President may do.

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Mr. SMITH of Georgia. I can not think it is possible that he is going to return them on the 1st of January.

Mr. CUMMINS. May I make a short reply to the inquiry of the Senator from Georgia? The Senate committee has been studying this question for at least two years. At the beginning of this session a subcommittee began the formulation of a bill. A little later it reported a bill which was referred to the Interstate Commerce Committee for action. On the 23d of October that bill was reported, is now on the calendar, and is the bill at present being considered.

The Senate of the United States will never be in better position to consider the railroad question than now. The Members of the Senate do not usually, I think, give close, undivided study to a subject until it is imminent. It can not do so in view of the many engagements of its Members. We have been two weeks upon this bill, and I am sure that Senators all have opinions with regard to it and to the general subject. It is of the highest concern that the bill be disposed of very soon—I hope this week—for if it is not disposed of this week, nothing will excuse Senators, I think, from staying here and considering it during the holidays. I can not imagine a Senator being willing to abandon the railroad question now and leave the transportation of this country open to the vicissitudes which confront it. I know the Senator from Georgia [Mr. SMITH] well enough to be sure that he will have an opinion, and a very intelligent one, upon this subject, and that he will express it in his vote. I think that every other Senator will be able to do likewise. I can not with complacency think of having the disposition of this bill or any other bill upon the subject go over until after the 1st of January.

Mr. SMITH of Georgia. Mr. President, if the Senator will allow me, I desire to say that it is true that Senators only begin to study most questions when they become imminent. We have so much to do that is almost a necessary consequence of the situation which confronts us.

I am satisfied there are a great many Senators who have only begun to study this bill during the past two weeks. They have gathered a great deal of information about it but have not reached conclusions. I have heard a number of Senators in the last two days express the desire to have more time to study the bill. Of course, if the railroads are to be turned back to their owners on the 1st of January without any legislation the situation would be very bad, but I can not think that possible. I do not think the railroads ought to be turned back to their owners before the middle of the spring.

Mr. CUMMINS. What would happen now if the bill were laid aside? Senators would lay aside the subject and would not take it up again until the bill came before the Senate.

Mr. SMITH of Georgia. I think Senators have their minds on it now and are studying it. I know I am giving what time I can—and considerable time—to trying to inform myself somewhat about it, and I have not yet reached a conclusion.

Mr. WATSON. Mr. President——

Mr. SMITH of Georgia. I yield to the Senator.

Mr. WATSON. Mr. President, some months ago the President of the United States stated in unequivocal terms that he expected to return the railroads to their owners on the 1st day of January, 1920. Since then there has emanated from the White House no statement to show that the President has altered his purpose or changed his intention. In view of that situation, does not the Senator from Georgia think that it is incumbent upon the Senate to stay here and transact its business and enact such legislation as will save the railroads from conditions that will inevitably result if they are turned back to their owners on the 1st day of January without legislation on the subject being enacted?

Mr. SMITH of Georgia. I do not think the Senate is responsible for the situation which the railroads are in. I do not think—I can not believe—that the President will turn the railroads back on the 1st day of January if legislation has not then been completed. It seems to me that those upon the committee might well communicate with the President and let him understand the labor of this work which is put upon Congress without any help from those who put it upon Congress.

Mr. WATSON. If the Senator will permit me, I desire to say I know that the chairman of the committee has consulted Director General Hines about this matter and he can state the result of his interview; but I further know that, in company with the Senator from Minnesota [Mr. KELLOGG], I visited the Director General a week ago and more and asked him to let us know what the President intended to do about the railroads; whether they would be returned on the 1st day of January with or without legislation. He responded that he had placed the matter before the President, that he had made a report as the President had requested, and that he had offered a suggestion, although he did not volunteer to state what the suggestion was, and we did not inquire as to what it was. But he stated that as soon as the President signified what his intention was, he would let us know. We returned four or five days later and sought to ascertain whether or not he had received an answer from the President, in order that Congress might know and the railroads might know precisely what the intention of the President is at this time with regard to the disposition of the railroads; but up to this day we have had no response. Therefore we do not know the intention of the President; and inasmuch as there has been nothing to negative the assertion that the President made some time ago that he intended to return the roads on the 1st of January, I think we are warranted in believing that they will be returned, whether we pass legislation or whether we do not.

Mr. SMITH of Georgia. Mr. President, the President has given no formal announcement by proclamation of the time the roads will be returned. The message, so far as I recall it, to Congress stated that legislation would no doubt be necessary, but that the President had no suggestion to make about what kind of legislation would be required.

Mr. CUMMINS. Mr. President, if I may, I desire to suggest that not long ago I put in the RECORD a letter written by the Director General jointly to Mr. ESCH, chairman of the Committee on Interstate and Foreign Commerce of the House, and to myself, as chairman of the like committee in the Senate, in which he said—I am not quoting him exactly—that it was utterly impossible for the Government to continue in the operation of the railroads unless Congress were willing to fix a definite time in which it would be sure that Government operation would continue and to make the necessary appropriations. The Director General can not make contracts, or hesitates to make contracts, that must be made for supplies for the coming year. There must be millions of ties bought and they ought to be bought now, because they should be taken out of the woods in the winter.

Mr. SMITH of Georgia. Does the Senator know whether the railroads are making such contracts?

Mr. CUMMINS. Certainly not; the railroads can not make such contracts. They neither have the money with which to pay for supplies nor do they know that the railroads are going to be returned to their owners. The railroads are utterly powerless to do anything. There ought to be 20,000 refrigerator cars ordered now in order to get them next summer when they will be absolutely needed. The Director General does not feel that he ought to put that burden upon the carriers if the property goes back immediately, and the carriers are utterly incapable of doing it for themselves. There has been no contract made for rail replacements. Everyone knows that it is necessary to have a large volume of steel rails for use during the coming year. They can not be had unless they are ordered months in advance, and there is nobody to order them. The situation is really most distressing, and I can not understand how Senators are willing to postpone the passage of some kind of legislation for a single day.

Mr. SMITH of Georgia. Is it not true——

Mr. WATSON. Will the Senator yield to me?

Mr. SMITH of Georgia. I will yield in a moment. Is it not true that a definite time should be fixed and the railroads notified, not by a statement through the press but by something more formal to the railroads? And is it not also true that they are not ready to take their property back on the 1st of Jan-

uary, and that paralysis of transportation would follow if an effort were made to turn them over to their owners on the 1st of January?

Mr. CUMMINS. Paralysis would follow——

Mr. SMITH of Georgia. Is it not absolutely impossible to turn them back to their owners on the 1st of January and go on with transportation?

Mr. CUMMINS. No; if a railroad bill has passed at that time, or if it is reasonably certain that within a month after the 1st of January a railroad bill will become a law, the roads can be turned back with perfect safety and there will not be a jar. If, however, they are turned back without any prospective legislation, and with the known habit of Congress to delay everything until the necessity becomes obvious to even the most indifferent mind, then there will be paralysis; then there will be chaos.

Mr. SMITH of Georgia. Could the railroad corporations organize their distinctive forces between now and the 1st of January? Have they their organizations ready to go on?

Mr. WATSON. They have not, nor can they secure them by reason of the suspended condition in which they now find themselves.

Mr. SMITH of Georgia. Therefore I am urging that there should be fixed formally a definite time, some little while in the future, and adequate notice should be given of the time so fixed.

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

Mr. SMITH of Georgia. Yes.

Mr. McKELLAR. As I recall, notice was published broadcast throughout the land about six months ago informing the railroads that they were going to be turned back on the 1st of January, 1920; and if they have not done anything themselves up to date it is their fault; it is not the fault of the administration.

Mr. SMITH of Georgia. It was not a formal order from the President. There was no order from the President announcing the time of return.

Mr. WATSON. Will the Senator yield?

Mr. SMITH of Georgia. So far as I know, there has been no final order emanating from the White House fixing the time for the railroads to be turned back to their owners. If there has been, I should be glad to be corrected.

Mr. WATSON. I am trying to inform the Senator on that point.

Mr. SMITH of Georgia. I thank the Senator.

Mr. WATSON. In his message to Congress on the 20th of May of this year, the President said, unequivocally:

> The railroads will be handed over to their owners at the end of the calendar year; if I were in immediate contact with the administrative questions which must govern the retransfer of the telegraph and telephone lines, I could name the exact date for their return also.

There is a straight, square, unconditional, assertion that the railroads will be handed back to their owners at the end of the calendar year; the President has never stated anything to the contrary; and yet, notwithstanding that fact, the railroads have not been in any position to prepare themselves for receiving their property, because they have not known whether the roads would be turned back, inasmuch as there were certain statements emanating from the Railroad Administration which led the railroad men to believe that the roads would not be turned back on the 1st of January. At all events, their own matters have not been placed in their own hands at any time to the degree that they could take charge, to the degree that they could make contracts for needed supplies and equipment of which the Senator from Iowa well speaks. They will not know, until some definite statement has been made as to the intention of the President, whether the railroads will be turned back to their owners or whether the Government will continue to hold them after the 1st of January.

But I want to call the Senator's attention to the fact that here is a straight, square declaration that they will be turned back; and, under those conditions, does not the Senator think that it is positively imperative that we should remain here and legislate in the interest of these great properties?

Mr. SMITH of Georgia. I think first a formal order ought to be issued by the President fixing the time, and directing that the properties be turned back to the railroads, and that formal order ought to be a sufficient length of time ahead of the actual return of the roads to give the amplest notice. I do not think even a declaration in a message that at the end of the year they would be turned back turns them back. I feel that no formal order having been issued, it is not at all settled that the railroads will be turned back on the 1st of January, and that only following an order for their return do we know the time of the return.

Mr. CUMMINS. Mr. President, we are not at all responsible for the Railroad Administration nor for the President. I assume that each of those functions will perform its duty according to the way it sees its duty. What we have to do is to perform the duties of Congress so far as the Senate takes a part in legislation. Now, we have a duty. I supposed it was the desire of a very large majority of the Senate and of the Congress, too, and I know of the people of the United States, to relieve the Railroad Administration of the operation of the railroads. If there is any one thing upon which the people of this country are united, it is that the railroads ought to be returned to private management and operation. If there is any dissent from that opinion, except among certain employees of the Government, I have not heard it.

Now, our duty is to put the railroads back in private management, if we believe that they ought to be in private management, and that is what this bill does. This bill does not wait upon the President or the Director General to determine when Government operation shall cease. This bill declares that it shall cease at the end of the month in which the bill becomes a law; and if I understand the temper of the people of this country, that is what they want. They want the roads returned and the management of the railway corporations regulated by the laws; but we can not return them and answer that sentiment of the people of the country until we pass some such bill as this to protect not only the interests of the carriers but the interests of the public as well; for if the roads should be returned without effective legislation they could exist about a month, and then they would fall into hopeless confusion, and two-thirds of them would be in the hands of receivers.

Mr. CURTIS. Mr. President, I offer the amendment which I send to the desk.

Mr. KIRBY. Mr. President——

The VICE PRESIDENT. Does the Senator from Kansas yield to the Senator from Arkansas?

Mr. CURTIS. I should like to dispose of this amendment. If the Senator wants to ask me a question, I yield.

Mr. KIRBY. No; I wanted to suggest the absence of a quorum. I think we ought to have enough Senators here to consider this bill, if we are going on with it. However, I will not make the suggestion.

Mr. CURTIS. Let the amendment be disposed of.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. In line 11, beginning on page 10, after the word "carriers," it is proposed to strike out the words "of which 'Federal control' was relinquished prior to July 1, 1918, as provided in the act of March 21, 1918, this act shall constitute a guaranty for the said period," and insert the following:

> Referred to in the following provision in section 1 of the act of March 21, 1918: "That every railroad not owned, controlled, or operated by another carrier company, and which has heretofore competed for traffic with a railroad or railroads of which the President has taken the possession, use, and control, or which connects with such railroads and is engaged as a common carrier in general transportation, shall be held and considered as within 'Federal control,' as herein defined, and necessary for the prosecution of the war, and shall be entitled to the benefit of all the provisions of this act" and subsequently relinquished regardless of the wishes of the owners: This act shall constitute a guaranty—
>
> (a) to the extent of any actual operating deficit, including taxes, that may have been incurred during the period January 1, 1918, to the date when this act takes effect; and
>
> (b) to constitute a guaranty until expiration of the four months' period heretofore provided in this section—

Mr. CURTIS. Mr. President, the reason for offering this amendment was very well stated a few minutes ago by the chairman of the committee. I had in mind the road referred to by him, the Kansas City & Northern, and also one other road in the State of Kansas. The Kansas City & Northern had made a net profit of $17,000 the year before it was taken over by the Railroad Administration. The administration took over the road, handled it for a time, refused to make a contract, has taken possession of and retained its terminals, directed the movement of its cars, taken its coal, and diverted its freight, and now that road finds itself in debt from three to four hundred thousand dollars. I am told that when the Railroad Administration put its hands on it the road did not owe a dollar in the world. That is one railroad. There was another road without any indebtedness that has been able to live, but the Railroad Administration has diverted its freight, and so manipulated its affairs that the road will have to stop on the 1st of January if something is not done. This other road, the Kansas City & Northern, has stopped operation, the men have been discharged, and the people along the line who have spent a good many thousands of dollars in building that road are now getting no accommodations whatever.

Mr. KIRBY. Mr. President, is it the purpose of this amendment to relieve roads that were first taken over, or sought to be taken over, by Government control and afterwards released?

Mr. CURTIS. The so-called short lines.

Mr. KIRBY. Is it the Senator's idea, then, that they ought to be guaranteed some return hereafter, notwithstanding they have not been under Government control at all?

Mr. CURTIS. If the Government has been diverting the freight and managing them and preventing the operation of the road in the usual way, as was the case with the Kansas City & Northern, and has taken possession of and holds its terminals in Kansas City.

Mr. KELLOGG and Mr. KING addressed the Chair.

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

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

Mr. KELLOGG. Do I understand the Senator to say that as to these two roads the Government has had possession all the time?

Mr. CURTIS. It has had possession of one of them, and in the case of the other it has controlled and diverted the freight and agreed to make contracts. The parties have been on here four or five times, but the contracts have never been signed. The Government says it has not had possession. That is a disputed question.

Mr. KELLOGG. Mr. President, if the road has been in the hands of the Government, under the Federal control act, it has its claim for compensation during the entire period.

Mr. CURTIS. But, Mr. President——

Mr. KELLOGG. Just a moment, if the Senator will excuse me, until I get through with my statement. If it is not in the hands of the Government, if it has not been taken over and operated, then it has not a claim for indemnity. We ought not to decide that question in this bill, because there are a great many short lines that were taken over and turned back, and we are not proposing to pay them for the last two years a guaranteed return, and there is no reason why we should pay the Kansas City & Northern for two years if we do not pay them all; and if we are going to open the door now we will open that door to every railroad company in this country which was taken over and then turned back again.

Mr. CURTIS. Mr. President, I think the circumstances connected with the Kansas City & Northern justify this amendment. I do not know that it is drawn so that it will exclude others, but that matter can be very easily handled in conference. It will take but a very short time, and I have no objection to its being changed to meet the situation. The object desired is to have the roads which were taken by the Railroad Administration—or where the greater part of its property was taken and held and where its freight was diverted and it was controlled by the Railroad Administration, and the other roads in like condition—fairly treated.

Mr. KIRBY. Mr. President——

The VICE PRESIDENT. Does the Senator from Kansas yield to the Senator from Arkansas?

Mr. CURTIS. I yield to the Senator from Arkansas.

Mr. KIRBY. Does the Senator expect to have a question of fact determined here by this bill?

Mr. CURTIS. No; I do not want a question of fact settled—not at all. If the amendment is not worded now so that it requires a showing to be made to the proper authorities, I would be perfectly willing to have the conferees make such a change of the language so as to leave the question of fact to the Interstate Commerce Commission or to some other organization.

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

Mr. CURTIS. Certainly.

Mr. KING. Is not the bill sufficiently broad to include all roads over which the Government has exercised jurisdiction or of which it took possession during the period of the war?

Mr. CURTIS. I think not.

Mr. KING. That is a question of fact that is easily susceptible of demonstration. If the Government took this road over and did not return it, then, under the bill, the Government would have to meet the guaranty; but if it did take it over and returned it—and that is a fact easily demonstrated—then it is clear that we ought not to make a guaranty for this road unless, as the Senator from Minnesota says, we guarantee all of them.

Mr. CURTIS. But here is the trouble: The Government took the road over and did not make a contract, but it has been directing its management ever since—has full and absolute control of its property, has full control of its terminals in Kansas City, and has diverted freight according to its own desires and ordered that a certain number of cars of freight should be delivered to the line just the same as if it had the legal control. The chairman of the committee made a very fair statement in regard to the treatment of this railroad a few moments ago.

Mr. CUMMINS. Mr. President, I think the amendment is entirely within the spirit of this bill. We have already made provision in the bill for all these roads that were taken over—and they were all taken over. That does not settle the question of fact. I know they were taken over, because I have seen the notices which were sent out by the Director General about the 1st of January, 1918, in which the Government did undertake to control all of them; but this bill covers those that were dismissed from Government control prior to July 1, 1918. Unfortunately, however, the road of which the Senator from Kansas [Mr. CURTIS] speaks was not dismissed prior to July 1, 1918. Therefore, it could not come within the terms of this bill, and it has just as good a right to be within the terms of the bill as any of the other roads. So, while I am not sure that the amendment is drawn just as it ought to be—I have not had an opportunity to review it—I know that the spirit of it is right. I think it ought to be subject to some kind of revision by the conference committee or in some other way.

Mr. CURTIS. I am perfectly willing that that shall be done.

Mr. KING. Mr. President, as I understood the Senator, he stated that he knows that this road was taken over by the Railroad Administration.

Mr. CUMMINS. No; I said that I know the facts with regard to the taking over of railroads, because the facts were developed before the Committee on Interstate Commerce. When the President took possession of the roads on the 27th day of December, 1917, he caused to be sent out—not he, of course, personally, but his Director General caused to be sent out—notices addressed to every railroad in the United States containing a copy of the proclamation which the President had issued, setting forth the war necessity and other things of that kind, and directing the railroads to which the notices were sent to hold themselves for the Government of the United States. I know that subsequently certain persons connected with the Railroad Administration claimed that these railroads had not been taken over, and the injustice of it was so apparent that I introduced a bill, just before the 1st of July, 1918, declaring that these roads were in the possession of the United States and must be dealt with accordingly. The Senate passed the bill and the House passed the bill, and the President vetoed it. Such is my recollection. We are trying in this bill for counsel. These sections are for counsel largely. We are trying to do some tardy justice to these roads, many of which have in fact been ruined by the injustice practiced by the Railroad Administration upon them.

Mr. KING. Mr. President, did not the Railroad Administration simply divert the traffic over roads which it controlled, over which it exercised jurisdiction, and whose employees they took under its protection and direction, and other roads over which it did not assume jurisdiction, and to which it gave no traffic to, and leave them to obtain just such traffic as they could obtain from the country in which they were operating?

Mr. CURTIS. Mr. President, I have stated that in this case I know that they did direct certain traffic to go over this road. I know that they did take possession of the terminals, because the Railroad Administration advised me that they did so. I know that they filled the tracks of the terminals full of the cars of other roads. I know that they did advance money to this railroad.

Mr. CUMMINS. There is no doubt about the Government having taken over the railroad to which the Senator from Kansas refers. Nobody questions that.

Mr. KING. Mr. President, it is quite likely, under the statements made by the Senator from Kansas and the Senator from Iowa, that this road ought to come within the provisions of this bill and obtain whatever guaranties other roads obtain. But it does seem to me that we ought to be very cautious about enacting legislation that would give any pretext whatever to roads that the Government did not take possession of to come in and demand that the Government should guarantee them their earnings during the period of the war.

Mr. CURTIS. If the amendment is broad enough for that, it can be modified in conference; and I have already told the chairman of the committee that I should be perfectly satisfied if the conferees made such a change as they thought necessary. There are certain short lines that are entitled to relief.

Mr. KING. Let me ask the Senator from Iowa whether the language of the amendment offered by the Senator from Kansas could in any way be tortured into bearing the interpretation that the Government must pay this guaranteed return to any of the roads throughout the United States which confessedly the Government did not take over?

Mr. CUMMINS. The question of fact is still open. It is not adjudicated by the bill.

Mr. KING. Let me make myself clear. I know a number of small roads which insisted that the Railroad Administration had taken them over under the proclamation made by the President. They were promptly notified that they were not taken over, to continue their operations as they had been operating in the past, and that the Government did not intend to disturb them in the management and control of their own roads; but they have persisted from that time until the present in insisting that the Government had taken them over, although it did not; and, of course, if you permit language that will bear any sort of an interpretation that would include them within the terms of the bill, they will insist that the Government shall pay them this guaranty, the same as it will pay these other roads which unquestionably it did take over and to which it is obligated.

Mr. CUMMINS. I have not read the amendment of the Senator from Kansas carefully enough to answer that. I only know the spirit of it, and with the spirit of it I am in harmony.

Mr. KING. As I understand, the amendment has not been printed?

Mr. CURTIS. No; it has not been printed.

Mr. KING. It has just been read from the desk, and I would like to ask the Senator if he would object to having it printed and give us an opportunity to examine it?

Mr. CURTIS. I have no objection to having it printed and go over until to-morrow.

Mr. KELLOGG. On that subject I will state to the Senator from Utah [Mr. KING] that when the President published his order, under the law of 1916, authorizing the Government to take over the railroads, it included all the railroads in the United States in a general description. Afterwards the question arose as to what roads had been taken over and what not, and before the 1st of July, 1918, the President released a large number of railroads in the United States, many of them known as short lines. Those companies have been operating their own railroads from that day to this. They claim, and undoubtedly it is true, that they have suffered by reason of the general rise in wages and operating expenses, and that they could not raise their rates because none of the roads had raised their rates, beyond the one increase of 25 per cent upward. They came to the committee and insisted upon a certain indemnification, and the committee provided that pending the six months after the bill passes they shall be given the same guaranty as the other roads. But it is manifest that if one or two of them are given the guaranty to run clear back to 1918, it will not be possible to leave any of them out, and Congress will have to take care of the entire number of railroads that have been in private operation.

Mr. KING. Mr. President, will the Senator permit a question?

Mr. KELLOGG. Certainly.

Mr. KING. Does the Senator think the Government ought to be burdened with that responsibility?

Mr. KELLOGG. It was not the opinion of the committee that the Government ought to assume that, and the committee restricted the relief to the time of resumption after the roads go back.

Mr. KING. Does the Senator think the Government ought to pay anything to those roads for the period from the taking over until the time that the proclamation was issued restoring them, when there was no demand made to regulate or control them or operate them?

Mr. KELLOGG. It was impossible for the committee to examine into one or two thousand railroads scattered over the country, to know to what extent they had suffered or what obligation the Government was under to them.

Mr. KING. Does the bill contain any provision for the method of determining what shall be paid to them?

Mr. KELLOGG. Yes; it makes provision for determining what shall be paid to them.

Mr. WALSH of Montana. Mr. President, I offer the following amendment.

The VICE PRESIDENT. The Secretary will read it.

The SECRETARY. After line 17, page 16, insert:

Provided, however, That any railroad corporation proposing to undertake any work of new construction may apply to the transportation board for permission to retain for a period not to exceed 10 years all or any part of its earnings from such new construction in excess of the amount heretofore in this section provided, for such disposition as it may care to make of the same; and the said board 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 board in its order granting such permission.

Mr. WALSH of Montana. Mr. President, this amendment is offered in the conviction that the bill as reported does not offer sufficient inducement to hold out the hope that there will be any further new railroad construction.

During the year 1910 there were lines projected in the State of Montana, surveys had been made, rights of way acquired, and terminal facilities assured, aggregating something like 1,200 miles, divided almost equally between the Soo Line, the Northern Pacific, and the Great Northern. The Soo construction would introduce another transcontinental line into the State of Montana. For reasons upon which it will not be necessary to dwell the construction has never been undertaken. All these lines penetrate a rich agricultural section, into which, even then, settlers had gone, and the country has been quite generally settled since that time, in the confident expectation that the roads will be constructed at no distant day. Many of the settlers are now at a distance of from 50 to 75 miles from railroad facilities.

I can not believe, Mr. President, that there is anyone who will be quite willing to put money into new railroad construction being assured beforehand that the only return which can be secured upon the money is the equivalent of 6 per cent, with an additional one-half per cent on earnings between 6 and 7 and one-third on earnings over 7 per cent.

Liberty bonds drawing 4¼ per cent interest are being sold upon the market to-day, Mr. President, at about 92. I think it a very reasonable expectation that those bonds will be at par in three years. If that is the case, it would pay a man very much better to buy Liberty bonds with his money now than to put it into railroad construction; that is, into new construction.

The amendment offered by me proposes that any railroad contemplating new construction may apply to the Interstate Commerce Commission for permission, upon the construction of the road, to retain all or any part of its earnings, notwithstanding the limitation of the bill, for a limited period, not to exceed 10 years. The Interstate Commerce Commission would then take into consideration the necessities of the region through which the road is to go, the difficulties of construction, and the length of time that will be necessary to put it upon the basis of already established roads.

I think, Mr. President, everyone will concede that some inducement should be made to the roads that are undertaking new construction over and above those that are held out to roads already in existence.

Mr. LENROOT. Will the Senator yield?

Mr. WALSH of Montana. I yield.

Mr. LENROOT. I should like to ask the Senator whether he has considered the difficulties of making computations, allocating earnings to new construction?

Mr. WALSH of Montana. I appreciate the difficulty suggested by the Senator; but the difficulties are no greater than they are in connection with what is ordinarily known as a branch road, and you are bound to do it there. You have to divide the earnings in some way in a case of that character. Although the problem is not simple, it seems to me it ought to be worked out without any particular difficulty by the Interstate Commerce Commission and by a proper system of bookkeeping, so as to make the showing required by the amendment suggested.

Mr. KIRBY. Mr. President, I desire to ask the Senator a question. Is it not a fact that under the old system railroads were entitled to earn, according to decisions of the courts, reasonable returns upon capital invested, including branch lines along with the main system, whether they were making money or losing money? That is my understanding.

Mr. WALSH of Montana. The amendment is intended to reach the case not of the branch line at all, which becomes a part of the whole system, but it applies entirely to new construction.

Mr. CUMMINS. I, of course, have no authority to accept the amendment, but I see no objection to the amendment proposed by the Senator from Montana.

The amendment was agreed to.

Mr. STANLEY. Mr. President, I send to the desk the following amendment.

The VICE PRESIDENT. The Secretary will read it.

The SECRETARY. At the end of line 17, after the word "court," on page 57, strike out sections 25 to 31, inclusive, down to the words "Sec. 32," line 22, page 66.

Mr. STANLEY addressed the Senate. After having spoken for nearly two hours,

Mr. HARRISON. Mr. President, the Senator from Kentucky has been speaking for several hours, and I am sure he is tired.

Mr. STANLEY. I am not at all tired, but I am sure the Senate is tired.

Mr. HARRISON. The Senate is not tired; but I was going to suggest that there is an important conference report on the Edge bill, and I would like to know if we could not take that up and dispose of it, and the Senator might proceed to-morrow,

Mr. STANLEY. That would be very agreeable, if it suits the convenience of the Senate and the chairman of the Interstate Commerce Committee, to desist at this time and conclude my remarks in the morning at 11 o'clock, when we convene. I will need to take only a short time to-morrow.

Mr. CUMMINS. Mr. President, I desire to say a few words with regard to the suggestion made by the Senator from Kentucky [Mr. STANLEY]. I realize that he has been on his feet for some time, and naturally is fatigued, and I would like very much to accommodate the Senator; but I think we might as well look forward and see what we ought to do. I assume that the Senate would not take a holiday recess with this bill pending. I assume that it is the intention of the Senate to dispose of this bill in some way before we take a recess, if we take any.

Personally it makes no difference to me. If the bill passes, I shall be here at work with the conference committee. I think it is now for the Senate to determine whether it shall hold evening sessions, or one or two evening sessions, at any rate, or forego the holiday recess. We all know that the House has it in mind and very much desires to take a recess of that kind for a week or ten days or two weeks.

So far as I can control the situation I would be very, very unwilling to see any recess taken by the Senate until the pending bill is disposed of. I want to do the thing that will most completely convenience the Senate. What I would like to see done, if possible, would be this: The Senator from Kentucky [Mr. STANLEY] is weary, as I know——

Mr. STANLEY. I am perfectly willing to go on, but the Senate has been in session much longer than usual to-day. We have been adjourning about half past 5.

Mr. CUMMINS. I gave notice on Saturday, as all Senators will remember, that we would continue this afternoon into an evening session. All Senators had notice of that purpose on my part. But I do not control the action of the Senate, of course, and I want to do the thing that the Senate desires to do. I only know that if we do not make progress upon the bill we shall have no Christmas recess. It is for Senators to determine. It will make no difference with me as a matter of convenience, because I shall not be away anyhow.

Mr. McLEAN. Mr. President——

The PRESIDING OFFICER (Mr. CURTIS in the chair). Does the Senator from Kentucky yield to the Senator from Connecticut?

Mr. STANLEY. Certainly.

Mr. McLEAN. We might relieve the Senator from Kentucky by temporarily postponing the railroad bill and considering the conference report on Senate bill 2472. I do not think it would take very much time to dispose of it.

Mr. CUMMINS. I am very anxious to have some plan that will be satisfactory to all sides. If I felt sure that the conference report to which the Senator refers could be disposed of this evening, I would have no serious objection to that course.

Mr. SMOOT. We had better go on with the railroad bill.

Mr. CUMMINS. I am assailed on all sides. One Senator wants me to go on with the railroad bill and another Senator wants to go on with the conference report. My own inclination is to go on with the railroad bill just as far as we can go with it this evening.

Mr. HARRISON and Mr. KELLOGG addressed the Chair.

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

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

Mr. KELLOGG. I do not think the conference report suggested by the Senator from Connecticut could be disposed of in half an hour. I think I heard the Senator from North Dakota [Mr. GRONNA] say that it would take much longer than that. He wants to speak on the conference report. I suggest to the Senator from Iowa, if the Senate is willing, that we enter into a unanimous-consent agreement to vote on the railroad bill on Friday, if that may be done.

Mr. CUMMINS. I should be very willing to do that, but I have observed that requests for unanimous-consent agreements of that character are not often favorably considered until the debate is practically at an end.

Mr. McLEAN. The conference report on the finance bill has now been pending for more than two weeks, and if it is postponed much longer the Senate of the United States will have to take the responsibility of doing it.

I do not think it will take over an hour to dispose of it, and it seems to me that the conference report ought to be accommodated to that extent. It is an important measure and it has been postponed and postponed. I think it would not interfere with the progress of the railroad bill to try at least to select an hour or an hour and a half some time to accommodate the conference report on this important measure.

Mr. CUMMINS. I am quite desirous of meeting the views of the Senator from Connecticut. It was in my mind that when the Senate has considered the railroad bill as long to-day and to-night as it cares to stay in session we might take an adjournment until to-morrow at 11 o'clock, giving the Senator from Connecticut two hours, or something like that, to dispose of the conference report.

Mr. McLEAN. With that understanding, I am perfectly willing that the conference report shall go over until to-morrow.

Mr. STANLEY. If we can not take up the conference report at this time, it is suggested to me by the Senator from Mississippi [Mr. HARRISON] that the hour is getting late and that I resume my argument in the morning.

Mr. WATSON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Indiana?

Mr. STANLEY. Certainly.

Mr. WATSON. I think that ought to be accompanied by a statement by the chairman that he will insist upon a night session to-morrow night and each succeeding night until the railroad bill shall have been disposed of.

Mr. CUMMINS. I said that on Saturday. I would only be repeating what I said then.

Mr. STANLEY. I will say to the Senator from Indiana that I am more than pleased to yield the floor right now and let the Senate take up the conference report, or any other business that may be brought up, and then resume my argument in the morning.

Mr. CUMMINS. The Senator from North Dakota [Mr. GRONNA] is not here.

Mr. McLEAN. He is on his way, I am informed.

Mr. CUMMINS. The conference report can not be taken up in any event until the Senator from North Dakota is here.

Mr. McLEAN. I would like to ask——

The PRESIDING OFFICER. Senators desiring to interrupt the Senator from Kentucky will please address the Chair. Does the Senator from Kentucky yield to the Senator from Connecticut?

Mr. STANLEY. Certainly.

Mr. McLEAN. I ask unanimous consent that the conference report be taken up to-morrow at 11 o'clock.

Mr. STANLEY. I suggest that the Senator amend that request to take it up at the conclusion of my argument to-morrow. I will not take more than half an hour in the morning, I believe.

Mr. CUMMINS. I could not agree to that arrangement. I am perfectly willing to take an adjournment this evening some time, whenever we do close this session, but I am not willing that the conference report shall be made the unfinished business. I am unwilling to give it precedence of the railroad bill.

Mr. McKELLAR and Mr. McLEAN addressed the Chair.

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

Mr. STANLEY. I yield to the Senator from Connecticut.

Mr. McLEAN. The Senator from North Dakota [Mr. GRONNA] has just entered the Chamber, and I suggest that we proceed with the conference report for a short time, if the Senator from Iowa [Mr. CUMMINS] is willing that the railroad bill shall be temporarily laid aside.

Mr. STANLEY. I did not understand the suggestion of the Senator from Connecticut.

Mr. McLEAN. I say we might proceed with the conference report for an hour this evening.

Mr. STANLEY. I shall be delighted to yield for that purpose.

Mr. CUMMINS. I should like to ask the Senator from North Dakota [Mr. GRONNA] whether an arrangement of that sort is agreeable to him?

Mr. GRONNA. Mr. President, I appreciate the courtesy which the Senate extended to me while I was absent in not taking up the conference report. Of course, I believe the conference report is of sufficient importance to take some time to consider it. I have no more responsibility in passing that legislation than any other Senator on the floor. I feel, however, that the party in power, the majority, will be held responsible for the legislation. For that reason I believe that the Senate can well afford to take at least sufficient time to carefully consider it. It is fully of as much importance as the railroad bill, I will say to the Senator from Iowa, if not more so.

I have just one vote. So far as I am concerned I shall not ask the Senate for any special privilege, but I do believe that we are entitled to have sufficient time to consider the conference report. I take it that there will be other Senators who wish to speak on the conference report. If not, I presume that it will not take a great deal of time. Still, I am not going to pledge myself to take only a few minutes; it may be that a few minutes will be sufficient, but I think that if we go into the

merits of the conference report it will take a great deal more than an hour, I will say to the Senator from Iowa.

Mr. EDGE. Mr. President, will the Senator from North Dakota yield to me?

Mr. GRONNA. I do not have the floor. The Senator from Iowa has the floor.

Mr. CUMMINS. The Senator from Kentucky has the floor.

Mr. STANLEY. I yield to the Senator from New Jersey.

Mr. EDGE. I desire merely to make a brief, short observation. The measure referred to by the Senator from Connecticut, it will be recalled, has passed the Senate and passed the House, and we are now confronted alone, as I understand the rules, by the question of concurring in the report of the conference committee. The report of the conference committee was made unanimously. It was reported to the House, and has there been concurred in. It is now before the Senate. While I suppose consideration of the conference report could reopen any phase of the bill that any Senator desires to discuss, still the question finally, as I understand the rule of the Senate, is whether the Senate will or will not agree to the conference report.

Mr. McKELLAR. I ask unanimous consent to have inserted in the RECORD a letter, and the accompanying argument, from the National Hardwood Lumber Association, of Chicago, Ill., on the railroad question.

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

THE NATIONAL HARDWOOD LUMBER ASSOCIATION,
Chicago, Ill., December 13, 1919.

Hon. KENNETH McKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR: This association desires to commend you for your firm stand in opposition to the adoption of the so-called Cummins bill (Senate file 3288), proposing certain legislation for the regulation and control of railroads.

We desire particularly to call your attention to two sections of the bill, and hereto attached is a memorandum setting forth some of the reasons why we think these two sections are particularly objectionable.

We employ the railroads in the distributing end of our business, and the freight rate is as much a part of our total cost of operation as the cost of raw material, labor, or any other item of expense. We are perfectly willing to pay a reasonable charge to the railroads, but we believe, in all fairness, that we are entitled to have some nonpolitical, unprejudiced governmental agency to determine what that reasonable charge ought to be.

We are very strongly of the opinion that the same agency should exercise all the powers of regulation and control over common carriers which Congress delegates to any body; and, further, that this power should be centralized in one body and not in two or more.

The matter of car supply, distribution, and movement when loaded is so intimately connected with the determination of a reasonable rate that it seems to us, at least, perfectly absurd to delegate power to one body over the question of car supply, adequacy of transportation facilities, and the efficiency of service, and to another body the determination of what we shall pay for those services, each body being independent of the other, and the rate-making body being required to accept the findings and conclusions of the other body as prima facie true, as a matter of evidence.

To our minds this is an experiment that will prove a failure in operation should this bill become a law and the jurisdiction of the Interstate Commerce Commission be divided with the so-called transportation board.

Jealousies between these two coordinate powers are sure to arise and the efficiency of the law will be practically destroyed. We can not find any sound argument by which the man who pays the freight should be required to go to one body to have fixed and determined a rule of reasonable service and another body to determine what rate should be paid for such reasonable service, since those two matters are so intimately interrelated that the determination of the reasonable rate must necessarily be based upon the reasonable service, which the rate-making body, as a matter of common sense, should be empowered to determine.

The whole bill, it seems to us, is not drawn in the interests of the public, but rather in the interests of owners of railway securities. It is impractical, visionary, and unworkable, and we trust that you will persist in your position and insist that the Esch bill, so called (H. R. No. 10453), now before the Senate Committee on Interstate Commerce, be reported out, so that the Members of the Senate may have an opportunity to study the provisions of that bill. On the whole, we think that bill is the best that has been offered in the interests of both the public and the railroads.

Very truly, yours,

NATIONAL HARDWOOD LUMBER ASSOCIATION.
FRANK F. FISH, *Secretary-Treasurer.*

"The National Hardwood Lumber Association is opposed to certain features of the so-called Cummins bill, Senate bill 3285, for reasons set forth below.

THE SO-CALLED RULE OF RATE MAKING.

"Section 4 of the rule provides:

"(a) For dividing the country railroads into rate-making groups.

"(b) The reasonable rates shall be such as will give to the railroads within the group 5½ per cent net operating income on the aggregate value of the railroads within such group. (Sec. 6.)

"(c) The Interstate Commerce Commission shall value the railroads in each group as a basis to fix rates that will yield a net return of 5½ per cent on such valuation. (Sec. 6.)

"(d) The rates shall yield so far as practicable a net operating income that shall bear the same relation to the value of each railroad in the group. (Sec. 6.)

"(e) If any railroad within the group shall earn more than 6 per cent a certain part of such excess shall be taken away from it and expended by a board or loaned to some other railroad.

"(f) The shipper paying this excess can not recover it.

"Let us consider this rule of rate making.

"(a) How can the railroads be divided into districts without overlapping of the same system onto two or more groups, so the same railroad might be a debit line in one group and a credit line in another group and would lose in both groups, because its surplus would be taken away in one case and no credit allowed in the other case?

"(b) If the reasonable rates shall be such as to yield 5½ per cent on the value of all the railroads in each group, then any amount in excess of that return is unreasonable and unlawful for the group of railroads as a whole.

"(c) How is the commission going to fix the valuations so as to determine the rates that shall yield this return of 5½ per cent net? They have been working on this valuation matter for some five years now and the value of no single railroad of any consequence has yet been announced.

"If the provision means that the stocks and bonds shall be taken as the value of the railroads in any or all groups, this can mean only a very great advance in rates, and we protest against it.

"(d) How is it possible to fix rates so the yield shall bear the same or anywhere near the same relation to the value of each property? Two railroads in the same group might have the same physical value, but the earning value of each vastly different. The commission is given an impossible task to thus equalize these varying conditions.

"(e) If any line in a given group earns more than 6 per cent net, a certain part of such excess is taken away; if it earns 7 per cent, still more is taken away from it; so the rule of rate making seems to mean that a railroad in a particular group might earn and retain a net return of one-fourth of any amount in excess of 7 per cent. Thus if any line earned 13 per cent net it might retain 7 per cent plus one-fourth of the excess 6 per cent, or a total of 8½ per cent.

"(f) If under this rule of rate making the railroads by groups or individually have received a net return in excess of such reasonable rates, then such excess belongs not to the Government but to the parties who paid such excess; the shipper can not recover it, and the Government simply proposes to appropriate this money to be expended as directed. Under what guise of law may this be done?

"Certainly the shipper should not be required to pay an excessive rate so that a fund can be accumulated to loan to some railroads who may be in need of money.

"We might better provide for Government loans to railroads upon approved securities, as is provided in sections 208–209 of the House bill now before the Interstate Commerce Committee of the Senate.

"So far as I can see section 7 is unworkable at all until the valuation of railroads has been completed, and even then it would seem to penalize the more efficient roads without benefiting the weaker ones.

"It does not seem to provide anything in the interest of the public in the way of adequate transportation facilities, efficient service, and reasonable rates.

"Section 7 proposes to create a transportation board of five members and section 10 defines its duties, among which are to prepare a plan under which the railroads of the country can voluntarily consolidate into 20 or 25 systems, which is made compulsory after seven years. (Sec. 13.)

"(b) How and where extensions of lines may be made.

"(c) Look out for the credit and revenues of the carriers and what new capital may be required, and its findings shall be accepted by the commission as prima facie evidence concerning these matters.

"(d) And make report to Congress of the adequacy of transportation facilities.

"(e) And perform practically every other function now performed by the Interstate Commerce Commission, leaving to that body only the power to fix and determine a reasonable rate.

"We are opposed to the creation of a transportation board or any other body having jurisdiction and control over the railroads except the Interstate Commerce Commission, because we believe the law of regulation and control will be operated with greater efficiency through one body with complete power and control than is possible with any number of bodies with divided jurisdiction and power.

"We have had our experience with these different authorities under Federal administration. We have the inferior and superior rate committees and finally the administration at Washington, and by the time we have finished our round we find ourselves at the point of the circle where we started.

"The shippers never have had an opportunity to voice their objections to this bill, as the committee never had any hearings for the shippers, at least.

"Various measures were before the House committee that proposed a divided jurisdiction with the Interstate Commerce Commission and were unanimously opposed by the shippers and shippers' organizations.

"The commerce of the country should not be hampered by being required to go to one body for cars and facilities and the determination of reasonable and efficient services and then to another body to secure reasonable charges for services that the rate-making body knows nothing about.

"Under private operation of railroads the shipper does not go to one department for empty cars and to another to expedite the movement of cars when loaded and to still another for a rate. He does all his business with the railroad, with the traffic department.

"So the Interstate Commerce Commission should be given exclusive jurisdiction of regulation and control as exercised by Congress over all the activities of the railroads.

"Thus the shipper will then have one body to whom it may look for the proper enforcement of the law. It can not be doubted but that the commission will organize itself as to fulfill all of the duties imposed on it."

Mr. CUMMINS. Mr. President, in view of the conflicting desires, I move that the Senate take a recess until 11 o'clock tomorrow morning.

Mr. HARRISON. I make the point of no quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

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

Ball	Harris	Moses	Stanley
Brandegee	Harrison	New	Sutherland
Calder	Henderson	Nugent	Thomas
Cummins	Jones, N. Mex.	Overman	Trammell
Curtis	Jones, Wash.	Phipps	Walsh, Mass.
Dial	Kellogg	Poindexter	Warren
Edge	Keyes	Pomerene	Watson
Gay	Kirby	Sheppard	Wolcott
Gronna	Lenroot	Smith, S. C.	
Hale	McKellar	Smoot	
Harding	McLean	Spencer	

The PRESIDING OFFICER. Forty-one Senators have answered to their names. There is not a quorum present. The Secretary will call the names of the absent Senators.

Mr. HARRISON. I move that the Senate adjourn.

Mr. POINDEXTER. Will the Senator withhold that motion for a moment?

The PRESIDING OFFICER. There being no quorum present, there is only one motion which is in order, and that is the motion to adjourn. The question is on that motion.

Mr. CUMMINS. Mr. President, on that I ask for the yeas and nays.

The yeas and nays were ordered and taken.

Mr. THOMAS (after having voted in the negative). I voted forgetting for the moment that I have a general pair with the senior Senator from North Dakota [Mr. McCUMBER]. I transfer that pair to the senior Senator from Texas [Mr. CULBERSON] and allow my vote to stand.

Mr. SMITH of Georgia (after having voted in the negative). I voted inadvertently. I have a pair with the senior Senator from Massachusetts [Mr. LODGE] and therefore withdraw my vote.

Mr. HENDERSON. Has the junior Senator from Illinois [Mr. McCORMICK] voted?

The PRESIDING OFFICER. He has not voted.

Mr. HENDERSON. I have a general pair with that Senator. When I voted I thought he was present. I withdraw my vote.

Mr. KELLOGG (after having voted in the negative). I have a general pair with the Senator from North Carolina [Mr. SIMMONS]. I transfer that pair to the senior Senator from Minnesota [Mr. NELSON] and let my vote stand.

Mr. SUTHERLAND (after having voted in the negative). I have a general pair with the senior Senator from Kentucky [Mr. BECKHAM]. I transfer that pair to the senior Senator from Illinois [Mr. SHERMAN] and let my vote stand.

Mr. JONES of Washington (after having voted in the negative). I voted inadvertently. I am paired with the Senator from Virginia [Mr. SWANSON], who is necessarily absent on account of illness in his family. I promised to pair with him during his absence, and, therefore, withdraw my vote; but I ask to be recorded as present.

Mr. FRELINGHUYSEN. I have a general pair with the Senator from Montana [Mr. WALSH]. I transfer that pair to the junior Senator from California [Mr. JOHNSON] and vote "nay."

Mr. HARDING (after having voted in the negative). I note the absence of the junior Senator from Alabama [Mr. UNDERWOOD], with whom I have a general pair. I transfer that pair to the Senator from New York [Mr. WADSWORTH] and allow my vote to stand.

Mr. JONES of Washington. I find I can transfer my pair with the Senator from Virginia [Mr. SWANSON] to the Senator from Kansas [Mr. CAPPER]. I therefore make that transfer and allow my vote to stand.

Mr. KENDRICK (after having voted in the affirmative). Has the senior Senator from New Mexico [Mr. FALL] voted?

The PRESIDING OFFICER. He has not.

Mr. KENDRICK. I have a pair with the Senator from New Mexico, which I transfer to the Senator from California [Mr. PHELAN] and let my vote stand.

Mr. McKELLAR. The Senator from Oregon [Mr. CHAMBERLAIN], the junior Senator from North Carolina [Mr. OVERMAN], the Senator from Kentucky [Mr. BECKHAM], and the senior Senator from North Carolina [Mr. SIMMONS] are detained on public business.

Mr. CURTIS. I have been requested to announce the following pairs:

The Senator from Vermont [Mr. DILLINGHAM] with the Senator from Maryland [Mr. SMITH];

The Senator from Maine [Mr. FERNALD] with the Senator from South Dakota [Mr. JOHNSON];

The Senator from Pennsylvania [Mr. KNOX] with the Senator from Oregon [Mr. CHAMBERLAIN];

The Senator from Michigan [Mr. NEWBERRY] with the Senator from Missouri [Mr. REED];

The Senator from Pennsylvania [Mr. PENROSE] with the Senator from Mississippi [Mr. WILLIAMS]; and

The Senator from Alabama [Mr. BANKHEAD] with the Senator from Vermont [Mr. PAGE].

Mr. WARREN (after having voted in the negative). My regular pair, the Senator from North Carolina [Mr. OVERMAN] I now notice is absent. I transfer my pair so that the Senator from North Carolina will stand paired with the Senator from Michigan [Mr. TOWNSEND] and allow my vote to stand.

The result was announced—yeas 10, nays 39, as follows:

YEAS—10.

Gay	King	Sheppard	Walsh, Mass.
Harrison	Kirby	Smith, S. C.	
Kendrick	McKellar	Stanley	

NAYS—39.

Ball	Frelinghuysen	Lenroot	Smoot
Brandegee	Gronna	McLean	Spencer
Calder	Hale	McNary	Sterling
Colt	Harding	Moses	Sutherland
Cummins	Harris	New	Thomas
Curtis	Jones, N. Mex.	Nugent	Trammell
Dial	Jones, Wash.	Phipps	Warren
Edge	Kellogg	Poindexter	Watson
Fletcher	Kenyon	Pomerene	Wolcott
France	Keyes	Ransdell	

NOT VOTING—46.

Ashurst	Capper	Elkins	Gore
Bankhead	Chamberlain	Fall	Hitchcock
Beckham	Culberson	Fernald	Johnson, Calif.
Borah	Dillingham	Gerry	Johnson, S. Dak.

Knox	Norris	Robinson	Thomas
La Follette	Overman	Sherman	Townsend
Lodge	Owen	Shields	Underwood
McCormick	Page	Simmons	Wadsworth
McCumber	Penrose	Smith, Ariz.	Walsh, Mont.
Myers	Phelan	Smith, Ga.	Williams
Nelson	Pittman	Smith, Md.	
Newberry	Reed	Swanson	

So the motion to adjourn was rejected.

Mr. CUMMINS. I withdraw my motion for a recess.

Mr. McLEAN. I ask unanimous consent that the pending measure be temporarily laid aside for the consideration of the report of the committee of conference on Senate bill 2472, to amend the Federal reserve act.

Mr. CUMMINS. I object.

The PRESIDING OFFICER. Objection is made. The question is on the amendment offered by the Senator from Kentucky [Mr. STANLEY].

Mr. STANLEY. I withdraw the amendment, Mr. President.

The PRESIDING OFFICER. The bill is before the Senate, as in Committee of the Whole, and open to amendment.

Mr. JONES of Washington. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment proposed by the Senator from Washington will be stated.

The SECRETARY. On page 96, after line 5, it is proposed to insert a new section, to be known as section 48½, as follows:

SEC. 48½. That this act shall not be construed to affect, diminish, or interfere with the power or jurisdiction of the United States Shipping Board over water transportation or otherwise.

The amendment was agreed to.

Mr. WATSON. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 22, lines 10 and 11, strike out the words "That street railways and interurban railways whose chief business is the transportation of passengers," and insert in lieu thereof the following: "That street, suburban, and interurban electric railways which are not operated as a part or parts of a general steam railroad system of transportation."

Mr. CUMMINS. Mr. President, I desire to say that there has been a good deal of controversy with regard to the proper way in which to express the idea the committee had, and so far as I am concerned I am quite as well satisfied with the form used in the amendment as with the form used in the bill itself. I have no objection to the amendment.

The PRESIDING OFFICER (Mr. FRELINGHUYSEN in the chair). The question is on the adoption of the amendment offered by the Senator from Indiana.

The amendment was agreed to.

Mr. WATSON. Mr. President, there are two other amendments which I desire to offer to make the other sections of the bill conform to the section which was just amended. I send the first of them to the desk and ask to have it stated.

The PRESIDING OFFICER. The Secretary will state the amendment.

The SECRETARY. On page 76, line 3, strike out the words "street car and electric interurban lines," and insert after the word "State," on line 4, a comma and the following: "or street, suburban, and interurban electric railways which are not operated as a part or parts of a general steam railroad system of transportation."

Mr. CUMMINS. The same observation applies to that amendment. It makes the bill uniform in that respect.

The PRESIDING OFFICER. The question is on the adoption of the amendment offered by the Senator from Indiana.

The amendment was agreed to.

Mr. WATSON. I also offer the further amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 96, strike out lines 3, 4, and 5 and insert the following: "which are not operated as a part or parts of a general steam railroad system of transportation."

Mr. CUMMINS. The two former amendments having been adopted, this one ought to be, in order to keep the bill in harmony.

The PRESIDING OFFICER. The question is on the adoption of the amendment offered by the Senator from Indiana.

The amendment was agreed to.

Mr. JONES of Washington. Mr. President, I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. It is proposed to amend section 10, as follows: On page 27, in line 11, before the word "waterways," insert the word "inland."

Mr. KING. Mr. President, will the Secretary state how the paragraph would read as amended?

The SECRETARY. So that, if amended, it will read, "different classes of inland waterways."

Mr. CUMMINS. Mr. President, I should like to have the Senator from Washington explain that amendment, if he will. So far as I am concerned, I think the bill ought to remain as it is, although there are reasons which can be suggested by the Senator from Washington for the adoption of the amendment. I want the Senate to take a fair view of the matter and decide it.

Mr. JONES of Washington. Mr. President, the only purpose I have is this: I do not want the bill to trench upon the jurisdiction of the United States Shipping Board. I think the amendment we adopted a few moments ago really protects that phase of the situation, but I do not want Congress to enact any legislation that would give the Interstate Commerce Commission control over the rates on any of the waterways of the country at the present time. I do not want to give the Interstate Commerce Commission power to regulate the rates of water carriers on the inland waterways. They ought to be perfectly free.

Mr. CUMMINS. Mr. President, if the Senator will yield to me a moment, the bill does not give the Interstate Commerce Commission any further authority than it now has over the rates for any kind of water transportation. The part of the bill to which his amendment applies gives the transportation board authority to investigate only. There is no authority to direct or control any transportation on waterways or any other commerce.

Mr. JONES of Washington. Yes; but I have quite a number of amendments along the same line, and I was making a general statement with reference to the matter. This particular amendment, of course, relates only to the provision that the board shall investigate the appropriate types of boats for different classes of waterways. I take it that it is not the intention of this provision to give the board authority to investigate the types of boats for any waterways, at any rate, that are subject to the United States Shipping Board.

Mr. CUMMINS. Mr. President, that is one of the amendments which I suggested to the Senator from Washington a few days ago should receive the attention of the distinguished Senator from Louisiana [Mr. RANSDELL]. The provision was inserted at his suggestion. If he does not care to oppose the amendment, I do not.

Mr. RANSDELL. Mr. President——

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

Mr. JONES of Washington. I do; yes.

Mr. RANSDELL. I stated in response to the suggestion of the Senator from Iowa that I had gone into that matter very carefully with the Senator from Washington; and I see no objection to the term "inland waterways." It is about all that this transportation board could examine into very well, anyhow, without trenching on the authority of the Shipping Board, which, as I understand, has the right to look into all waterways that are not inland. It seems to me that inland transportation by water, which is the kind in which I am especially interested, will be entirely covered and provided for if the term "inland" be used, and the use of the term "inland" will prevent any possible conflict with the Shipping Board, and I assume that that is what the Senator from Washington had in view. May I ask if it was not?

Mr. JONES of Washington. That is the sole purpose.

Mr. RANSDELL. And I will state that I have no objection. I have looked into it carefully.

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

Mr. JONES of Washington. Certainly.

Mr. KING. In view of the statement just submitted by the Senator from Louisiana that the Shipping Board takes cognizance of this subject, why devolve upon the Interstate Commerce Commission a duty which is now performed by the Shipping Board?

Mr. JONES of Washington. No; the Shipping Board has not, under the law, jurisdiction over the inland waterways. All that it has jurisdiction over is the Great Lakes and port-to-port transportation.

Mr. KING. I understand; but what I had in mind more particularly was the style of boats that were to be employed.

Mr. JONES of Washington. Of course, the Shipping Board has not anything to do with the style of boats, even upon inland waterways. Its sole jurisdiction is defined by the Shipping Board act; and all that I want, as the Senator from Louisiana has said, is to make it clear that the board and the agencies

created under this act shall not trench upon the jurisdiction of the Shipping Board.

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

Mr. JONES of Washington. Certainly.

Mr. KING. Would the Senator accept this amendment, inviting attention to line 9, "shall investigate," and then drop down to line 11, "the subject of water terminals," striking out the words "the appropriate types of boats suitable for different classes of waterways"?

Mr. KELLOGG. Mr. President——

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

Mr. JONES of Washington. I just want to suggest to the Senator that I have another amendment here in line 12—

also the subject of water terminals both "for inland waterways traffic and for through traffic by inland water and rail."

I have other amendments so as to make it clear what that relates to, also. I do not want this board to investigate the matter of terminals for waterways that are subject to the jurisdiction of the Shipping Board.

I yield now to the Senator from Minnesota.

Mr. KELLOGG. Mr. President, I think the Senator from Washington is entirely right. There ought to be some investigation of the style of boats and coordination of railroads and inland transportation. No one pays any attention to the inland waterways now, except an informal convention that looks after them. We have no Government official looking after that subject; and this board ought to study that subject, and also that is provided for in the first part of the section, the subject of coordination of waterways generally with railroads, because now a shipper who lives in the interior of the country and wants to ship outside of this country can not find out anything about whether he can ship to Brazil or anywhere else.

Mr. JONES of Washington. I think that is correct.

Mr. KING. Mr. President, I move, as an amendment to the amendment offered by the Senator from Washington, the following: Strike out, beginning with line 10, the words "the appropriate types of boats suitable for different classes," and also the words in line 11 "of waterways, also," so that it will read:

Shall investigate the subject of water terminals both for water traffic and for through traffic by water and rail.

If this amendment prevails I shall move to strike out some of the succeeding words to which I have just referred.

Mr. FLETCHER. Mr. President, I hope the amendment of the Senator from Utah will not be adopted. I think this is a very excellent provision of the bill, providing this power is limited to inland waterways. I agree with the Senator from Washington and the Senator from Louisiana. The jurisdiction over inland waterways was expressly excluded from the Shipping Board in the act of 1916; but there ought to be this coordination between the inland waterways and the railway lines in order to give the public the best service and afford the best facilities for transportation, and I think it is an important function to investigate and study the different types of boats that might be used to advantage on these inland waterways. That is one trouble we have had in the past. Something of that sort has been done by the Chief of Engineers of the War Department, particularly with reference to barges on the Mississippi River; but that power ought to be continued here, and that work ought to go on, so that we may have expert opinions and conclusions as to the best types of boats suitable for the different classes of inland waterways.

I hope that the amendment offered by the Senator from Utah will be defeated, and that the amendment offered by the Senator from Washington will be agreed to.

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

Mr. FLETCHER. Certainly.

Mr. KING. Who is to construct the boats in regard to which this commission is to advise?

Mr. FLETCHER. They merely recommend, as I understand.

Mr. KING. Recommend to whom?

Mr. FLETCHER. They recommend to all persons who are interested in the subject of transportation on the inland waterways.

Mr. KING. By that the Senator means that the commission is to make recommendations to private individuals who know a great deal more about the subject of boats, boat building, or types of boats than the Interstate Commerce Commission knows or can know?

Mr. FLETCHER. I do not quite agree with the Senator there, because the commission will know what type of boats will best facilitate the movement of traffic on the waterways, and can be best made to coordinate with the railway lines and the terminals.

Mr. RANSDELL. Mr. President, just a word in regard to the amendment offered by the Senator from Utah. Perhaps he may know more about how to build boats than the people from all over the world, but I do not think the ordinary private individual can ascertain the best types of boats and the best things that have been done by every people on earth. Such a commission as this can examine the whole subject, can learn everything the world knows on the subject of these boats, and can get together that information and give to the people who desire to build boats the benefit of the accumulated wisdom of all the world.

If I were going to build boats I would like to have the knowledge which all the people of all the world have, and I as an individual could not get it. This governmental board could get it and give me the benefit of it. That is the sole purpose of it.

I, living in Louisiana, as I do, would not even know what they were doing on the western coast or what they were doing in Maine or in Florida. I, as an individual, would have no means of ascertaining all these things in this great country of ours. But the Government can get together all that information.

The provision is a most wise one. I am entirely in accord with the amendment suggested by the Senator from Washington [Mr. JONES], as I previously stated, and I sincerely hope the substitute of the Senator from Utah [Mr. KING] will be voted down.

Mr. KING. Mr. President, the Senator from Louisiana, of course, is so wise that he is familiar with this subject, and his rebuke to those of us who do not know anything about it is doubtless merited. We all know the assiduity with which the Senator from Louisiana for years, in this Chamber and out of the Chamber, has sought for appropriations for waterways, and for the improvement of brooks and streams that exist throughout the length and breadth of the land, particularly in some of the Southern States. So I can appreciate, of course, the great zeal that he exhibits in respect to the appropriation which will be involved in this measure.

Mr. President, it is absurd, and I say it with all due respect to the Senator from Louisiana, to require the Government of the United States to go out upon a fishing excursion to obtain information for every businessman in the United States. The men who are engaged in the construction of boats and in the manufacturing plants throughout the country, the shipping plants and the steel plants and the various factories, know infinitely more about those concerns than the officials whom the Government may employ. This is simply an attempt to create another division or bureau or agency in the Interstate Commerce Commission which will call for the appropriation not of thousands but perhaps of millions of dollars. The men who want to build boats will build boats, and they will not ask the Government of the United States to get the information or the data to enable them to build boats. That data is available. Anybody who desires may obtain information as to every type of boat there is in the world, and obtain the information within a few hours, if he goes to the appropriate libraries. If the libraries here do not furnish him the information he can very easily obtain it by communicating with the shipping interests in other parts of the world.

This is simply a plan to get more money out of the Treasury of the United States to provide for additional employees, to create more bureaus and more instrumentalities, more and more to extend the paternalistic hand of the Government of the United States to private agencies and private activities.

Mr. McKELLAR. Mr. President, this is an important matter, and I think we ought to have a quorum. I therefore make the point of order that there is no quorum present.

The PRESIDING OFFICER. The Secretary will call the roll.

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

Ball	Gronna	McKellar	Spencer
Brandegee	Hale	McLean	Stanley
Calder	Harding	Moses	Sterling
Colt	Harris	New	Sutherland
Cummins	Henderson	Nugent	Thomas
Curtis	Jones, N. Mex.	Overman	Trammell
Dial	Jones, Wash.	Phipps	Walsh, Mass.
Edge	Kellogg	Poindexter	Warren
Fernald	Kendrick	Pomerene	Watson
Fletcher	Kenyon	Ransdell	Wolcott
France	Keyes	Sheppard	
Frelinghuysen	King	Smith, S. C.	
Gay	Lenroot	Smoot	

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

Mr. RANSDELL. Mr. President, I have just a word to add to what I said before. The remarks about brooks and little streams have been made in the Senate so often that I do not

care to discuss the matter. I think the Senate understands generally my position in regard to river and harbor improvements. There is no new board proposed to be created by this amendment. It is the transportation board that, along with its other duties, is asked to make some intelligent investigation in regard to waterways to see whether the waterways of the country may not be coordinated with the railroads and induced to cooperate their business, so as to give as much advantage to the transportation interests of the country as possible.

I can not see how there could be any additional bureaus or any great expense. It may involve a few thousand dollars to conduct this investigation along with the other ordinary and proper duties of the transportation board. So there is absolutely nothing in that argument. I care not to say anything more on the subject. I ask for a vote.

The PRESIDING OFFICER. The question is on the substitute of the Senator from Utah [Mr. KING] for the amendment offered by the Senator from Washington [Mr. JONES].

SEVERAL SENATORS. Let it be read.

The PRESIDING OFFICER. The Secretary will report the substitute.

The SECRETARY. On page 27, in lines 10 and 11, strike out the words "the appropriate types of boats suitable for different classes of waterways, also."

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question is now on the amendment of the Senator from Washington [Mr. JONES].

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Washington [Mr. JONES] moves the same amendment on page 27, in line 11, before the word "waterways," to insert the word "inland."

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Washington moves, in line 24, before the word "waterways," to insert the word "inland."

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Washington moves, on page 28, in line 4, before the word "water," to insert the word "inland."

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Washington moves, in line 5, to strike out the words "joint and" and insert the words "from railroads."

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Washington moves in line 8, before the word "water," to insert the word "inland."

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Washington moves in line 12 to strike out the word "water" and insert the words "inland waterways"; and in line 15 to strike out the word "water" and insert the words "such inland waterways."

The amendment was agreed to.

Mr. SPENCER. I offer the following amendment, which I ask the Secretary to read.

The PRESIDING OFFICER. The Secretary will read the proposed amendment.

The SECRETARY. On page 89, line 2, after the word "established," insert the following:

Provided, however, That this restriction shall not operate to hinder or prevent the commission establishing or maintaining a through route where one of the carriers is a water line: *And provided further—*

Mr. SPENCER. Mr. President, the amendment is the result of the consensus of opinion of the waterways convention which recently met here. The situation is that at the present time every station in Minnesota, Wisconsin, Illinois, Iowa, and Missouri, on the Missouri River and north of it, has a joint rate that is actually in operation upon all the traffic originating in those States and destined for New Orleans. The joint rate is composed of the railroad short haul and the river haul from East St. Louis, Ill., down to New Orleans. There is a saving on that joint rate of 22½ cents a hundred on all first-class freight, according to the southern classification. There is a saving of 3 cents a hundred on flour and grain and grain products which equals from $18 to $20 a car. That is the situation as we have it to-day.

The bill provides that after this act goes into effect no railroad shall be required to make any joint rate, unless the whole line of the railroad is used, except in cases when the use of said whole line would be so circuitous as to be unreasonable.

Mr. CUMMINS. Mr. President, the Senator from Missouri is mistaken in that. The bill makes no change in the law in that respect, as I recall it. I am entirely in sympathy with the proposition of the Senator from Missouri, but the bill does not change the present law with regard to the authority of the commission in making other routings.

Mr. SPENCER. May I ask of the Senator from Iowa for information if the bill does not provide, on page 89, that without the consent of a railroad there can not be a joint traffic unless the entire length of the railroad is used, except in case where the route would be so circuitous as to be unreasonable?

Mr. CUMMINS. That is quite true, but that is in the present law. It is an exact reproduction of the terms of the present law, as I remember it.

Mr. SPENCER. The Senator is right, that under the present law—under Government operation—the railroads are required to short haul from Iowa to East St. Louis and then to have the river take the rest of the haul to New Orleans. When the roads go back to private ownership will not that arrangement cease at once and the joint rate be canceled and the advantage be destroyed?

Mr. CUMMINS. It is quite probable that it will, but the Senator from Missouri, as I understood him, was of the opinion that the bill imposes that limitation upon the establishment of through routes and joint rates. It is not the bill that does it; it is so provided in the present act to regulate commerce.

Mr. SPENCER. I think the Senator from Iowa is quite right, and if I said anything to the contrary I was mistaken.

Mr. CUMMINS. I do not care to have the bill bear any more burdens than are being put upon it from the one side and the other.

Mr. SPENCER. If the Senator is satisfied as to the fairness of the amendment, perhaps I am taking up time unnecessarily. Unless there is some question about it, I do not want to consume any further time.

Mr. CUMMINS. So far as I am concerned, the amendment offered by the Senator from Missouri is a proposed change in the act to regulate commerce.

Mr. SPENCER. That is true.

Mr. CUMMINS. The provisions which he seeks to modify have been in force since 1910. I opposed the limitation in the Senate when the act to regulate commerce was amended in that year, and I am opposed to the limitation now, but I want the Senate to understand that this is not an amendment to the pending bill, except as that section is reproduced in the bill. It is an amendment to the interstate commerce act.

I see no reason why the limitation should not be eliminated. There is an amendment printed, proposed by the Senator from California [Mr. JOHNSON], and, as I understand it, proposed also by the Senator from Nevada [Mr. HENDERSON], which if agreed to directly eliminates that limitation from the interstate commerce act.

Mr. SPENCER. Will the Senator yield?

Mr. CUMMINS. Certainly.

Mr. SPENCER. Am I correct in my understanding that so far as the present amendment goes it is an amendment which the Senator thinks is desirable in the interest of the public service?

Mr. CUMMINS. I have always believed that commerce should seek the most economical route. I have always believed that we ought to avoid all waste in transportation and that a shipper has a right to route his freight, assuming the route chosen is an economical one, and that the requirement that the road which receives the freight in the first instance ought to be permitted to carry it over its entire length could not very well be sustained upon the ground of economy. But in the committee we did not attempt to change the interstate-commerce act in that respect.

I am expressing merely my individual opinion with regard to the merits of the controversy.

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

Mr. CUMMINS. I yield to the Senator.

Mr. KELLOGG. I do not think in the unqualified statement which the Senator makes that he entirely realizes what he says. If a road is a short line and a complete line between two points, is there any reason why it should be compelled at the end of 10 or 20 or 100 miles to give up the traffic to another line simply because the Interstate Commerce Commission says so, when it is no shorter and no more economical?

Mr. CUMMINS. Certainly not, and I did not intend to say anything of that kind. I said the Interstate Commerce Commission has the right or ought to have the authority to establish a through route and a joint rate where it is more economical and would save waste.

Mr. KELLOGG. I quite agree with that. What is sought, not by the amendment of the Senator from Missouri [Mr. SPENCER] but by some of the amendments offered, is to enable

the Interstate Commerce Commission to force traffic off from a good economical through route to some side line that is not worth anything in order to support it. That is the object of some of the amendments. That is not the object of the amendment of the Senator from Missouri.

Mr. KING. Mr. President——

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

Mr. CUMMINS. Certainly.

Mr. KING. I should like to ask the Senator from Minnesota, who is familiar with the subject—and I confess that I am not—whether the amendment offered by the Senator from Missouri would not indirectly affect short lines or the routing of freight over short lines?

Mr. KELLOGG. I think the amendment of the Senator from Missouri simply provides connections with water lines.

Mr. SPENCER. That is all.

Mr. KELLOGG. It does not cover the entire subject, and as I see it, I do not know that I have any objection to it. The committee had many requests to allow the Interstate Commerce Commission to make joint routes or new routes solely for the purpose of taking care of lines of road that could not earn a living in any other way, although the line from which the traffic was diverted was the short line and an economical line. As I now understand the remarks of the chairman, I do not dissent from his position.

Mr. KING. I should like to ask the Senator another question. As I understood the Senator from Iowa, the question involved in the amendment offered by the Senator from Missouri received consideration years ago, when the present law was written, and upon due consideration the project which the Senator from Iowa then suggested, which was the same as that now offered by the Senator from Missouri, was defeated and the law written as we now find it.

Mr. KELLOGG. I do not know whether an amendment like the one now offered by the Senator from Missouri received any consideration at that time or not. I think the main principle involved in the old interstate-commerce act creating through routes was principally as between railways, and of course the Interstate Commerce Commission ought to have the power to create through routes and fix through tariffs. There is no doubt about that. The limitation should be maintained so that the through route shall, when it is practical, as I recollect it, embrace substantially the greater part of the main line; but I do not think the amendment offered by the Senator from Missouri does away with it. It is really intended, of course, to cover water routes.

Mr. KING. I should be very glad to have the Senator from Missouri specifically point out and declare the fact, if it be the fact, that his amendment will not have the effect remotely, directly or indirectly, to permit the routing of freight in aid of some broken-down or inefficient or poverty-stricken railway at the expense of some well-managed and efficient railroad?

Mr. SPENCER. I can make that statement with all the emphasis that the Senator from Utah desires.

May I say one thing more? The proposed amendment is permissive in its character to the Interstate Commerce Commission and does nothing more than allow them to continue precisely what is now done and has been done during Government operation, but what it is feared may, in the interest of railroads and against the interest of the shipper, be denied when the railroads go back to private ownership. I can not see that there is any objection to it. If the Senator desires, I shall be glad to give a concrete illustration of the way it works that is, to my mind, absolutely convincing.

Mr. McKELLAR. May I interrupt the Senator just a moment? I desire to say that I hope the Senator from Utah [Mr. KING] will not insist upon taking out of the amendment of the Senator from Missouri any purpose to help the broken-down railroads at the expense of the good ones. If he insists upon any such principle as that, he will insist upon defeating the whole bill, because the whole bill is intended for that purpose.

Mr. JONES of Washington. Mr. President, I did not hear the reading of the amendment of the Senator from Missouri, and I want to ask whether it gives the Interstate Commerce Commission the right to establish a joint through rate over railroads and waterways?

Mr. SPENCER. Under certain conditions it does, precisely as is now in operation. I can give the Senator an illustration——

Mr. JONES of Washington. I could give several instances where that power has been used to the detriment of the waterways. So far as I am concerned I want to give to the Interstate Commerce Commission control over the inland waterways just as little as possible, because the Interstate Commerce Commission very naturally looks after the interests of the railroads, and if it is going to sacrifice anybody it is going to sacrifice the waterways, and I do not want to have them sacrificed.

Mr. SPENCER. Then the Senator from Washington will be in favor of the amendment which I have offered, because the amendment was the result of the careful deliberations of the waterway delegates who recently met in the city of Washington.

Mr. JONES of Washington. Do they know?

Mr. SPENCER. I presume they know.

Mr. JONES of Washington. Where you give the Interstate Commerce Commission control over joint rates it can then regulate the tariff rates of the waterways, and it will regulate them in the interest of the railroads.

Mr. SPENCER. That is one of the things they discussed, and as a result the amendment was proposed. The amendment did not originate with me, however. I cordially indorse it, and I believe it is absolutely essential, as will be seen by any man who is interested in the waterways.

Mr. JONES of Washington. They may have misunderstood what the effect would be. That is what I am afraid of.

Mr. SPENCER. I do not think they did, and I am sure if the Senator understood the amendment——

Mr. JONES of Washington. I am just asking the Senator whether it gives the Interstate Commerce Commission control and authority to fix a joint rate over railroads and waterways?

Mr. SPENCER. Under certain conditions.

Mr. JONES of Washington. If it does that, it will be used to the injury of the waterways.

Mr. SPENCER. It can not be.

Mr. CUMMINS. The Interstate Commerce Commission has that authority now.

Mr. JONES of Washington. Yes; and it uses it to the detriment of the waterways.

Mr. CUMMINS. It has had it for a long time, however.

Mr. JONES of Washington. I should like to get it away from them.

Mr. CUMMINS. The amendment does not increase the authority of the Interstate Commerce Commission in that respect.

Mr. SPENCER. It does not give to the Interstate Commerce Commission any more power, but does prevent the absolute disregard of a joint waterway and railroad route for merchandise. May I say——

Mr. JONES of Washington. I take the Senator's word for it. I want to accomplish what he apparently wants to accomplish, and all I was afraid of was that it gives them the right to do just exactly what he does not want to have them do.

Mr. SPENCER. I do not want to take up any further time if the Senator is satisfied.

Mr. JONES of Washington. I was not sure.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Missouri [Mr. SPENCER].

The amendment was agreed to.

The PRESIDING OFFICER. The further amendment will be stated.

The SECRETARY. On page 89, line 2, strike out the word "*Provided*" and insert the words "*And provided further.*"

The amendment was agreed to.

Mr. HENDERSON. Mr. President, I ask that the following amendment, proposed by the Senator from California [Mr. JOHNSON], who is now absent, be laid before the Senate.

The PRESIDING OFFICER. The Secretary will state the amendment proposed by the Senator from Nevada in behalf of the Senator from California.

The SECRETARY. On page 77, line 7, after the word "charges" and before the word "between," insert the words "or in the division of rates, fares, and charges."

Mr. CUMMINS. Mr. President, the amendment proposes a change in the act to regulate commerce as it has been in existence for a great many years. In my opinion it does not change the law at all. It is intended simply to clarify the statute. Recently the Interstate Commerce Commission decided that the law as it is means precisely what the proposed amendment would make it mean. But there was a division among the members of the Interstate Commerce Commission upon that question, and I assume that the amendment has been brought forward in order to make perfectly certain what to some of the members of the Interstate Commerce Commission seemed uncertain.

Mr. HENDERSON. That is correct. The amendment is in the interest of clarity. As the Senator from Iowa says, the purpose is to clarify the situation, in view of the difference of opinion that seemed to exist among the members of the Interstate Commerce Commission. The Senator from California [Mr. JOHNSON] introduced the amendment, and in his absence I promised to bring it up.

The amendment was agreed to.

Mr. GAY. I offer the amendment which I send to the desk and ask to have it read.

The PRESIDING OFFICER. The amendment proposed by the Senator from Louisiana will be stated.

The SECRETARY. On page 66, after line 21, it is proposed to insert the following as a new section:

SEC. 31½. The provisions of this act relating to the grouping or consolidation of carriers by rail, the adjustment of rates, fares, and charges in rate districts to yield the returns prescribed herein, and the disposition of the excess earnings of carriers by rail shall not be construed to apply to or affect any carrier by rail, including belt-line railroads and terminal facilities, owned exclusively and operated and controlled by any State or political subdivision thereof. In prescribing or reviewing rates, fares, or charges exacted or to be exacted by any such carrier by rail the commission shall take into consideration, in addition to other proper charges and expenses, all legitimate development costs and the par value of bonds which have been or may be issued by any such State or political subdivision thereof for the purpose of financing the construction of any bridges, tunnels, or other improvements or betterments used or necessary in connection with such carrier by rail, and owned exclusively by such State or political subdivision thereof.

Mr. CUMMINS. Mr. President, I should like to hear an explanation of this amendment. If it applies merely to belt-line roads, which are really local services, or at least have no connection with general transportation, I have no objection to it; but if it is to apply to the general transportation of the country, then I would be very much opposed to it.

Mr. GAY. The Senator from Iowa has stated the object of the amendment in the first part of his sentence. I called the Senator's attention to this matter to-day. The amendment can not be construed to apply generally to the transportation of the country; it is intended to apply to belt railroads or terminal facilities which are municipally owned and which can not be construed as being a part of the railway system of this country. I understand from a number of members of the committee that the amendment conforms to the policy of the committee, and I think it clearly states its intention.

Mr. CUMMINS. That is, the Senator feels that a railway which is operated by a State or which is owned by a State should not become a part of the national system of transportation?

Mr. GAY. That is correct.

Mr. CUMMINS. I have no objection to the belt line part of the amendment which is proposed by the Senator from Louisiana, as I told him to-day. I did not, however, observe at that moment that he was endeavoring to except all Government or State owned roads. I thought he had in mind simply those municipal conveniences which the State or the city may own. If he goes further than that—and I fear his amendment does go further—I could not agree to it.

For instance, the Georgia Central Railroad is owned by the State of Georgia. I am not willing to exclude that railroad from the benefits or advantages which I hope may accrue to railways and to people through legislation of this character. The road would be of little value to the State and of no value to the stockholders if it were excluded from its connection with the general system.

Mr. OVERMAN. Will the Senator from Iowa permit me to ask him a question?

Mr. CUMMINS. Yes.

Mr. OVERMAN. I desire to say that the State of North Carolina also owns a railroad, which is leased to the Southern Railroad for 99 years at 7 per cent. Would this bill in any way affect that lease?

Mr. CUMMINS. No; this bill does not propose to invalidate contracts; on the contrary, the bill recognizes contracts.

Mr. OVERMAN. It will not affect the lease to which I refer at all?

Mr. CUMMINS. Not in the least; not in any way.

Mr. KING and Mr. DIAL addressed the Chair.

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

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

Mr. KING. Mr. President, I think the bill would affect such a lease in this way: If there were no voluntary grouping or consolidation of corporations which would include the road, if the State of Georgia refused voluntarily to permit it to be assimilated by some other road, at the end of seven years under this proposed law, the State could be forced to part with its title.

Mr. CUMMINS. I think the State could be forced to part with its title; that is quite right. The system of consolidation provided for here would apply to such a railroad as well as to any other; but the State would receive the full value of its property if any such consolidation should take place; and, so long as the title remains as it is, of course, the contract between the two railroad companies would not only be respected but it would have to be respected.

Mr. OVERMAN. Would the consolidation plan which is here proposed for railroads nullify the lease to which I have referred, covering, we will say, 180 miles of the main line of the Southern Railroad between here and Atlanta? The Southern Railway has taken that lease for 99 years. Under this bill could the road which is owned by the State be forced into a consolidation with the other road and thereby bring about a cancellation of the lease?

Mr. KING. Yes; certainly.

Mr. CUMMINS. No. I think the owners of the property would have a right to their rental for the time for which it was rented. It would seem to me that any purchaser of the property must take it burdened with the lease. I can not imagine any other sort of procedure. If there should be a condemnation of the property, then, of course, the purchaser would acquire it subject to the lease, unless there was a condemnation of the leasehold interest. In other words, there can not be any disturbance of contractual rights and no diminution of the value of the property.

Mr. OVERMAN. I should hope not; I do not think we could do that; but I merely desired to know whether the measure would affect the road at all.

Mr. CUMMINS. No, it is not intended to do so, and, in my judgment, it is not going to do so in any way.

Mr. DIAL. Mr. President, I am glad we have reached this stage. This is the point which I have been desirous of reaching for some time. As I understand, it is desired in this bill to consolidate the railroads. For the first seven years it is voluntary, and after that time it is compulsory on the part of the railroads to consolidate. I wish to ask the chairman of the committee where he finds any law under the Constitution to authorize that feature of the bill? According to what process would he proceed? Upon what authority may we provide that the roads have to consolidate? I know of no constitutional law at all which will allow the taking of private property for private use, and I know of no law which will allow the taking of private property for public use except under the theory of eminent domain. How, therefore, can it be said in this instance that one railroad shall absorb another railroad? It does seem to me that that is fundamentally unconstitutional. The only way I know whereby that could be brought about would be for the road to go into the hands of a receiver and have the property sold and then bought up.

I know, Mr. President, at least that we have great trouble in getting the different security holders even in one corporation to exchange their securities, much less to secure the consent of the security holders in two different corporations to such a transaction. The thing seems to me to be absolutely impossible. I do not understand which corporation would absorb the other, and I certainly do not know of any part of the Constitution authorizing it. If this matter has been discussed during the debate, I will be glad to have some Senator refer me to the debate, for I want enlightenment on that point.

Mr. CUMMINS. Mr. President, I am very glad to give the Senator what little light I have upon that point. It may be that we differ fundamentally, as he says, with regard to the Constitution; but I think the Government of the United States can acquire every railroad in the United States which carries commerce between the States.

Mr. DIAL. Very probably it can.

Mr. CUMMINS. The Government can do that under the power of the Constitution, which gives Congress the authority to regulate commerce among the States and with foreign nations.

Mr. DIAL. It might be necessary to amend the Constitution.

Mr. CUMMINS. If Congress believes that the acquisition of all the railway property in the United States is necessary in order properly to regulate commerce among the States, I have no question at all that these properties can be acquired. They can be acquired under the power to establish post offices and post roads, and that power is supplemented, of course, by the war power. Germany acquired her railroads because she believed it to be necessary to protect her in time of war; and, while I am not founding this bill upon any authority of that kind, it deserves consideration.

I return to the constitutional provision for the regulation of commerce among the States and with foreign nations. It has been held that Congress under that power could incorporate a railroad company for the purpose not only of carrying commerce among the States but carrying local commerce as well.

Mr. DIAL. If the chairman of the committee will allow me, the point is not with reference to what the Government can do toward acquiring roads but how can the Government let one road acquire another?

Mr. CUMMINS. I am about to come to that; one has to develop his subject from the beginning. If Congress can acquire all of the railway properties in the United States and

operate them because it believes it can better regulate commerce in that way, if Congress can create a corporation which shall acquire railways and operate them because it believes that the commerce among the States can be best regulated in that manner, Congress can give to a company which it creates the power to condemn the power of eminent domain over any property, it matters not what that property may be or what that property may be used for at the given time. If we believe that the proper regulation of commerce requires the consolidation of all of the railways of the country into one corporation, I have no doubt that we can give that company the right to acquire these properties, because that is our opinion and our judgment in regard to the best way to regulate commerce. That, I think, answers the question of the Senator from South Carolina. He and I differ, undoubtedly, with regard to the constitutionality of the authority in that respect.

Mr. DIAL. How would the holdings of the stockholders and bondholders of the companies to be acquired be secured? Would they be paid for in cash?

Mr. CUMMINS. In my judgment, the Government can deal either with the physical property or it can deal with the stocks and bonds. If it elects to pursue the method of taking the physical property, it can do so. It must pay for it. It pays for it to the corporation that owns it. It is the duty of that corporation then to distribute the value of that property, as determined in the proceedings subjecting it to the public use, in accordance with the rights of the bondholders and stockholders. On the other hand, if the Government desires to acquire the property through stock ownership, it has the right to condemn the capital stock, the shares of stock, in so far as they are evidences of property. Whatever may be said of the wisdom of doing so, there is no limit to the power of Congress in that respect, except that whatever it does must be a regulation of commerce, it must be done for the purpose of regulating commerce among the States, and it must not take property without due process of law. Those are the only limitations upon the power of Congress in regulating commerce.

Mr. DIAL. I desire to thank the Senator very much for his explanation, but I do not agree with him yet. We remember that in the case of the Tennessee Coal & Iron Co., a good many years ago, the owners of the outstanding preferred stock, when they were allowed to consolidate with some of the other large companies, would not go in and surrender the stock, and there was no way to make them, so far as I know. I am merely anxious that we shall pass a bill that will be a constitutional bill, and it certainly seems to me to be divesting vested rights to adopt a procedure whereby the courts would require one road to acquire another road.

I thank the Senator very much.

Mr. CUMMINS. Returning to the amendment of the Senator from Louisiana [Mr. GAY], from which we have departed rather widely, I again say that so far as I am concerned I would have no objection at all to withdrawing from the operation of any part of the bill the belt line or municipal line which the Senator from Louisiana has pointed out, a line passing around the docks in the city of New Orleans; but I am not willing to make any other exception.

Mr. GAY. Mr. President, in view of what the Senator from Iowa has just said, I suggest that this amendment be amended in line 8 by striking out the words, "State or political subdivision thereof," and substituting "political subdivision of a State," which I think would cover the objection that the Senator has, and that the same thing be done on the second page, line 7, by striking out the words "State or," which would then read, "and owned exclusively by such political subdivision thereof."

I think that would meet the objections which the Senator has indicated.

Mr. HARRIS. Mr. President, I should like to ask the author of the amendment how it would affect the State road which runs from Chattanooga to Savannah, the road owned by the State of Georgia? It is leased by the Nashville, Chattanooga & St. Louis, which in turn is controlled by the Louisville & Nashville Railroad. The Nashville, Chattanooga & St. Louis is building an independent line from Tennessee to Atlanta; and I should like to know how this amendment would affect the State road while it is under lease, and also if it should be operated by the State at the end of the lease?

Mr. GAY. I do not think it would affect it at all.

Mr. HARRIS. I did not hear the amendment read.

Mr. LENROOT. Mr. President, it seems to me that the suggested amendment of the Senator from Louisiana [Mr. GAY] does not at all meet the objection made by the Senator from Iowa. The only difference that it would make in the law with his amendment is as to ownership; but in the case of a railroad generally engaged in interstate commerce, the same as any other railroad corporation, it still would be included in the bill with the suggested amendment, and if we have here a railroad doing the same business as an ordinary railroad corporation is performing I can not see why it should not be subject to the provisions of this bill, whatever the provisions may be.

Mr. GAY. I will say, if the Senator will pardon me, that this railroad is merely a switching terminal—part of the dock facilities of the city.

Mr. LENROOT. That may be what the Senator from Louisiana has in mind; but the language of the amendment would cover any railroad owned by any political subdivision, and it might be a thousand miles in length. In fact, we have, or did have, the Cincinnati, Dayton & Ohio road, that was owned by the city of Cincinnati; I do not know but that it is still owned by the city of Cincinnati. It would take that road out of the operation of this law.

Mr. GAY. This applies to a belt railroad.

Mr. LENROOT. No; it is only "including belt-line railroads." It reads "any carrier by rail, including belt-line railroads."

Mr. KING. Mr. President, will the Senator permit me to interrupt him?

Mr. LENROOT. I yield.

Mr. KING. Does the Senator believe, with the information which he possesses, in view of the statement made by the Senator, that that particular road ought to come within the operation of the bill?

Mr. LENROOT. If it were limited to belt-line railroads, for instance, I would have no objection to that portion of the amendment.

Mr. KING. Of course, I am entirely in sympathy with the Senator from Louisiana, and if I had my way I would go a great deal further. I think this bill goes too far in destroying municipal roads, and roads that are purely intrastate, and can possibly have no relation to interstate roads.

Mr. LENROOT. That might be; but this amendment would cover any road, of any length, doing exactly the same character of business that a railroad is doing that is covered by the bill; and the mere fact of ownership ought not to deprive the public—which is the purpose of this legislation—of the regulation in the public interest of that kind of a railroad, as well as any other.

Mr. CUMMINS. Mr. President, may I interrupt the Senator from Wisconsin?

Mr. LENROOT. Yes.

Mr. CUMMINS. He has very well expressed my view. It is the character of the service which the railroad renders which must except it from the operation of the law, rather than the ownership. Now, I think the belt line is already excepted, certainly from the consolidation plan, and I have no objection to that; but I am not willing to go into the question of ownership at all.

Mr. LENROOT. Now, Mr. President, as to the second portion of the amendment, certainly it does not seem to me that the Senate should adopt that. It reads:

> In prescribing or reviewing rates, fares, or charges exacted or to be exacted by any such carrier by rail the commission shall take into consideration, in addition to other proper charges and expenses, all legitimate development costs and the par value of bonds which have been or may be issued by any such State or political subdivision—

And so forth. It lays down an absolutely unique rule of valuation, and one that has been consistently discarded by the courts. No court has ever even suggested that in making a valuation for the purpose of fixing rates the par value of securities shall be taken into consideration. The farthest the courts have ever gone is the suggestion that the market value of securities might be one of the elements to be considered; and certainly the Senate and the Congress ought not to fix one rule of valuation for State or municipally owned properties and a different rule of valuation for privately owned properties.

It is the public, I say again, that is interested in having reasonable rates, and if a municipal corporation or any subdivision of a State has issued securities for double the valuation of the property, the mere fact that it is done by a State or subdivision thereof should not cause the public to be charged with exorbitant rates. That is exactly the proposition of watered stock in railroads, nothing different; and this amendment in its effect would legalize any water there may have been in the issue of bonds. Of course, I can not conceive that the chairman of the committee or the Senate would accept such a discrimination in favor of publicly owned utilities.

Mr. GAY. Mr. President, the Senator from Wisconsin has called attention to a feature of this amendment which certainly

was not the intention of the Senator from Louisiana in presenting it to the Senate. He feels deeply interested in seeing the municipal belt railroads—for instance, one such as exists now in the city of New Orleans—exempted from the provisions of this bill. I do not believe the bill was ever intended to take in a railroad of this description, but it might be so construed. I would suggest, if the Senator from Wisconsin agrees, that this matter could be afterwards amended, perhaps, in conference.

Mr. LENROOT. Mr. President, if the Senator will yield, I would suggest that he withdraw his amendment, and he can perfect it to-morrow so as to cover the identical thing he has in mind.

Mr. GAY. Does that meet with the approval of the chairman of the committee?

Mr. CUMMINS. That is quite satisfactory.

Mr. HARRIS. Mr. President——

Mr. GAY. Then I ask permission to withdraw the amendment, with the idea of further perfecting it later.

The PRESIDING OFFICER. The amendment is withdrawn. The Senator from Georgia is recognized.

Mr. HARRIS. I merely wanted to ask that the amendment be withdrawn until to-morrow, on account of its importance to my State.

Mr. CUMMINS. I move that when the Senate adjourns, it adjourn until 11 o'clock to-morrow.

The motion was agreed to.

Mr. CALDER. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. At the end of page 95 it is proposed to add the following new section:

SEC. 47½. That the third proviso of the eleventh paragraph of section 20 of the act to regulate commerce, as amended, 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 4 months, and for the institution of suits than 2 years, such period for institution of suits to be computed from the day when notice in writing is given by the carrier to the claimant that the carrier has disallowed the claim or any part or parts thereof specified in the notice."

Mr. CUMMINS. That is a provision which was found in the House bill. I think it is a very just and wise one. While I have no authority to accept it I shall be very glad indeed to have the Senate make it a part of this bill.

The amendment was agreed to.

Mr. JONES of Washington. Mr. President, I am going to offer an amendment simply to clear up any doubt there may be with reference to the language on page 28, in line 18. I do not think myself that there is any doubt about what the word "carrier" refers to in that line, but it has been suggested to me by some that they do have some doubt about it. So I offer the following amendment. After the word "carrier," on page 28, line 18, I move to insert the words "by railroad."

Mr. CUMMINS. I have no objection to that, because I understand the section to be limited to that sort of a carrier now.

The amendment was agreed to.

Mr. JONES of New Mexico. I offer amendments to the pending bill, which I do not suppose can be disposed of to-night, and I ask that they be printed in the RECORD and lie on the table.

The PRESIDING OFFICER. It is so ordered.

The amendments are as follows:

On page 14, after the word "secured," insert the following words: "also the requirements for additional capital in order to encourage the construction of railroads in parts of the United States lacking adequate transportation facilities, and the conditions under which the same can be secured."

On page 18, after line 8, insert the following new section:

"SEC. 6a. The commission may, in its discretion, exempt any corporation organized after the passage of this act, which shall construct, maintain, and operate any new line of railroad in any part of the United States lacking adequate transportation facilities, from any or all of the provisions of this act relating to the adjustment of rates, fares, and charges to yield the designated return in the various rate districts, the disposition of excess railway operating income, or the consolidation or Federal incorporation of carriers, but only with respect to such new line or lines of railroad, in so far as such corporation shall request such exemption, and in so far as the commission shall, after hearing and under such procedure as it may prescribe, determine that such exemption is consistent with the public welfare, but not for a period exceeding 10 years after the building of the railroad. The property, rates, and railway operating income of any such carrier, in so far as it is so exempted, shall not be taken into consideration during the continuation of such exemption, in determining the aggregate value of the railroad property in any rate district, the rates, fares, and charges to be exacted by the other carriers therein to yield the designated return, or the disposition of the excess railway operation income of such other carriers, under the provisions of this act.

"The commission may, in its discretion, so adjust the rates, fares, and charges of such an exempted carrier, and may, by order promulgated in advance, after notice and hearing and under such procedure as it may prescribe, adjust the rates, fares, and charges of such carrier with respect to any line of railroad under construction or to be constructed by it that such rates, fares, and charges will yield a net railway operating income for such carrier, with respect to such new line or lines of railroad, not exceeding 10 per cent of the actual value of its property used for transportation purposes, if and in so far as the commission shall determine that such rates, fares, and charges are necessary in order to encourage the construction of any new line of railroad in any part of the United States lacking adequate transportation facilities: *Provided*, That every rate, fare, or charge of any such exempted carrier shall at all times be fair and reasonable as compared with those charged for similar services under like conditions by other railroads in the same rate district; and that such carrier, its directors, officers, agents, and employees shall, except as herein otherwise provided, be subject in all respects to the provisions of the act to regulate commerce and of this act. The commission may at any time alter or amend any order, regulation, rate, fare, or charge prescribed or permitted under the provisions of this section, and may exempt any such carrier or continue such exemption under such conditions as it may by order prescribe."

On page 74, after line 4, insert the following new paragraph:

"It shall be the duty of the board, in exercising this authority, to encourage the construction, by corporations organized after the passage of this act, of new lines of railroad in parts of the United States lacking adequate transportation facilities."

On page 17, after the word "carriers," in line 9, insert the following words: "including loans to corporations organized for the purpose of constructing, maintaining, and operating railroads in parts of the United States lacking adequate transportation facilities."

Mr. SHEPPARD. Mr. President, I offer the following amendment relating to the liability of common carriers, about which I have spoken to the chairman of the committee.

The PRESIDING OFFICER. The Secretary will read the amendment.

The SECRETARY. Amend by adding, after the word "State," on page 76, line 4, the following proviso:

Provided, That nothing contained in this section or in this act is intended to change, alter, modify, or limit present liability of common carriers, and their liability shall be and remain as it now exists under the common law and by statute.

Mr. CUMMINS. Mr. President, there is nothing in the section to which the amendment refers that by any possible construction or interpretation could be held to modify or change the liability of common carriers. But I am very desirous that everybody will understand that that is so, and inasmuch as I know that this amendment has been suggested by a distinguished lawyer and a highly respected citizen, I do not oppose the amendment, and hope it will be adopted.

The amendment was agreed to.

Mr. JONES of Washington. Mr. President, on page 52, line 4, I offer the following amendment.

The PRESIDING OFFICER. The Secretary will read the proposed amendment.

The SECRETARY. On page 52, line 4, after the word "railway," strike out the words "or water."

Mr. CUMMINS. Mr. President, that, of course, raises the old question. It is the section which relates to the supervision by the Interstate Commerce Commission over the issuance of securities. There are only a certain class of carriers subject to this act, as the Senator from Washington knows, and I can not see why the commission should not have authority over the issuance of securities by the carriers which are subject to the act or within the act. The Senator from Washington does not desire, I am sure, to take away from the Interstate Commerce Commission the jurisdiction which it now has; at least, he has not proposed to do that. Why, therefore, should not the commission have the authority to regulate the issuance of securities with respect to the very carriers whose rates it must regulate or supervise?

Mr. JONES of Washington. Mr. President, it has been suggested to me that the character of the business, and the manner of doing it, of the water carrier is very much different from that of the rail carrier, and it was suggested that if this provision were adopted, for instance, if a vessel were wrecked and it were necessary to salvage it, no indebtedness could be incurred, no notes issued, or anything of that sort, without first getting the consent of the commission, if it exceeded 5 per cent; that that takes time; that the condition is entirely different from what it would be in connection with a railroad, and that therefore this provision ought not to apply. The company may be small; it may be a small boat that is wrecked; and yet it would have to wait on the board before it could issue a note or other evidence of indebtedness.

Mr. CUMMINS. I do not so construe the section.

Mr. JONES of Washington. That is the way it has been construed by those who have looked into it pretty carefully. I have not had time to examine it as carefully as I would like.

Mr. CUMMINS. The section, section 24, begins:

From and after 90 days after approval hereof it shall be unlawful for any railway or water common carrier subject to this act to issue any share of capital stock or any bond or other evidence of interest in or indebtedness of the carrier, herein collectively termed "securities," or to assume any obligation or liability as lessor. * * *

Unless it be for some lawful object within its corporate purposes.

Mr. JONES of Washington. And on page 55 it provides that—

The foregoing provisions of this section shall not apply to notes to be issued by any said carrier maturing not more than two years after the date thereof and aggregating not more than 5 per cent at any time of the par value of the securities of said carrier then outstanding.

A great many of these water carriers are comparatively small institutions, and it was feared that the provision might work quite a hardship on them.

Mr. CUMMINS. Mr. President, that presents a question upon which there are differences of opinion. It is in the House bill, and I am quite willing, if the Senator from Washington desires it, to take it into conference.

Mr. JONES of Washington. I would like to have that done so that it may be considered in conference.

The amendment was agreed to.

Mr. LENROOT. Mr. President, I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The Secretary will read the proposed amendment.

The SECRETARY. On page 35, line 10, after the word "writing," insert the words "the properties or securities so acquired," and in line 12 strike out the words "so acquired."

Mr. KING. Let the language be read as proposed to be amended.

The SECRETARY. So that it will read:

The board shall have the power, and it shall be its duty, to transfer, by proper instruments in writing, the properties or securities so acquired to the corporation—

And so forth.

And in line 12 strike out the words "so acquired."

Mr. CUMMINS. Mr. President, not only am I willing to accept this amendment, but I am very greatly obliged to the Senator from Wisconsin for calling it to my attention, and for offering it. There is a plain omission in the text of the bill, brought about by failure of either a clerk or the Printing Office to make the text complete.

The amendment was agreed to.

Mr. POINDEXTER. Mr. President, I offer an amendment on page 77, line 22. I move to strike out, beginning with the words "*Provided, however,*" all of that paragraph, extending to line 17 on the following page. That is the long-and-short-haul provision.

Mr. SMOOT. Let it go over until to-morrow.

Mr. CUMMINS. The Senator from Washington knows very well that his views and mine concur with respect to this amendment, but I feel that it is a subject of such great importance that it ought to be discussed and determined when there are more Senators here. I ask the Senator from Washington whether he wants to have the matter disposed of at this time. I feel quite certain that it would lead to some discussion.

Mr. KING and Mr. POINDEXTER addressed the Chair.

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

Mr. POINDEXTER. The Senator from Iowa directed a question to me, if the Senator from Utah will allow me to answer it.

Mr. KING. If the Senator would just permit me, I would like to state that I have made a promise to certain Senators that if this and other very important amendments should be called up to-night, I would ask for a quorum, or beg the chairman of the committee to allow them to go over until to-morrow; and I make the request now, with respect to this matter, that it be permitted to go over until to-morrow.

Mr. CUMMINS. I am very much in favor of a rigid long-and-short-haul clause, as the Senator from Washington knows; but I do not think it would be quite fair to dispose of it at this time.

Mr. POINDEXTER. I think the Senator from Iowa is entirely right about that, and my purpose in moving it this evening was to give notice and get the matter before the Senate. I have no objection to passing over the amendment for the time being.

Mr. KING. Mr. President, will the Senator permit an inquiry? Some of the Senators who are very much interested in this question are not here, and I am sure if the Senator would make a brief statement as to the effect of it, so that it would appear in the RECORD and they could read it before coming to the Senate in the morning, it would enable some of us to vote a little more intelligently.

Mr. POINDEXTER. Mr. President, it would be impossible to state this case in the offhand way that the Senator from Utah suggests and do justice to it at all. I will state the parliamentary effect of the amendment. It is to strike out the proviso of the long-and-short-haul rule in the fourth section of the interstate-commerce act. The result of striking out the proviso would be to leave the long-and-short-haul section of the bill unqualified. It would be to leave the rule without exception, that no greater charge could be made for the transportation of passengers or property for a short haul over the same line and in the same direction than is made for a long haul. I think that is a sufficient statement of the object and effect of the amendment.

I may say just one word in addition. Under the present system a practice has grown up by which the terminals of the railroads are favored at the expense of the entire interior country, one of the worst sufferers being the State of Utah, so well represented by the distinguished Senator. Goods are hauled over the Union Pacific and the Central Pacific, from Chicago and from New York, through the State of Utah, to the city of San Francisco, across great mountain ranges, at great expense, difficult transportation, at a lower rate than if those same goods were deposited in transit at an intermediate point in the State of Utah. The purpose, of course, is to throttle and retard the development of the State of Utah. It is with the object of removing such discrimination that I offer this amendment. The question is quite familiar to many Senators, and to-morrow when the matter comes up, if necessary, I will make some further statement in regard to it.

The PRESIDING OFFICER. Without objection the amendment will go over.

Mr. CUMMINS. Mr. President, on behalf of my colleague [Mr. KENYON] I present the following amendment.

The PRESIDING OFFICER. The Secretary will read it.

The SECRETARY. On page 3, line 14, after the word "repeal," insert the following paragraph:

All complaints heretofore or hereafter filed with the Interstate Commerce Commission, arising out of the maintenance or enforcement of unjust, unreasonable, unjustly discriminatory, or unduly prejudicial rates, fares, rules, regulations, or practices during the period of Federal control, shall proceed to a conclusion. If reparation shall be awarded by the commission in any such case by reason of the collection or enforcement of rates, fares, rules, regulations, or practices during the period of Federal control, including rates, fares, rules, regulations, or practices applicable to interstate, foreign, and intrastate traffic initiated by the President, which the commission shall find to have been unjust, unreasonable, unjustly discriminatory, unduly prejudicial, or otherwise, in violation of law, the amount of reparation so awarded shall be paid forthwith out of unexpended balances in the revolving fund created by the Federal control act, out of 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, out of moneys derived from the operation of the carriers, or otherwise, arising out of Federal control, out of 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, or out of other moneys appropriated by this or other acts for such purpose. All complaints praying for reparation by reason of the collection or enforcement of unjust, unreasonable, unjustly discriminatory, or unduly prejudicial rates, fares, rules, regulations, or practices, during the period of Federal control, shall be filed with the Interstate Commerce Commission within one year after the termination of Federal control, as herein provided, and not otherwise. All complaints hereafter filed praying for reparation by reason of collection or enforcement of unjust, unreasonable, unjustly discriminatory, or unduly prejudicial rates, fares, rules, regulations, or practices, during the period of Federal control, shall be brought against the United States of America, and service shall be made upon the Attorney General of the United States, and in all such proceedings heretofore filed and pending and undetermined at the time of the expiration of the period of Federal control, as in this act provided, the United States of America shall be substituted for the Director General of Railroads as defendant, and all notices and orders in such proceedings shall thereafter be served upon the United States Attorney General.

Mr. CUMMINS. Mr. President, the amendment just read does not, in my opinion, enlarge the scope of the bill except in one respect, namely, a limitation upon filing claims for reparation. The whole purpose of the amendment is to make it clear that the claims for reparation and for unjust and unreasonable charges during Federal control shall be filed with the Interstate Commerce Commission, and that the commission shall continue to have the same jurisdiction which it has had heretofore in that respect. I offer no objection to the amendment.

The amendment was agreed to.

Mr. POMERENE. Mr. President, I wish to call the chairman's attention to a change on page 64 which I think should be made. In line 20 I move to strike out the words "said commission" and insert in lieu thereof the words "the committee of wages and working conditions, the regional board of adjustment, or the board, as the case may be." The words I seek to insert appear in lines 8, 9, and 10, which will enable the Secretary to follow it.

Mr. CUMMINS. There is no objection to the amendment. It is a clerical correction.

The amendment was agreed to.

Mr. POMERENE. Also, on page 65, in line 5, after the word "committee," I move to insert the words "a regional board of adjustment."

Mr. CUMMINS. There can be no objection to that amendment.

The amendment was agreed to.

Mr. POMERENE. On the same page, 65, in line 12, after the words "by the board," I move to amend by inserting the words "or by said regional board of adjustment." I submit the amendment just as stated. There is a little difference between the chairman of the committee and myself as to just where it should go in, but it can be called up to-morrow if desired.

Mr. CUMMINS. There is no objection to the amendment, but a hasty survey of it seems to me to make it appropriate at another place. However, that can be adjusted hereafter.

The amendment was agreed to.

Mr. JONES of Washington. Mr. President, some difficulty has arisen over section 20 of the interstate commerce act with reference to the liability of water carriers for loss, damage, or injury to property while in its custody. To make that clear, I desire to offer the following amendment.

The PRESIDING OFFICER. The Secretary will state the proposed amendment.

The SECRETARY. After the words "United States," in line 25, page 95, insert a new section, to be known as section 47½, to read as follows:

SEC. 47½. 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."

Mr. JONES of Washington. The amendment which I propose I understand—I have not had time to look it up—was recommended by Commissioner Clark, of the Interstate Commerce Commission. At any rate, it was made a part of the House bill in section 435.

Mr. CUMMINS. I have not seen the proposed amendment. I ask the Senator from Washington whether he has examined it and thinks it is right.

Mr. JONES of Washington. I have done so as fully as I have had the time, and I am convinced that it is a proper amendment. The rules of liability by water carriers growing out of the nature of the way they do business are a little different from those of rail carriers.

Mr. CUMMINS. I quite agree with that.

Mr. JONES of Washington. This is to make the liability for damage done while in the custody of the water carriers to be governed by the rules governing the liability of water carriers.

Mr. CUMMINS. What led me to make the inquiry is the language—

Provided, That if the loss, damage, or injury occurs while the property is in the custody of a carrier by water—

The section to which this relates concerns carriage by land as well as by water—

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—

That is all right—

and the liability of the initial carrier—

That may be the railroad—

shall be the same as that of such carrier by water.

I am sure the Senator from Washington does not want to destroy or modify the liability of carriers by land and reduce that liability to the standard that we all recognize as proper for carriers by water.

Mr. JONES of Washington. It seems to me that if the damage occurs while the property is being carried by water, if it is a damage for which the railroad is liable, its liability ought not to be greater than the liability of the water carrier.

Mr. CUMMINS. How can that be true when it says if the injury occurs while the property is in the custody of the carrier by water?

Mr. JONES of Washington. The Senator is more familiar with the various phases of the liability of the different carriers, railroad and water, than I am.

Mr. CUMMINS. I am rather familiar with them.

Mr. JONES of Washington. If he thinks that last clause is not necessary or should not be there, I am willing to strike it out, because I can not speak definitely, as I do not know anything about the details of the matter.

Mr. CUMMINS. Assume, now, the instance of a shipment partly by land and partly by water. The land carrier brings it up to the ocean side and then the water carrier takes it. If the injury occurs while it is on the water, then I agree with the proposed amendment entirely.

Mr. JONES of Washington. That is the sole provision—if the damage occurs while the property is in the custody of the water carrier.

Mr. CUMMINS. I think I perceive now the full meaning of the amendment, and I do not think there is any objection to it. I submit that to the Senator from Ohio.

Mr. POMERENE. I have been looking at another matter and have not followed it.

Mr. CUMMINS. I was in error with regard to my reading of the amendment. I have no objection to it.

The amendment was agreed to.

Mr. POMERENE. Mr. President, I wish to direct the chairman's attention to page 3, line 9. The matter was called to my attention by the Senator from Texas [Mr. SHEPPARD]. Should not the word "county" be "court"?

Mr. CUMMINS. That is plainly a misprint. I think it should be corrected.

Mr. POMERENE. I move to amend by striking out the word "county," in line 9, page 7, and inserting in lieu thereof the word "court."

The amendment was agreed to.

Mr. POMERENE. On page 55, line 12, I move to strike out the word "than," before "outstanding," and insert in lieu thereof the word "then." It is evidently just a misspelling.

Mr. CUMMINS. It is a typographical error that ought to be corrected.

The amendment was agreed to.

Mr. POMERENE. I also wish to direct the chairman's attention to page 94, line 20. This is evidently an amendment of section 16 of the act to regulate commerce. Line 20 reads as follows:

Made under the provisions of sections 3, 13, or 15 of this act.

It would seem to indicate sections 3, 13, or 15 of the pending bill. I think it means sections 3, 13, or 15 of the act to regulate commerce.

Mr. CUMMINS. Obviously it does.

Mr. POMERENE. I move, therefore, to strike out the word "this" and insert in lieu thereof the words "the act to regulate commerce as amended," so that it will read "sections 3, 13, or 15 of the act to regulate commerce as amended."

Mr. CUMMINS. There is no objection to that amendment.

The amendment was agreed to.

Mr. LENROOT. Mr. President, I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment offered by the Senator from Wisconsin will be stated.

The SECRETARY. On page 10, line 3, after the word "carrier," it is proposed to insert the following:

Accepting in writing the provisions of this section and.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Wisconsin.

Mr. CUMMINS. Mr. President, I am glad to accept the amendment. It makes certain what I believe to be the real intent of the committee.

The amendment was agreed to.

Mr. JONES of Washington. Mr. President, on page 82, after line 13, I offer a new section to be known probably as section 41½. I do not think the Senator from Iowa will have any objection to the amendment. It is a provision that is found in section 412 of the House bill.

The PRESIDING OFFICER. The amendment proposed by the Senator from Washington will be stated.

The SECRETARY. On page 82, after line 13, it is proposed to insert a new section, to be known as section 41½, as follows:

SEC. 41½. Section 6 of the act to regulate commerce is hereby further amended to read as follows: "(e) The absorption out of its port to port water rates or out of its proportional through rates by water carrier of the switching, terminal, lighterage, car rental, trackage, handling, or other charges by a rail carrier for services within the switching, drayage, lighterage, or corporate limits of a port terminal or district, shall not be held to constitute an arrangement for a continuous carriage or shipment within the meaning of the act to regulate commerce and shall not subject such water carrier to the provisions of such act."

Mr. CUMMINS. As I understand, that is a provision which is recommended by the Interstate Commerce Commission?

Mr. JONES of Washington. Yes; I so understand.

Mr. CUMMINS. I shall make no objection to it.

The amendment was agreed to.

Mr. FRANCE. I desire to offer the amendment which I send to the desk, adding certain new sections to the bill.

The PRESIDING OFFICER. The amendment proposed by the Senator from Maryland will be stated.

The SECRETARY. At the proper place in the bill it is proposed to insert the following:

SEC. —. That hereafter it shall be unlawful for any owner, operator, manager, trustee, receiver, or lessee of any transportation system or systems, by land or water routes within the territorial boundaries of the United States of America and engaged in or soliciting interstate commerce under a common control, management, or arrangement, or any servant, employee, or agent of such owner, manager, trustee, receiver, operator, or lessee, or any other person having connection therewith, to deny or to refuse to furnish, by any device or method whatsoever, equal and identical rights, accommodations, and privileges to any person who shall pay, or offer to pay, the uniform charge made for such equal and identical rights, accommodations, and privileges in interstate transportation, when such refusal is on account of the race, color, or previous condition of servitude of the person so applying.

And it shall hereafter be further unlawful for any owner, operator, manager, lessee, trustee, or receiver of any system or systems of transportation within the territorial boundaries of the United States of America and engaged in or soliciting interstate commerce, or any servant, employee, or agent of such owner, operator, manager, trustee, receiver, or lessee, or any other person connected therewith, to operate upon any part of their transportation system or systems any car, vessel, train of cars, or other conveyance in and upon which any person being transported to a final destination beyond the boundaries of any State or Territory of the United States of America, or beyond the boundaries of the District of Columbia, and paying, or offering to pay, the uniform charge made for transportation in interstate transportation, shall, on account of race, color, or previous condition of servitude, be separated from any other passenger, or be denied equal and identical rights, accommodations, and privileges accorded any other passenger paying or offering to pay such uniform charge for interstate transportation, or be permitted to be assaulted, molested, or in any other way injured or oppressed by reason of the exercise of any right herein granted or protected.

SEC. —. That any owner, manager, lessee, operator, trustee, or receiver of any system of transportation as set forth in section 1 of this act who shall violate or connive at the violation of any of the provisions of section 1 shall for each such violation or connivance forfeit not less than the full sum of $5,000, to be recovered in a proper United States court, in an action on the case, to the use of each person aggrieved by such violation, together with costs and reasonable counsel fees, to be fixed by the trial justice; and all other persons guilty of such violation or participation therein shall, upon conviction in a proper United States court, be fined $1,000 or imprisoned in a Federal prison for one year, or both.

SEC. —. That the provisions of this act shall apply to the interstate operation of transportation systems under Federal control, with like penalties and punishments for its violation.

SEC. —. That all acts, parts of acts, statutes, regulations, and orders not in conformity herewith are hereby amended, altered, or repealed.

Mr. FRANCE. Mr. President, I shall not discuss this amendment at this time, but on some future occasion I shall discuss the various important questions involved in the amendment. I, however, have offered the amendment.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Maryland.

The amendment was rejected.

The PRESIDING OFFICER. The bill is still before the Senate, as in Committee of the Whole, and open to amendment.

Mr. CUMMINS. Mr. President, my purpose this evening was, so far as possible, to dispose of all amendments concerning which there was no serious dispute. I recognize that there are certain amendments, among them the one offered by the Senator from Kentucky [Mr. STANLEY], which he withdrew a few hours ago, and many others that will excite considerable debate. I do not want to enter upon the consideration of those amendments this evening; but if the Senator from Washington [Mr. JONES] has other amendments——

Mr. JONES of Washington. I was going to say that I desire to offer an amendment. After it is read the Senator from Iowa, I think, is probably sufficiently acquainted with the situation to decide whether or not it is proper. I have a little memorandum in regard to it.

The PRESIDING OFFICER. The amendment proposed by the Senator from Washington will be stated.

The SECRETARY. On page 92, after the word "case," in line 2, it is proposed to strike out the quotation marks, the period, and insert a comma and the following:

Provided, however, That the carrier to which property may have been so diverted shall not be liable hereunder unless it had actual notice by bill of lading, way bill, or otherwise of such routing instructions, in which event the revenue received or receivable for such freight shall be recoverable only from the carrier which diverted the property contrary to routing instructions in the bill of lading.

Mr. CUMMINS. Mr. President, there is no objection to that amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Washington.

The amendment was agreed to.

Mr. CUMMINS. I ask that the bill be reprinted showing in italics the amendments adopted up to this time, so that all Members of the Senate may be apprised of what has been done.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HENDERSON. Mr. President, will the Senator yield for a moment?

Mr. CUMMINS. I yield.

Mr. HENDERSON. I should like to call the attention of the Senator from Iowa to an amendment proposed by the Senator from California [Mr. JOHNSON], which proposes to strike out, on page 88, line 17, beginning with the sentence "And in establishing such through route" and ending on page 89, in line 6, with the words "desirable in the public interest." Does the Senator from Iowa think that that proposed amendment if offered at this time would provoke debate?

Mr. CUMMINS. Mr. President, the amendment raises the question presented by the Senator from Minnesota [Mr. KELLOGG] a little while ago, and which was incidentally brought before us by the amendment offered by the junior Senator from Missouri [Mr. SPENCER].

The amendment just referred to by the Senator from Nevada would strike out the limitation in the present law with regard to the establishment of through routes and would leave the Interstate Commmerce Commission at liberty to establish a through route under such circumstances as might deprive the initial carrier of a haul over its line in the same direction. I am not prepared to accept the amendment, although if it were properly guarded the authority of the commission could very well be enlarged in that respect; but I am sure the Senator from Minnesota opposes the amendment as it is, and I would not care to take it up to-night, because it might provoke debate and could not be disposed of without a roll call. If the Senator from Nevada is willing to have the amendment disposed of without a roll call I am perfectly willing to have it submitted.

Mr. HENDERSON. I merely desired to call the proposed amendment to the attention of the Senator from Iowa. If it is going to lead to debate I shall not present it at this time, as I understood the Senator from Iowa to say that only amendments that would not lead to debate would be brought up this evening.

Mr. WALSH of Massachusetts. I submit amendments to the pending bill, which I ask may be printed in the RECORD and lie on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

On page 1, line 7, after the word "repealed," insert the following: "So far as it affects railway corporations, common carriers, or systems of transportation, accepting the terms and provisions of this act, but otherwise shall continue in full force and effect until the end of the calendar year 1924: *Provided, however,* That the regulation of intrastate rates shall after the repeal, both with respect to carriers electing to remain under the provisions of the Federal control act and with respect to all other carriers, be revested in the several States and the agencies established by law therein."

Also, on page 2, line 1, after the word "any," insert "such," and in line 10 strike out "all" and insert "such."

Also, on page 60, strike out the entire section 26 and insert in lieu thereof the following:

"SEC. 26. The wages and salaries paid to classified employees, including sleeping-car employees, by common carriers accepting the terms and conditions of this act, and the wages and salaries paid to such classified employees of transportation systems remaining under Federal control, together with the hours of labor and all other conditions of employment of such classified employees, shall be at least as favorable to such employees as those paid and accorded for similar services rendered under similar conditions in other industries, taking into account the hardships, hazards, and responsibilities of the employment, the training and skill required, the steadiness and tenure of service, and any provisions for participation in pensions or other benefits. The purchasing power of such wages and salaries shall be stabilized as follows: The scales of such wages and salaries in force on July 1, 1915, shall be considered the basic scales of such salaries and wages. The Bureau of Labor Statistics shall compile and publish on the 1st days of February, May, August, and November of each year tables showing the current average cost at retail, in the principal industrial and commercial centers, of such supplies of food, clothing, housing facilities, fuel and lights, furniture, and other necessaries in the proportionate amounts reasonably sufficient for the support of a family of two adults and three minor children therein, together with the cost of the same group of necessaries in December, 1914; and the wage or salary paid at each pay day to each such classified employee whose basic rate is less than $3,000 a year shall be at such basic rate for the corresponding service performed in July, 1915, plus the percentage by which the cost of the group of necessaries before mentioned at the industrial or commercial center nearest his place of residence, as shown by the tables of the bureau last published, exceeds the cost of the same group of necessaries in December, 1914: *Provided, however,* That nothing in this section shall operate to reduce the amount of wages or salary of any employees below the amount to which such employee was entitled in December, 1919: *And provided further,* That the board shall have power, upon the petition of the representatives of any group of such employees, to readjust the basic scale of wages and salaries whenever it shall determine, after such notice and hearing as it shall prescribe, that the actual compensation received by any such employee or employees is less than that paid in other industries for similar services rendered under similar conditions, or is inadequate for any other reason."

ADJOURNMENT.

Mr. CUMMINS. I move that the Senate adjourn.

Mr. EDGE. If the Senator will allow me, is the motion of the Senator to adjourn to 11 o'clock to-morrow morning?

Mr. CUMMINS. The Senate has already adopted an order that when it adjourns to-day it shall adjourn to meet at 11 o'clock to-morrow morning.

The PRESIDING OFFICER. The question is on the motion of the Senator from Iowa that the Senate adjourn.

The motion was agreed to; and (at 8 o'clock and 30 minutes p. m.) the Senate adjourned, the adjournment being under the order previously entered until to-morrow, Tuesday, December 16, 1919, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

MONDAY, *December 15, 1919.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Thou great Father Soul, ever working in and through Thy children, we realize that:

Art is long, and Time is fleeting,
And our hearts, though stout and brave,
Still, like muffled drums, are beating
Funeral marches to the grave.

Inspire us with clear perceptions, high ideals, worthy endeavors, with always a noble purpose in view, that we may work out our own salvation with fear and trembling: For it is God which worketh in us both to will and to do of his good pleasure.

Let us, then, be up and doing,
With a heart for any fate;
Still achieving, still pursuing,
Learn to labor and to wait.

After the similitude of the Master. Amen.

THE JOURNAL.

The Journal of the proceedings of Saturday, December 13, 1919, was read.

Mr. BLANTON. Mr. Speaker, I think we ought to have a quorum present, and I make the point of order that there is no quorum present.

Mr. MONDELL. Will the gentleman withhold that for a moment? I should like to submit a request for unanimous consent.

Mr. BLANTON. I think the gentleman would rather make it with a quorum present.

The SPEAKER. The gentleman from Texas makes the point of order that there is no quorum present. It is clear that there is no quorum present.

Mr. MONDELL. I move a call of the House.

The SPEAKER. The gentleman from Wyoming moves a call of the House.

The question was taken; and on a division (demanded by Mr. BLANTON) there were—ayes 41, noes 11.

Accordingly a call of the House was ordered.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The Clerk called the roll, when the following Members failed to answer to their names:

Anderson	Ellsworth	LaGuardia	Rowan
Andrews, Md.	Fairfield	Lehlbach	Rowe
Anthony	Ferris	Lesher	Sabath
Aswell	Fess	McCulloch	Sanders, Ind.
Bacharach	Gallivan	McKeown	Sanders, La.
Baer	Garland	McLane	Sanders, N. Y.
Bee	Goodall	Madden	Sanford
Bell	Graham, Pa.	Mann, Ill.	Schall
Blackmon	Hadley	Miller	Scully
Bland, Mo.	Hamill	Moon	Sears
Booher	Hamilton	Moore, Ohio	Smith, Ill.
Bowers	Hardy, Colo.	Moore, Pa.	Smith, N. Y.
Brand	Harreld	Moore, Va.	Steele
Britten	Heflin	Mott	Steenerson
Brooks, Pa.	Hoch	Mudd	Sullivan
Burdick	Hudspeth	Neely	Sumners, Tex.
Burke	Hulings	Nicholls, S. C.	Tague
Clark, Fla.	Humphreys	Nichols, Mich.	Taylor, Ark.
Cleary	Husted	Nolan	Thompson
Connally	Hutchinson	O'Connor	Tillman
Cooper	Igoe	Osborne	Vaile
Copley	Johnson, Ky.	Paige	Venable
Costello	Johnson, S. Dak.	Pell	Watson, Va.
Davey	Johnston, N. Y.	Pou	Webster
Denison	Jones, Tex.	Ramseyer	Wheeler
Dewalt	Kahn	Randall, Calif.	Williams
Donovan	Kearns	Reavis	Wilson, Ill.
Dooling	Kelley, Mich.	Riddick	Wilson, La.
Dunbar	Kendall	Riordan	Wise
Dunn	Kennedy, R. I.	Robinson, N. C.	Young, Tex.
Eagan	Kettner	Robsion, Ky.	
Eagle	King	Rodenberg	
Edmonds	Kreider	Romjue	

The SPEAKER. On this roll call 303 Members have answered to their names. A quorum is present.

Mr. MONDELL. Mr. Speaker, I move to dispense with further proceedings under the call.

The SPEAKER. The gentleman from Wyoming moves to dispense with further proceedings under the call. Without objection, it will be so ordered.

Mr. BLANTON. I object, Mr. Speaker.

The SPEAKER. The gentleman from Wyoming moves to dispense with further proceedings under the call.

The question being taken,

Mr. BLANTON. Division, Mr. Speaker.

The House proceeded to divide.

Pending the division,

Mr. BLANTON. Mr. Speaker, on this question I ask for the yeas and nays.

The SPEAKER. The gentleman from Texas demands the yeas and nays. All those in favor of ordering the yeas and nays will rise and stand until they are counted. [After counting.] Forty-five Members rising, not a sufficient number.

Mr. BLANTON. I ask for the other side.

The SPEAKER. There is no other side.

Mr. BLANTON. Mr. Speaker, a parliamentary inquiry. The Constitution provides that the yeas and nays may be ordered by one-fifth of those present.

The SPEAKER. But there is no other side. The question is whether the demand is seconded by one-fifth of the Members present.

Mr. BLANTON. Then I ask the Chair to count.

Mr. SAUNDERS of Virginia. I submit, Mr. Speaker, that the way to determine whether one-fifth of those present second the demand is to take the vote of the other side.

The SPEAKER. No; the Chair can arrive at it by counting the Members.

Mr. SAUNDERS of Virginia. Yes; and the way to determine that is to count the other side.

The SPEAKER. No; the Chair suggests that it does not follow that all Members present would vote. It very frequently happens that Members do not rise.

Mr. DYER. We have just had a roll call, Mr. Speaker, on the point of no quorum, which showed how many Members were present.

The SPEAKER. The Chair will count.

Mr. CANNON. Mr. Speaker, a parliamentary inquiry. What is the question before the House?

The SPEAKER. The question is whether one-fifth of the Members present rose to second the demand for the yeas and nays.

Mr. LONGWORTH. Mr. Speaker, but the Chair had previously counted within two or three minutes.

The SPEAKER. The Chair had not completed the count. There was a roll call.

Mr. LONGWORTH. The roll call disclosed how many were present.

Mr. CANNON. I make the point of order that the point raised by the gentleman from Texas is dilatory. Nobody has any doubt about it. It is patent to the Chair; and it being dilatory, it seems to me that the Chair ought to proceed with the public business.

Mr. DYER. And further, Mr. Speaker, a call was just had on the point of no quorum, and the number who answered to their names on that roll call are known to the Chair.

The SPEAKER. The Chair thinks he ought to count; it will take but a moment. [After counting.] Two hundred and thirty-one Members present. Not a sufficient number rising in support of the demand for the yeas and nays, the yeas and nays are refused. The doors will be opened. Is there objection to the approval of the Journal? [After a pause.] The Chair hears none.

RESIGNATION OF REPRESENTATIVE ALEXANDER.

The SPEAKER laid before the House the following communication:

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 13, 1919.

Hon. FREDERICK H. GILLETT,
Speaker House of Representatives, Washington, D. C.

MY DEAR MR. SPEAKER: This is to inform you that I have tendered to the governor of Missouri my resignation as Representative in this Congress from the third Missouri district, to be effective on Monday, the 15th day of December, 1919.

I am, with great respect,
Cordially, yours, JOSHUA W. ALEXANDER.

ENROLLED BILL SIGNED.

Mr. RAMSEY, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 1199. An act to prohibit the purchase, sale, or possession for the purpose of sale of certain wild birds in the District of Columbia.