Ned A. Parham, Howe.
Claude Cline, Huntington.
Agnes M. Hiatt, Hymera.
John J. Himsel, Jasper.
William H. Morey, Lowell.
Charlie O. Alton, Milan.
James W. Robinson, Milford.
Neil W. Troutman, Montpelier.
John F. Trimble, Morristown.
Harry S. Irvin, Morocco.
Willard Lucas, New Haven.
Almeda B. Lochard, North Madison.
Luella Moore, Orleans.
Jacob O. Hawley, Paragon.
Harold C. Littell, Pekin.
Earl V. Sell, Pennville.
Gerry E. Long, Porter.
George W. Owen, Poseyville.
Perry Leavell, Red Key.
Quimba O. Hallowell, Ridgeville.
James E. Turner, Roann.
Guy H. Walker, Rockport.
Charles E. Noble, Rolling Prairie.
Celia Johnson, Russiaville.
Glen R. Brown, Spiceland.
Nathan Riley, Thorntown.
Reader J. Meroney, Topeka.
Elmer E. Harding, Union City.
George A. White, Union Mills.
Orville C. Bowen, Upland.
E. Delight Bradford, Vanburen.
Samuel J. Purnell, Veedersburg.
Betty M. Miller, West Baden.
Frank R. McCullough, Westport.
George H. Williams, Wheatfield.
Austin Palin, Wingate.
Charles A. Burgess, Yorktown.

MICHIGAN.

Frankie Harris, Ada.
Erva J. Mallory, Albion.
Francis R. Hemenger, Algonac.
Volney W. Ferris, Allegan.
Harold M. Howell, Allen.
Ambrose C. Pack, Ann Arbor.
Lorenzo D. Anderson, jr., Armada.
Arthur G. Creevy, Barryton.
John C. Davis, Battle Creek.
Homer E. Buck, Bay City.
Fred G. Scott, Bergland.
Aaron W. Miles, Big Rapids.
John J. Schmidt, Bravo.
Jesse A. Hurd, Ceresco.
Charles F. Goetzen, Chesaning.
Milford W. Covert, Clio.
Jean M. Jackson, Croswell.
John Fenine, Dowagiac.
Adrian J. Van Wert, Essexville.
Clarence J. Fuller, Fowlerville.
Walter J. Kern, Frankenmuth.
Mary E. Chadwick, Frankfort.
George L. Olsen, Grand Haven.
Robert G. Hill, Grand Rapids.
Henry C. Hemingsen, Grant.
Arthur A. Graves, Grosse Ile.
Benjamin Rankens, Hamilton.
Frank A. Schulte, Hemlock.
William H. Cansfield, Howell.
Ernest C. Baldwin, Hudson.
Earl E. Secor, Imlay City.
Gerald McKindles, L'Anse.
John A. Gries, Laurium.
Clara E. Benedict, Lawrence.
Frederick R. Gibson, Lawton.
Frank J. Gehringer, Lenox.
Inez O. Peasley, Lexington.
Nettie B. Goheen, Lincoln.
Norman E. Borgerson, Lowell.
Mark Boyd, McBain.
Sadie Wheeler, Manton.
Archie Lowry, Marion.
Oscar Wertanen, Mass.
Mark L. Osgood, Monroe.
Kathryn I. Stanley, Morrice.
Aaron R. Merritt, Mulliken.
Lincoln Rodgers, Muskegon.
William A. Keeler, North Branch.
Frank S. Neal, Northville.
Dee J. Wilson, Orchard Lake.
Maud Miller, Peck.
William C. Miller, Pinckney.
George W. Farmer, Redford.
Charles H. Heath, Richmond.
Edward W. Huff, Rock.
Frank J. Adams, Rogers.
Fred H. Buckberry, Romulus.
Gordon R. Whitney, Rose City.
Ernest E. Vibert, Saginaw West Side.
Hannibal A. Hopkins, St. Clair.
Walter G. Wykoff, St. Johns.
Gertrude Moffatt, Sandusky.
Herman G. Muellerweiss, Sebewaing.
Edwin D. Greenhoe, Sheridan.
Nora Covert, Springport.
Belle Quick, Swartz Creek.
Henry W. McClure, Tecumseh.
John B. Murphy, Wayne.
Frank Aldrich, Webberville.
Alexander M. Mackay, West Branch.
Floyd P. Fox, Williamsburg.
Arthur E. Baisley, Wyandotte.

VERMONT.

Frank E. Robinson, Barre.
George E. King, Barton.
Joshua H. Blakley, Bellows Falls.
Burt Merritt, Brandon.
William A. Beebe, Bristol.
Stanley E. Brownell, Burlington.
Henry Jones, Castleton.
Douglas C. Montgomery, East Arlington.
Lyman H. Leach, Essex Junction.
Charles L. Stuart, Lyndonville.
Dora W. Brown, Lunenburg.
Walter W. Wright, North Troy.
Charles W. Humphrey, Poultney.
Dwight L. M. Phelps, Richmond.
Ernest W. Chase, Rochester.
Frank C. Dyer, Salisbury.
William F. Hager, Wallingford.
Fred H. Brock, Wells River.
Earle H. Bishop, West Rutland.
Belle H. Covell, Williamstown.

## WITHDRAWALS.

*Executive nominations withdrawn from the Senate January 3, 1924.*

MEMBERS OF THE UNITED STATES SHIPPING BOARD.

Frederick I. Thompson, of Alabama.
Bert E. Haney, of Oregon.

PROMOTION IN THE NAVY.

Ensign Bascom S. Jones to be a lieutenant (junior grade) in the Navy from the 5th day of June, 1923.

## HOUSE OF REPRESENTATIVES.

THURSDAY, *January 3, 1924.*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

O Lord, our Lord, how excellent is Thy name in all the earth! O lead men everywhere to know Thee, whom to know is life eternal. Truly Thou art a sun and shield and no good thing dost Thou withhold from Thy earthly children. For all of the rich bounties from Thy hand; for the unspeakable blessings of divine care we wait in humble gratitude in Thy holy presence. Be pleased to accept the sincere offerings of our hearts. For all our families, united or separated, we ask the Father's tenderest care, and give great wisdom, discernment, and discretion to all Members of this Congress. Upon all our people continue the blessings of those rugged virtues, namely, the obligations of justice, the will of industry, the spirit of charity, and the heaven-born sense of responsibility to Thee, as revealed in the glorified Cross of Calvary. May Thy Holy Spirit give us great peace and comfort throughout this new year. Amen.

The Journal of the proceedings of December 20, 1923, was read and approved.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

ORDER OF BUSINESS.

Mr. JONES. Mr. Speaker, I ask unanimous consent that on Saturday next, after the reading and approval of the Journal and the disposition of business on the Speaker's table, I shall be allowed to proceed for 20 minutes.

The SPEAKER. The gentleman from Texas asks unanimous consent that this week—Saturday—after the reading of the Journal and the disposition of business on the Speaker's table, he be allowed to address the House for 20 minutes. Is there objection?

Mr. LONGWORTH. Mr. Speaker, I hope the gentleman will not make that request, because we hope to adjourn over tomorrow until Monday next.

Mr. JONES. Then, Mr. Speaker, I modify my request that I be allowed to proceed on Monday next, after the reading of the Journal and the disposition of business on the Speaker's table, for 20 minutes.

The SPEAKER. The gentleman from Texas asks unanimous consent that on Monday next, after the reading of the Journal and the disposition of business on the Speaker's table, he be allowed to address the House for 20 minutes. Is there objection?

There was no objection.

Mr. FREAR. Mr. Speaker, I ask unanimous consent that following the gentleman from Texas, I may be allowed to address the House for 40 minutes upon the subject of taxation.

The SPEAKER. Is there objection?

There was no objection.

SALARIES OF LEGISLATIVE EMPLOYEES.

Mr. MADDEN. Mr. Speaker, I ask unanimous consent to proceed for two minutes in order that I may explain a request for unanimous consent which I intend to make.

The SPEAKER. The gentleman from Illinois asks unanimous consent to address the House for two minutes. Is there objection?

There was no objection.

Mr. MADDEN. Mr. Speaker, at the close of the Sixty-seventh Congress, by act of Congress, a joint committee was appointed to classify the salaries of the people employed in the legislative branch of the Government. I served as a member of that committee. That act required that the committee report the results of its labors on the first day of the session of the Sixty-eighth Congress. The report was made as the law provided. As a result of the recommendations of this committee, legislation will have to be enacted.

The committee itself has no authority to report a bill, although it has made the report of its labors. There is no committee in the House under the rules to which such a bill could be properly referred, and even if there were it would not be wise to refer a bill to a committee that had no knowledge of the subject. Therefore, I ask unanimous consent that this joint committee on the compensation of legislative employees be authorized to report a bill for the consideration of the House.

The SPEAKER. Is there objection?

Mr. MOORE of Virginia. Mr. Speaker, reserving the right to object, is that report of the joint committee, having been printed, available to Members of the House?

Mr. MADDEN. Oh, yes.

Mr. MOORE of Virginia. Does the gentleman know how many copies are printed?

Mr. MADDEN. I do not.

Mr. MOORE of Virginia. The gentleman will recall that the other day we had some discussion with respect to the insufficient number of copies of bills and resolutions that are offered in the House.

Mr. MADDEN. I do not know anything about that subject, but I think the gentleman will find these reports in the document room.

Mr. TILSON. Mr. Speaker, will the gentleman yield?

Mr. MADDEN. Yes.

Mr. TILSON. The gentleman speaks of the joint committee reporting a bill. Will the gentleman not have to make his request so that the House members of that joint committee may report a bill to this House?

Mr. MADDEN. The matter would have to go to the joint committee, and then such report as would come from the joint committee would of course be introduced by the Members of the House who are members of that committee.

Mr. TILSON. We can not authorize a joint committee of the two bodies to make a report of a bill to the House.

Mr. MADDEN. Then I shall modify my request to meet the suggestion of the gentleman from Connecticut, that the House members of the joint committee may be authorized to report a bill passed upon by the joint committee.

Mr. SNELL. Mr. Speaker, will the gentleman yield?

Mr. MADDEN. Yes.

Mr. SNELL. Do I understand that the gentleman intends to take up that matter and consider it on Monday next?

Mr. MADDEN. Oh, no; the bill has not yet been introduced. I propose to introduce a bill to cover the contents of the report, and to have that bill referred to the joint committee and reported by the House members on the joint committee later on, and then I shall ask the House at some time to take it up for consideration, but just when I can not tell.

Mr. GARRETT of Tennessee. Mr. Speaker, do I understand that the committee consists of three members from each body?

Mr. MADDEN. The joint committee consists of myself, the gentleman from Minnesota [Mr. ANDERSON], and the gentleman from South Carolina [Mr. BYRNES], and of Senator WARREN, Senator SMOOT, and Senator OVERMAN on behalf of the Senate.

Mr. GARRETT of Tennessee. And, as I understand the gentleman's request, it is that the House members of that joint committee shall have jurisdiction of a bill which will be introduced covering the subject which those gentlemen have been studying throughout the year?

Mr. MADDEN. Yes.

Mr. GARRETT of Tennessee. Jurisdiction of the bill with authority to report?

Mr. MADDEN. Yes.

Mr. GARRETT of Tennessee. That, of course, does not give the matter any privileged status?

Mr. MADDEN. Oh, no.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. BLANTON. Mr. Speaker, reserving the right to object, the presumption was that with the filing of this report upon the first day of this Congress that committee should die.

Mr. MADDEN. There is no provision——

Mr. BLANTON. But what is the presumption? It was not presumed that they were to continue like these other committees and live forever.

Mr. MADDEN. I will say to my friend from Texas that there is no expense attached——

Mr. BLANTON. I have no objection to the gentleman's request.

Mr. MADDEN. Let me make this statement. There was not a dollar of public money expended by this commission. It is the first commission of the kind where that can be said to be true. [Applause.]

Mr. BLANTON. But I understand there will be public money expended by the action of this committee later on.

Mr. MADDEN. There will be public money expended for compensation.

Mr. BLANTON. Considerable?

Mr. MADDEN. Yes.

Mr. BLANTON. What is the gentleman's idea——

Mr. PARKS of Arkansas. Regular order.

Mr. BLANTON. What is the gentleman's idea?

The SPEAKER. The regular order is demanded.

Mr. BLANTON. For the present I object unless I can ask him a question. All I want to do is to ask a question.

Mr. PARKS of Arkansas. I withdraw it.

Mr. BLANTON. The question I desire to ask is this, which is a simple question. That after this committee reports this bill and gets through with it, it is not to remain as a standing joint committee?

Mr. MADDEN. Absolutely not.

Mr. BLANTON. Its services will be ended and it will lapse?

Mr. MADDEN. We would like to surrender our arduous work.

The SPEAKER. Is there objection to the gentleman's request?

Mr. COOPER of Wisconsin. Reserving the right to object, I desire to ask the gentleman a question. At the time each Congress meets the committees of the House are all newly appointed?

Mr. MADDEN. This is an appointment under the law.

Mr. COOPER of Wisconsin. The law establishes the joint committee, but did not establish the personnel of the House members.

Mr. MADDEN. Here is what the law provided, three Members of the House——

Mr. COOPER of Wisconsin. Did it name them?

Mr. MADDEN. No; but they were Members of the Sixty-seventh Congress and elected to the Sixty-eighth Congress, and the law provided that they should be appointed by the Speaker to membership on this committee, and he named three.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

PUBLIC BUILDINGS COMMISSION.

Mr. LANGLEY. Mr. Speaker, as a member of the Public Buildings Commission I submit for printing under the rule its annual report, and I ask unanimous consent that I may be heard for 10 minutes on a matter contained in this report in which I think the House is specially interested.

[The report referred to will be found on page 499 of the Senate proceedings.]

The SPEAKER. The gentleman from Kentucky asks unanimous consent to proceed for 10 minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. LANGLEY. Mr. Speaker, the Public Buildings Commission, of which I am the majority House member, has directed me to submit its annual report to the House. A portion of that report deals with the question of public buildings in the District of Columbia. As a member of that commission I have concurred in this report because it states the plain truth about the situation regarding the urgent need of certain public buildings in Washington, to which territory the jurisdiction of the commission is confined. I wish to state to the House that my action in concurring in this report must not be construed as indicating my agreement to the proposition which confines public building activities for the present to the District of Columbia. [Applause.] I could name by the scores situations in various sections of the country where equally urgent necessity exists for the proper housing of Government activities and in Government-owned buildings.

With the indulgence of the House, I will mention a few which have been brought to my attention and which come to my mind at the moment; Oakland, Calif.; Syracuse and Binghamton, N. Y.; Baltimore, Md.; Pittsburgh, Pa.; Newark, N. J.; Detroit, Mich.; Central City, Ky.; Cleveland, Steubenville, and Akron, Ohio; Minneapolis, Minn.; Hartford, Conn.; Fort Wayne, Ind.; Kenosha and Racine, Wis.; Asheville, N. C.; Houston, Tex.; and in the great and much-favored State of Massachusetts I might mention Boston, Lawrence, and Peabody. [Applause.] Even in the great city of Chicago they are appealing for additional space for Government activities; and I might also mention Effingham, in the same State.

Mr. TUCKER. Why does not the gentleman mention Buena Vista, Va.?

Mr. LANGLEY. Yes; I gladly include that, not only because of my reverence for the old Commonwealth whence my ancestors came, but because of my great respect for the gentleman and my knowledge of the needs of the city to which he refers.

Mr. LINEBERGER. The gentleman does not mention Long Beach and Pomona, in California, although both are in dire need of public buildings, and although Long Beach has in the last four years increased in population from 55,000 to 130,000.

Mr. LANGLEY. Yes; I had not thought of these two places. I was only hurriedly mentioning a few that happened to occur to me.

Mr. DYER. What about the great city of St. Louis?

Mr. LANGLEY. Yes; I intended to mention that, because the distinguished gentleman has been perennial for many years in urging action by Congress for the relief of the St. Louis situation. [Laughter.]

Mr. MANLOVE. Please do not forget another city in Missouri—that of Aurora.

Mr. LANGLEY. I can assure the gentleman that it will not be forgotten if an omnibus bill is reported to this House and I have a say in its preparation.

I might add that although I have been a member of this committee for more than 12 years and its chairman for more than 4 years, there is not a single public building in the territory which I now represent. In the old tenth district I was instrumental in securing legislation for several buildings, giving preference, as the rule required, to the places where the most public business was transacted. The people of that district know that I have been untiring in my efforts to secure some much-needed buildings in the district as now constituted, but they also know the conditions which have compelled the postponement of such legislation, and that it can not be accomplished except in a general omnibus bill, which provides for new buildings in all sections of the country.

Mr. CARTER. Will the gentleman yield?

Mr. LANGLEY. I will.

Mr. CARTER. I would like to ask the gentleman if this report contains anything about the proposition which I noticed in one of the local papers some few days ago of an elaborate plan to build by the Federal Government a giant stadium in the city of Washington for athletic entertainments, and so forth?

Mr. LANGLEY. I suggest that in view of the limited time I have and the urgent business immediately ahead of us to-day that the gentleman read the report of the commission when it is printed, and he will find therein the information he desires. [Laughter.]

Mr. CARTER. I can not read the report before it is printed. I asked the gentleman for this information in advance, thinking perhaps he might have read it. [Laughter.]

Mr. LANGLEY. I have read it, although it was not necessary, as I aided in preparing it.

My personal thought about it is that we ought to adopt as quickly as possible a general public-building program for the entire country [applause], so that the people throughout the country may understand just what is going to be done, and when, to relieve this situation. I can not speak except as an individual member, because the committee of which I have the honor to be the chairman has not yet had a meeting, and, moreover, nearly one-half of its personnel consists of new Members. But I do wish to say this to the House: I have no sort of patience, and I do not believe you have, with all this tommyrot about "pork barrels." [Applause.] Some people seem to think that if we vote to spend millions in great civic centers we are patriots, and that if we vote for small but equally necessary appropriations to take care of our own local situations we are "pork-barrel" advocates.

It is of course conceded that in the great centers of population, with all the terminal facilities that are needed, millions must be appropriated to meet the situation, where only thousands are needed to erect necessary buildings in smaller localities. But we need in such places the thousands just as urgently as they need the millions in the other places.

Mr. CARTER. Mr. Speaker, will the gentleman yield for a question?

Mr. LANGLEY. Yes.

Mr. CARTER. I assume the building of this giant stadium, at the cost of a million or more dollars to the Federal Treasury, serving no purpose except to enable our District of Columbia residents to disport themselves, would be considered a very worthy and statesmanlike undertaking, while the building of a modest courthouse or post office to serve the actual needs of the citizens of some other section of this country would be denominated a pork-barrel proposition.

Mr. LANGLEY. Oh, I fear the gentleman has "stadium" on the brain. [Laughter.] He must have been reading "yellow journals."

Mr. CARTER. I have not it on the brain sufficiently to find out yet how the gentleman from Kentucky stands on the proposition, and many of us would like to know.

Mr. LANGLEY. I will gladly answer my friend, if I get a chance. There is nothing of that sort in the report.

Mr. ASWELL. Mr. Speaker, will the gentleman yield?

Mr. LANGLEY. Yes.

Mr. ASWELL. Would the gentleman be in favor of his committee bringing out a bill for the District of Columbia without a bill to cover the emergencies that he speaks of? Would the gentleman support the District bill separately when, for example, Syracuse, N. Y., presents an emergency vastly more serious and reflecting more upon the Congress for inaction than any case in Washington?

Mr. LANGLEY. I think I have made it pretty clear in what I have already said and in what I have said in previous Congresses in which the gentleman served, and in the press of the country, that I am in favor of immediate legislation to take care of the situations throughout the country, and I think it ought not be done by piecemeal, I will say frankly to the gentleman from Louisiana. [Applause.]

I concede that there is some force in the argument that this being the seat of Government, where the heads of its great departments are housed, and where the work of the Government is done for all the people, should have the first and highest consideration. Take the Department of Agriculture, for example; its various branches occupy here in Washington 45 buildings scattered throughout the city, 28 of which are rented, and many of them insanitary and nonfireproof. The report of the commission sets out in detail the conditions which exist here in Washington in this respect with regard to several of the departments. I do not believe that the people in any section of this country or that any Member of this House would want to see preference given to his locality in the face of such conditions in the National Capital. It is a beautiful city and capable of much more beautification, in which we should all take a patriotic pride. But I contend that it is not necessary to give such preference. It can all be undertaken as one general public building plan, and I think we ought to take "pot luck" together.

There may have been a time many years ago when somebody thought that he could glorify himself by building a monumental and unnecessary building in his locality. But under the present almost unbearable burden of taxation and in the present state of the public mind it is my opinion that any Member of Congress who would undertake to exalt himself personally by securing the erection of an unnecessary building in his community would bring down upon himself public execration and put himself into political exile. [Applause.] So far as I am concerned, I believe we ought to confine this general program of building to actual necessities. [Applause.]

I would not advocate, nor would I favor, reporting an omnibus bill which provides for a single building anywhere where it is not clearly shown that the expenditure would immediately, or in the near future, be an economical investment for the Government. What we need is not monumental buildings, but buildings in keeping with the architecture of the locality in which they are constructed, and of a substantial, roomy, fireproof, and sanitary type, such as successful and up-to-date commercial business would construct. It seems to me that it is the thought of some gentlemen that the adoption of a comprehensive building program would mean the immediate expenditure of hundreds of millions of dollars, which, of course, is absurd. We are expending now annually nearly $23,000,000 for rental of buildings for Government use. Many of these buildings are lacking in facilities, insanitary, and nonfireproof. Not only that, but in many instances that have been brought to my attention a rental of as much as 16 per cent annually is being paid on the amount of capital invested in the buildings. This is unpardonable and disgraceful to our Government. We could borrow even as much as $500,000,000 and still make a substantial saving in the item of interest alone, to say nothing of the advantage it would be in the matter of the prompt and efficient transaction of the public business.

If I could have my way about it, I would favor the adoption for the entire country of a building program similar to that recommended in the report of our commission for the District of Columbia, and I would extend that program over a period of 10 years, giving preference to the cases of greatest emergency, with proper safeguards against favoritism for certain localities as against others. We could at the most expend annually the comparatively small amount that would be required to carry out the 10-year program. If the current revenues for any particular year should be insufficient to meet the expenses for that year, the Secretary of the Treasury could be authorized to issue bonds or certificates of indebtedness to meet the remainder for that year, and this without the slightest harm to the United States Treasury or to the credit of the Government. I am not impressed with the argument that it would overtax the building capacity of the people, and that we should wait until there is a period of depression before starting such a program. I am strong enough in my Republican faith to believe that there can not be a period of depression under a Republican administration. And I would not be speaking the faith that is in me if I did not say that I devoutly believe in the nomination and election for a full term of the great and patriotic man who now occupies the White House. So that to accede to that argument would mean a period of waiting exceeding five years before we took a forward step in the matter.

It has now been nearly 11 years since we had an omnibus public buildings bill enacted into law. This long delay in supplemental legislation is one of the reasons for the serious conditions which exist now throughout the country. The other reason is of course the tremendous and unprecedented growth of the country in every line of business. There are more than 100 unfinished projects authorized by the act of March 4, 1913, and nearly $13,000,000 appropriated pursuant to that act remain unexpended because the World War produced such an increase in the cost of labor and materials that the work could not proceed.

The answer to the suggestion which has been made, that a general bill if enacted should be confined to the class of cases which are sometimes termed "emergency cases," is that there are many other localities which were not provided for in that act which have since become more emergent than many of these hundred and odd cases are. In a word, what we ought to do is to stop this "penny wise and pound foolish" economy [applause] and proceed to house the activities of this great Government in properly constructed Government-owned buildings, and in all cases where it would be economical in the end to do so. This would not only relieve us of the disgraceful position into which our Government is rapidly drifting, but it would also stop the practice, which I think should never have been started, of giving a doubtful construction to a provision in the shape of permanent law which was some years ago inserted in the Post Office appropriation bill, under which contracts are being entered into with private parties for the construction of buildings at excessive rates of interest calculated upon the amount of capital invested, and leaving the Government in the end to purchase the building or to be left at the expiration of the period in a worse condition than it was before. I am not seeking to place the blame for this situation upon any particular administration or administrative official. I am simply placing before you as an individual Member of this House and chairman of the committee having jurisdiction of the initial legislation, the facts as I see them, so that the Congress and the country at large may understand that I want to see such a program as I have outlined adopted as quickly as possible and proceeded with as rapidly as the needs of the Government's business require and the condition of the Government's finances will permit of.

I ask unanimous consent, Mr. Speaker, to briefly extend my remarks in the RECORD on this subject.

The SPEAKER. The gentleman from Kentucky asks unanimous consent to extend his remarks on this subject. Is there objection?

There was no objection.

LEAVE TO ADDRESS THE HOUSE.

Mr. DARROW. Mr. Speaker, I ask unanimous consent that on Monday next, after the reading of the Journal and the addresses arranged for have been made, to address the House for 15 minutes.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent to address the House for 15 minutes on Monday next, following the address of the gentleman from Wisconsin [Mr. FREAR]. Is there objection?

There was no objection.

WITHDRAWAL OF PAPERS.

Mr. BROWNE of Wisconsin. Mr. Speaker, I ask unanimous consent to take from the files of the House, without leaving copies, papers in the following cases: Victoria Eager, Barbara Bever, Marion D. Sweet, Sarah J. Warren, Carrie C. Frey, Spencer E. Graves.

The SPEAKER. Does the gentleman desire to withdraw them permanently?

Mr. BROWNE of Wisconsin. Yes; permanently.

The SPEAKER. The gentleman from Wisconsin asks unanimous consent to withdraw from the files certain pension cases on which no adverse report has been made. Is there objection?

There was no objection.

ADJOURNMENT OVER UNTIL MONDAY.

Mr. LONGWORTH. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet on Monday next. I do this after consultation with the gentleman from Maine [Mr. BEEDY], who had obtained permission to address the House to-morrow.

The SPEAKER. The gentleman from Ohio asks unanimous consent that when the House adjourns to-day it adjourn to meet on Monday next. Is there objection?

Mr. GARRETT of Tennessee. Mr. Speaker, reserving the right to object, may I ask the gentleman from Ohio why it is necessary or expedient to do that?

Mr. LONGWORTH. I can only inform the gentleman that the business of the House, so far as I know, to-morrow would be confined to the address by the gentleman from Maine [Mr. BEEDY], and he has just notified me that he would prefer not to make his address then, but later.

Mr. GARRETT of Tennessee. Do I understand from the gentleman from Ohio that there is no business now ready for the House to act upon?

Mr. LONGWORTH. The gentleman may infer that perhaps.

Mr. GARRETT of Tennessee. Congress has been in session now for a month. It met on the 3d of December. It was organized some two weeks later. Of course, if the majority side, which must initiate legislation for the time being, is not prepared to suggest business, I do not know of anything that we could accomplish by making an effort to force the House to remain in session. But I wish to say to the gentleman from Ohio and his colleagues on that side of the House that the Democrats are here ready for business. [Applause.]

Mr. LONGWORTH. Of course, Mr. Speaker; but I may say to my friend from Tennessee that we do not know what business they are ready to transact. May I suggest to the gentleman from Tennessee—because he may be able to refresh my recollection, but I do not recall, though I have been a Member of a number of Congresses in which this side was in the majority,

that a very substantial amount of business was ready on the first week after New Year's.

Mr. GARRETT of Tennessee. I do not recollect——

Mr. LONGWORTH. No; I think not——

Mr. GARRETT of Tennessee. I do not recall a Congress in which I have had the honor to serve in which we have not passed one or more appropriation bills before the holidays, and at least an appropriation bill has always been ready immediately following the holidays.

Mr. LONGWORTH. And so is a bill now ready to be reported next week.

Mr. GARRETT of Tennessee. Next week is next week, and this week is this week.

Mr. LONGWORTH. The gentleman is quite in error in his thought that in previous Democratic Congresses an appropriation bill has been passed by a new Congress before the Christmas holidays.

Mr. BLACK of Texas. The Post Office appropriation bill was usually out of the way by the 1st of January.

Mr. LONGWORTH. Oh, no; the gentleman is quite wrong. That may have been the case with the second session of a Congress. Of course, I am speaking of the first session, when Congress has met to organize and has organized very speedily and with practically no difficulty.

Mr. BLACK of Texas. If the gentleman will permit, I am certain we passed the Post Office bill in the short session before the holidays. I recall that in the Sixty-fifth Congress we passed the Post Office appropriation bill December 14, 1917, at the long session and at the next short session we passed it December 18, 1918.

Mr. LONGWORTH. Quite so; and in the next short session we will pass a number of bills before the holidays.

Mr. ROACH. Reserving the right to object, I would like to ask the gentleman from Ohio [Mr. LONGWORTH] a question. From some source I have been supplied with information to the effect that the Committee on Ways and Means has for some time been considering a bill with reference to tax reduction, a subject in which the country is very much interested at this particular time, and I am wondering why that bill can not be reported and read in order that it may be gotten ready for discussion. If that is a correct bill and is to be reported by the Committee on Ways and Means, why should we adjourn over for three or four days before that bill is even read to the membership so that the membership will know what it will eventually be?

Mr. LONGWORTH. The gentleman should address his question to the chairman of the Committee on Ways and Means, because I am not advised; but, as I understand it, that bill contains some 394 pages, and the gentleman must realize that it would have been utterly impossible for that committee to report such a bill, even though, as I understand it, the committee has been in session for a considerable length of time since its organization.

Mr. ROACH. But the bill has been in the hands of the Members for a week.

Mr. LONGWORTH. That is a committee print. The gentleman is in no greater haste than I am with respect to tax reduction.

Mr. HOWARD of Nebraska. I do not know yet whether I want to object or not. I am not very much interested in the mortuary matters discussed by the gentleman from Ohio [Mr. LONGWORTH] and the gentleman from Tennessee [Mr. GARRETT]; I was not here at those funerals; but I am interested in some questions being propounded to me by home folks. I was elected 14 months ago to come here and present some pressing legislation, and the cornfield canaries are now writing me asking why I do not do something. [Laughter.] I am quite sure I will not object if the gentleman from Ohio [Mr. LONGWORTH] will give me any reasonable reason for the request which he now lodges.

Mr. LONGWORTH. I realized when I first saw the gentleman on his arrival in the House that he is a man who wants to do business, and I trust we will be able to do business very shortly.

Mr. HOWARD of Nebraska. I imagine that was a compliment and I take it as such, although I did not understand it. [Laughter.]

The SPEAKER. Is there objection to the request of the gentleman from Ohio [Mr. LONGWORTH]? [After a pause.] The Chair hears none and it is so ordered.

Under the special order of the House, the gentleman from Massachusetts [Mr. TREADWAY] is recognized for one hour.

THE ANTHRACITE COAL SITUATION.

Mr. TREADWAY—

The cost of coal has become unbearably high. It places a great burden on our industrial and domestic life. The public welfare requires reduction in the price of fuel. With the enormous deposits in existence, failure of supply ought not to be tolerated. Those responsible for the conditions in this industry should undertake its reform and free it from any charge of profiteering.

Mr. Speaker, in this brief and pithy paragraph the President of the United States in his address to Congress described the existing conditions in the anthracite coal consuming States.

Mr. WYANT. Will the gentleman yield for a question?

Mr. TREADWAY. For a brief question.

Mr. WYANT. Is the gentleman discussing coal, generally, or anthracite coal?

Mr. TREADWAY. The subject of my remarks is "The anthracite coal situation."

Mr. WYANT. Then we understand that any statements made by the gentleman will be entirely with respect to anthracite coal?

Mr. TREADWAY. No; indirectly, I also refer in the course of my remarks to the bituminous coal situation as regards emergency supply.

The cause of this situation is perfectly apparent to every student of the coal problem. I unhesitatingly say that the reason for the high price of anthracite to-day is uncontrolled monopoly. The American people are too willing to accept prevailing conditions without due inquiry into their causes.

Prices have continued to rise out of proportion to the general increase of costs.

These increases have been gradual and have under compulsion been absorbed by the public. Those responsible for the continued increases have realized that the public was in their power. We have been hit gently over a period of years in order that we could be quietly put to sleep rather than knocked out with one blow. As a result the public has now reached the point of its own comeback and refuses longer to be inflicted with the prevailing oppression.

Let me illustrate by actual bills rendered for anthracite in my home town. One is dated June, 1910, showing the price to be $7 per ton delivered. The next is for February, 1913, the price being given at $8, and the third is dated July, 1923, when the price went to $16.50 per ton. Two months later it was $17 and $17.25 per ton. An increase in 13 years of 125 per cent. These bills are representative of prevailing prices throughout the anthracite consuming States. Slight variations appear, depending upon freight charges.

Mr. BLANTON. Will the gentleman yield there for a question?

Mr. TREADWAY. I will yield briefly.

Mr. BLANTON. That $16 or $17 a ton for coal in June, 1923, was following an authorized expenditure by the Congress of $600,000 on a useless coal commission. Can the gentleman tell us one good thing that coal commission accomplished?

Mr. TREADWAY. Quite a part of my remarks will be endeavoring to answer the gentleman's question. If he will reserve his question until later, I will endeavor in my remarks to cover his inquiry.

Mr. COOPER of Wisconsin. Will the gentleman yield?

Mr. TREADWAY. For a brief question.

Mr. COOPER of Wisconsin. I would like to say right there, in connection with that statement of prices which the gentleman has given, that in January, 1921, in the city of Beloit—a city of twenty-odd thousand people, situated in my district, within 100 miles of Chicago, at the junction of the Chicago & North Western and the Chicago, Milwaukee & St. Paul Railways—the cost of anthracite coal was $24.50 a ton.

Mr. BLACK of Texas. Will the gentleman yield for just one question?

Mr. TREADWAY. A very brief one, because I have a rather lengthy address.

Mr. BLACK of Texas. In the comparison of bills for coal which the gentleman gave us, does that cover the same sizes of coal?

Mr. TREADWAY. Absolutely the same type of fuel.

Mr. BLACK of Texas. I thought that was an important element to be considered.

Mr. TREADWAY. Yes; I thank the gentleman for the suggestion. It was absolutely the same type of fuel.

REASONS FOR INFLATED PRICES.

What are the reasons for this tremendous increase? The fact that anthracite production is a monopoly and uncontrolled and unregulated makes it the toy of every element in any way

connected with the business. The reasons, therefore, for the inflated prices can be plainly stated. They are the results of the combined action on the part of the following:

1. The landowners.
2. The State laws of Pennsylvania.
3. The operators.
4. The miners.
5. The transportation companies.
6. The jobbers.

I intend to speak plainly and openly regarding each of these reasons, as nothing is to be gained by endeavoring to shield or cover up the underlying causes of the exorbitant prices charged for coal.

PROFITS OF LANDOWNERS.

First, profits of landowners. The largest single owner of anthracite fields in Pennsylvania is the Girard Estate, of which the city of Philadelphia is trustee under the will of Stephen Girard. The leases approved by the court of common pleas of the county of Philadelphia have authorized the execution of the trust by the city of the form of lease now in existence, dating from the 31st day of December, 1913, for 15 years. In other words, these leases will not expire until the last day of December, 1928. Briefly, the leases call for the payment to the trustee of 18 per cent of the average selling price per ton of each size of coal at the breaker. It was, however, stipulated especially that on chestnut sizes and larger the royalty should not be less than 45 cents per ton. From this proviso it is apparent that in 1913 the expected royalty from domestic sizes was 45 cents per ton. Under the old flat system of leases the royalty was as low as 12 cents per ton. The rate of 45 cents was therefore regarded as a high one.

To-day those royalties on the percentage basis have increased to at least $1.50 per ton. During the year 1921 there was mined from the Girard Estate leases, according to the report of the United States Coal Commission, 2,983,723 tons, upon which the average royalty was $1.27 per ton, making a total payment from these royalty leases of $3,789,328. The Girard Estate, being the largest individual owner, makes the market prices for other leases as well as the charges made by companies owning their own lands.

It is certainly a remarkable condition whereby the general public outside of the State of Pennsylvania contribute so liberally to the support of a great charity and educational trust. Under the percentage system of royalties every time the price of coal is raised to the consumer or a change is made in the price of coal at the mines the royalty owners, including this great charity, profit thereby.

It was undoubtedly the intention of Stephen Girard to establish a philanthropy in the city of Philadelphia beneficial alike to educational and charitable needs of citizens. It is inconceivable that a man with that disposition could have foreseen the day when the charities he established should become a burden upon the poor and needy of other States and of educational institutions similar to Girard College located in other parts of the country.

If this condition should be rightly placed before the trustees handling these funds, and undoubtedly having a proper conception of the spirit of the donor, could not this burden be voluntarily lightened and the rates of royalties intended to be established in the leases in 1913 be made a basis of present payment? The trustees of the Girard Estate would, I am sure, in this manner be carrying out the intention of Stephen Girard.

Mr. NEWTON of Minnesota. Will the gentleman yield there?

Mr. TREADWAY. For a brief question.

Mr. NEWTON of Minnesota. With reference to the trustees, who are the trustees of the Girard Estate?

Mr. TREADWAY. It is a board appointed by the city of Philadelphia and the contracts are approved by the courts of Pennsylvania.

Mr. NEWTON of Minnesota. And do any of them happen to be interested in anthracite mines?

Mr. TREADWAY. I have no knowledge as to that subject whatsoever. I do not even know the names of the gentlemen. Of course, I am making no personal reference to them in any way, shape, or manner.

The report of the United States Coal Commission offers the suggestion that all royalty agreements should be voluntarily amended by the owners of anthracite lands, in view of the fact that the present royalties "surely exceed their fondest expectations of 10 years ago."

The commission states that these owners should be concerned in "setting the house in order" in view of the likelihood of demand for drastic regulation for the consumers' protection.

This point has now been reached, and it is up to the owners of anthracite lands either to follow the advice of the commission or accept the consequences. The more conciliatory the attitude of the owners the better their chances of the ultimate settlement of this question being satisfactory to them.

THE PENNSYLVANIA STATE TAX.

A bill passed by the Legislature of the State of Pennsylvania was approved by former Governor Sproul on May 11, 1921, imposing a State tax on anthracite coal. The rate of the tax is 1½ per cent of the value of the coal when prepared for market and is assessed at the mines when the coal is ready for shipment.

The annual output of anthracite in the State of Pennsylvania is over 70,000,000 tons, so that the return from this tax is in excess of $8,000,000. The famous Pinchot agreement with the miners resulted in an increase of $500,000 from this tax to the State of Pennsylvania. Members of the legislature, realizing that this tax was one laid against the citizens of other States, having no voice in the taxation, endeavored to repeal this act during the session of 1923. I am reliably informed that the lower branch of the legislature actually passed the repeal but through the personal influence of the present governor the senate failed to confirm the action and the tax remains in force.

Campaign statements sometimes come home to haunt a candidate. Under date of May 15, 1922, in the Philadelphia North American, the Pinchot campaign committee, undoubtedly authorized by the candidate himself, made this very significant announcement:

A vote for Pinchot is:

A vote to destroy, for all time, that malign and sinister alliance of State officials and political contractors, responsible for the orgy of profligate extravagance and reign of legislative anarchy which saddled upon the people, among other things, those iniquitious enactments:

A tax on anthracite coal, a most unjustifiable affliction upon householders, with Attorney General Alter now fighting to have the State Supreme Court reverse itself in order that this levy may be adjudged constitutional.

PINCHOT CAMPAIGN COMMITTEE.

If citizens of the State were influenced by this campaign advertisement, they were certainly misled in expecting that, as governor, Mr. Pinchot would aid in the removal of this "unjustifiable affliction upon householders."

A short time ago the State treasurer of Pennsylvania made a statement that the law should be repealed. Unfortunately for the consuming public of other States, the Legislature of Pennsylvania does not meet again until 1925.

Through correspondence Governor Pinchot has been urged to call a special session of the legislature and recommend its prompt repeal of this tax bill in order that the State of Pennsylvania may not suffer under the opprobrium of taking unfair advantage of the necessities of sister States.

It will, therefore, be seen that before you reach other kinds of profiteering there is at least from $1.50 to $2 per ton as the base cost to the consuming public that could be very well removed through the charitable spirit of a charity organization and through the official action on the part of the State of Pennsylvania.

Mr. GARRETT of Tennessee. Will the gentleman yield before he leaves that point? The gentleman has discussed the settlement made by Governor Pinchot with some degree of criticism. I wish to ask the gentleman if I am correct in my recollection that following that settlement the President of the United States congratulated Governor Pinchot upon the settlement, and that there was some little bit of quarrel as to who should have the credit for it?

Mr. TREADWAY. I recall some correspondence back and forth, but I do not remember the exact details, and, certainly, I personally have never congratulated Governor Pinchot on that so-called settlement.

Mr. GARRETT of Tennessee. I know the gentleman has not. I was speaking of the President of the United States.

Mr. TREADWAY. I am not here to speak in his behalf. He is very competent to speak for himself on all occasions.

THE OPERATORS' PROFITS.

No more difficult phase of the problem arises than this one, particularly as no one realizes better than the operators that they positively control a monopoly and are themselves uncontrolled by any public regulation. For detailed accounts of the shortcomings of the operators permit me to refer you to various items in the Coal Commission report. A very great difficulty in actually figuring operators' profits comes from the unwillingness of the owners to cooperate in providing the necessary information upon which to base what is a fair return to them on investment values.

Let me quote from a recent statement Governor Pinchot made at a gathering of governors he called in Harrisburg:

The 10 great railroad companies which produce three-fourths of the coal exacted a margin of 85 cents a ton in 1921—the year of depression. In the first three months of the present year these same companies exacted a margin of $1.18, and to-day the same companies are taking margins higher still. These figures, when compared with their margin of 35 cents per ton for the three pre-war years, supply clear proof of extortion. * * *

I reiterate my opinion that the whole combination is a hard-boiled monopoly whose prime interest in the public is that it shall consume their coal at their price. * * *

In that sentiment I heartily agree with Governor Pinchot. [Applause.]

The profits of the operators are often utterly unreasonable. Thus, in the years 1920, 1921, and 1922 one company paid successive dividends of 59 per cent, 137 per cent, and 168 per cent, while another paid dividends of 79, 205, and 190 per cent. Such dividends are obviously unfair to the people from whose pockets they come. The margins and dividends of the anthracite industry of recent years have been far and away greater than those of any other major industry known to me in America.

These statements, made officially by Governor Pinchot, which I assume are facts, place the operators in a very unenviable light.

The commission's report shows that the nine railroad companies in 1913 received an average margin of 36 cents per ton, whereas in the first quarter of 1923 the margin was $1.07 or three times the pre-war margin.

Additional evidence of the profits of the anthracite companies is found in their increase of surplus accounts. The commission states that five railroad coal companies engaged exclusively in mining of coal in addition to paying dividends increased their surplus from $7,000,000 in 1911 to $52,000,000 in 1920, more than seven times as much. The net income of eight companies producing 57 per cent in 1913 was $13,600,000, in 1920 $33,000,000—over two and one-half times as much income with no increase in production.

These figures amply prove that owners' profits are both excessive and uncontrolled.

Mr. WINSLOW. Will the gentleman yield? The gentleman has referred to the dividends paid.

Mr. TREADWAY. I have.

Mr. WINSLOW. Can the gentleman tell us the profits on the turnover or else elaborate on the amount of the capitalization in respect of the business done?

Mr. TREADWAY. I will say to my colleague that it seems to me the way to reach these questions and answer intelligently such a question as he asks is to demand of these companies publicity of their accounts and books. [Applause.] I know of no other way to answer such a question intelligently.

Mr. WINSLOW. I am as anxious for information as the gentleman himself, and I want to follow him with such intelligence as I have. The amount of dividend paid does not indicate anything unless one knows the capitalization of the business and the foundation of it. The figures may represent a very low rate of return on every ton they mined. I do not know anything about it, and I am merely asking for information.

Mr. TREADWAY. I will say in answer to the question of the gentleman that any company that declares a dividend of 200 per cent—I do not care what the turnover is—is a profiteer, and ought to reduce its price. [Applause.]

Mr. WYANT. Will the gentleman yield for an explanation?

Mr. TREADWAY. I would prefer to continue.

Mr. WYANT. I will be very brief.

Mr. TREADWAY. I would be glad to yield to my friend for a specific question, but my remarks are so long I am sure I will not be able to complete them, and I think perhaps explanations could be made in the gentleman's own time.

Mr. WYANT. Just a moment for a brief question. I saw the statement of the dividends declared in one of those cases and I made some investigation. I found the capital stock of the company was $10,000 and the actual investment $509,000. So the returns were not as great as were indicated on the face of the statement.

Mr. TREADWAY. If they are sufficiently capable of juggling these tremendous sums of money through their bookkeeping methods, all the more reason on the part of the Government for publicity. [Applause.]

Mr. STEVENSON. Will the gentleman yield for a question? Under the case supposed by the gentleman from Pennsylvania [Mr. WYANT] it appears that with a $10,000 capital they have built up a surplus of $490,000. Is not that about it?

Mr. TREADWAY. They have built up surpluses that extend into the millions. Here is one company that has a surplus of $33,000,000. I am sorry if their capitalization is $10 or $10,000 and can be made to produce any such surplus.

Mr. NEWTON of Minnesota. I would like to say to the gentleman that for a period of about 10 years the aggregate dividends paid by some of those companies amounted to 500 or 600 per cent, and I do not see how material their capitalization is if they can repeatedly pay dividends of that character.

Mr. TREADWAY. And with no governmental authority or control over them. I now pass to the question of the wages of the miner.

WAGES OF MINERS.

I realize what the nature of a miner's work is and the hazards connected with it, as well as the numerous drawbacks of the kind of labor he is called upon to perform. He is certainly entitled to generous compensation and the best of treatment, both as to hours of employment and conditions under which he works. Frankness, however, compels me to say that I consider the miners' organizations have entered into the spirit of greed and a realization, as all others have, of the lack of control over the business. Again, the State of Pennsylvania favors those engaged in the industry. A miner must secure a State license after two years of apprenticeship. This license is granted by a board of miners, all members of one union organization. The control over labor in the mines is consequently complete.

Upon a visit to two mines last summer a good opportunity was presented to witness conditions of production. I am convinced that the principal reason there was any justice in the threatened strike of last year owing to wages came about through the control of output. A miner having ample opportunity to increase his output under favorable mining conditions is not permitted to do so under penalty of fine from his organization.

While hours of employment beneath the surface should not be long, certainly never in excess of eight hours and possibly not more than six, the employee working by the piece or quantity production should be permitted to exercise his own judgment as to output. When there is opportunity, through favorable conditions, to increase the amount of his production, and thereby add to his daily wage, no regulation, either of the operator or the miner's union, should prevent this being done.

Mr. NEWTON of Minnesota. Mr. Speaker, will the gentleman yield?

Mr. TREADWAY. Yes.

Mr. NEWTON of Minnesota. Is there a limitation upon the number of men who can become apprentices?

Mr. TREADWAY. I am unable to answer that question. I was referring to the quantity of production. There is a limitation upon the amount of production allowed a miner.

Mr. NEWTON of Minnesota. I wondered whether they restricted the number of men who were skilled to mine by limiting the number of the apprentices. It is my impression that there is such a limitation.

Mr. WYANT. Mr. Speaker, if the gentleman will permit, I think I can answer the question for the gentleman. There is such a limitation in the anthracite field but not in the bituminous field in Pennsylvania.

Mr. THOMAS of Kentucky. Mr. Speaker, will the gentleman yield?

Mr. TREADWAY. Yes.

Mr. THOMAS of Kentucky. These miners are paid by the ton, are they not?

Mr. TREADWAY. They are.

Mr. THOMAS of Kentucky. How much a ton?

Mr. TREADWAY. They are allowed to mine two cars of coal per day, and a car of coal brings them $3.53. At the place where I made my inquiry a miner told me that his pay for that day was $7.06.

Mr. THOMAS of Kentucky. Then how much are they paid per ton? Did the gentleman find that out?

Mr. TREADWAY. As I am informed, the contents of a car that they load for $3.53 weighs something over 2 tons, so that it would be about $1.70 a ton.

TRANSPORTATION.

Again we come to another very large contributing cause of excess prices. While under the Federal law the Interstate Commerce Commission may in a certain degree be able to regulate rates of transportation, there is absolutely no control over discrimination in distribution. Under the Sherman Antitrust Act the railroads are not supposed to own the mines or to be engaged in mining, but the law is a dead letter in the sense of cooperation between the railroads and the actual owners.

To illustrate, I happen to know of a concern which for many years has been a selling agent of one of the large producing companies. In order to secure freight haul this agency has been taken away and the large allotment previously distributed by it in New England has been transferred to western sections where the railroad at interest secures the haul. The community losing the tonnage and realizing the shortage will naturally pay advanced prices to others having coal for sale.

JOBBERS.

Last year an official board of the State of Pennsylvania called, I believe, the fair price commission, established certain prices ranging from $8 to $8.50 per ton as the fair price for coal at the mines. This fair price included items I have above referred to, but which are not fair to the consuming public. The so-called settlement of the threatened strike of last September by Governor Pinchot raised this fair price to about $9, which should be the price of anthracite at the company mines. No dealer can go into the market and buy a ton of coal at that price. Certain dealers are having their so-called allotment furnished at this price which will supply from 50 to 60 per cent of their trade. There is, however, no extreme scarcity of coal in the anthracite consuming States to-day.

I have here very recent quotations from jobbers who will provide anthracite at from $11.50 to $12.50 per ton at the mines. If you try to find out how it is that you can secure coal at that price and not at the established price you are informed that it is independent coal. As a matter of fact, less than 20 per cent of the output comes from what are called independent mines. It is very apparent either that the jobbers have inside opportunity to purchase from the companies or there is collusion between the jobbers and the companies whereby this excess price is in some way divided.

The United States Coal Commission refers to these people as persons having a desk and a telephone. They also have a large supply of nerve.

Let me give you two illustrations of the results of this situation which have recently come to my attention through Members of Congress:

One colleague told me a few days ago that a member of his family had recently paid $19 per ton for coal within a few miles of Boston.

Now, the other illustration is as to quality. One of our colleagues a few mornings ago brought me 14 pieces similar to this lump I hold in my hand. They weighed nearly 10 pounds. My friend states that he removes about the same amount every morning from his furnace. A ton of coal is lasting him 20 days. It is therefore apparent he is paying for 200 pounds of useless fireproof article. The aggregate amount of these lumps contained in a ton is costing him $1.60.

Mr. WARD of North Carolina. Mr. Speaker, the gentleman has just exhibited a lump of what appears to be stone. Can the gentleman tell us what it is?

Mr. TREADWAY. It is noncombustible, and we call it "fireproof" up in Massachusetts.

Mr. WARD of North Carolina. I want the record to show what it is.

Mr. TREADWAY. I could not analyze it, but it certainly did not burn. We bought a lot of it up there in our country.

Mr. STEVENSON. That is what they call flint rock in North Carolina.

Mr. TREADWAY. That is perhaps a better description of it.

These are examples of the results of the conditions I have been describing to you. I think I have given a fair explanation of some of the causes of high prices. The complete combination is covered by the statement I first made, namely, that the anthracite industry is an uncontrolled monopoly.

It is a well-recognized fact that the legislation in the Commonwealth of Pennsylvania has not attempted to protect consumers against flagrant abuses of price and quality. The Supreme Court of the United States will not, I am sure, uphold State laws or the definitions of interstate commerce to the point of permitting the consuming public to be treated unfairly in price or quality.

REASONS FOR APPOINTMENT OF UNITED STATES COAL COMMISSION.

The long-continued strike, beginning in April, 1922, in the anthracite region was the cause of great worry as the prospects of lack of fuel for the winter of 1922-23 became more and more critical. In an address delivered to Congress on August 18, 1922, President Harding recommended the appointment of a United States Coal Commission, additional powers to the Interstate Commerce Commission, and continuation of the authority of the Federal fuel distributor. Legislation was adopted carrying out these recommendations, all of which expired on September 22, 1923.

The legislation requested by President Harding was therefore of a temporary nature, the commission to make an exhaustive study of the coal subject and the other legislation to tide over the temporary hardships resulting from suspension of coal production. This legislation having expired, there is now no Government agency having the slightest control over anthracite, either as to quality, distribution, or price. All factors connected with the business seem to be united in getting all the traffic will bear.

Valuable results were obtained from this legislation during the severe weather of last winter. The Federal fuel distributor by his powers of persuasion rather than through actual legal authority was able to relieve much distress in New England.

CONDITIONS IN WINTER OF 1922-23.

I wish to call the attention of those representing sections not directly affected by the supply of anthracite to the conditions confronting us during the winter of 1922-23. The situation in my district was typical of nearly all New England and was almost appalling.

Resumption of mining had not been long enough under way to replenish the absolutely empty bins of dealers. In order to deal fairly with all sections an allotment not in excess of 60 per cent of the usual normal supply was made to the various communities. In January and early February transportation conditions were at the very worst. Railroads were blocked by heavy snows, and the temperature ranged below zero. We were besieged with appeals for relief.

Conditions were so serious that hospitals were in need; some churches omitted services, and schools were on the point of closing. With public institutions in this predicament you can readily conceive of what the situation was in thousands of private homes. Prices on what little anthracite was available were prohibitive to the average family. This was not representative of an average period, but the fact remains it did occur and can be repeated at any time when the powers in control—namely, the owners of the mines and the labor organizations—do not agree. Hardship resulting from lack of anthracite continued throughout the winter and was only relieved when the milder weather of spring came.

Mr. BLANTON. Mr. Speaker, will the gentleman yield?

Mr. TREADWAY. Yes.

Mr. BLANTON. The gentleman will admit, then, that after expending $600,000 of the people's money, with all the authorization Congress has given it, this Coal Commission was unable to make the operators put their cards on the table.

Mr. TREADWAY. Oh, the Coal Commission had no authority over legislation, and that is what I am coming to in advice to the House to-day. We ought to act on the information that the Coal Commission provides us with and legislate accordingly.

Mr. BLANTON. Just this one suggestion and I shall not bother the gentleman any more. The public did know the facts. The public knew before we spent the money——

Mr. TREADWAY. Oh, I differ with the gentleman.

Mr. BLANTON. They knew most of the facts. They knew that they were spending twice as much money for coal as they should. What remedy does the gentleman offer for the situation?

Mr. TREADWAY. I offer later in my remarks a very modest bill. I do not pretend to have the real solution. The millennium has not yet arrived in the matter of the reduction of the price of fuel, but I have introduced a bill which I hope will have the serious consideration of the proper committee of the House.

Mr. LINTHICUM. Does not the tax which the State of Pennsylvania put upon coal have a great influence upon the price?

Mr. TREADWAY. It raises the price to the extent of $8,000,000 or more of profit to the State of Pennsylvania which the consumer must pay.

Mr. DENISON. Mr. Speaker, if the gentleman will yield, I would like to have him discuss this phase of the question. The bituminous coal mines in the Central and Western States have been unable to operate all this summer and fall because there is no sale for their coal. Most of the operators would have been willing to operate and sell their coal at the cost of production, if they could have found the purchasers. Has the gentleman from Massachusetts considered the problem of the people of New England using bituminous coal instead of anthracite coal?

Mr. TREADWAY. We have. A commission of the State of Massachusetts, to which I refer later on in my remarks, has been studying that problem in an effort to determine what we can use as a substitute for anthracite coal. Let me suggest to the gentleman that the people not only of New England but of the Northern States—I am not speaking only for the people

of my own neighborhood—are accustomed to consuming anthracite coal, and they have built their houses and installed their furnaces, having in mind that form of fuel. It is a natural commodity that we ought to be able to get. Let me also say this, that if that commodity has been put in the ground in a certain confined area in the State of Pennsylvania, it was not put there by the Creator of this great world for the benefit of and use of the profiteers and owners of mines. [Applause.] It was put there for the use of the public, and, therefore, if the public is accustomed to its use, why should we not get it and use it? [Applause.]

Mr. DENISON. And let me make this suggestion: The bituminous coal was put in the ground by the same Providence for the same purpose, and there is no reason why the people of Massachusetts and New England should not use that coal just the same as the people of other States.

Mr. TREADWAY. It has been tried, but is not satisfactory for domestic purposes.

Mr. DENISON. And the way to reduce the price of anthracite is to stop using it and to use bituminous.

Mr. TREADWAY. I do not altogether agree with the gentleman, because in the first place there is a much greater field of bituminous and you can not control it within the monopolistic conditions that you can anthracite, but on the other hand, if you establish the broad market for bituminous and do not control that product the owners of those mines will follow the example set by the owners of the anthracite mines.

Mr. KELLER. Would the gentleman be in favor of amending the Federal revenue act in such a way that we could make use of the reports of those companies in respect to their revenues and use them as evidence in the matter of taxation?

Mr. TREADWAY. Evidence of what? Their profiteering; certainly.

Mr. KELLER. Does the gentleman propose——

Mr. TREADWAY. My bill calls for publicity of accounts.

Mr. KELLER. What accounts; accounts made to the Revenue Bureau?

Mr. TREADWAY. No; the business of the companies itself. I establish a little later on in quoting the commission's report the fact that anthracite is a public necessity in which the public has rights, and therefore they have no right to use the individual ownership and cloak themselves behind the excuse they are taxed.

Mr. KELLER. I am heartily in accord with the gentleman, but I think they might get their report through the Revenue Department. It would be of great assistance as far as evidence is concerned.

Mr. TREADWAY. That law could not be applied solely, in my opinion. In my opinion we could give their accounts publicity such as is needed.

Mr. KELLY. I am in hearty accord with the gentleman's taxation of this capital, but I would like to get a little basis for that $8,000,000, which I understood was levied for State taxes.

Mr. TREADWAY. I received a letter from the auditor or treasurer of the State of Pennsylvania some time ago that the estimated return of the tax during this year, which included the time of cessation of production for a month, as the gentleman knows, and it was estimated to run over $6,000,000, and that was before the Governor of the State of Pennsylvania granted $500,000 to the State of Pennsylvania by his miners' settlement. The production this year is very large. The rate is 1½ per cent of the value of the coal at the mine——

Mr. KELLY. How much does that mean a ton?

Mr. TREADWAY. Somewhere between 10 and 15 cents.

Mr. KELLY. About 12 cents.

Mr. TREADWAY. I was right between. The gentleman knows more about the laws of his State than I do, of course. I was figuring on the basis of eighty-five to ninety millions of production.

Mr. KELLY. Does the gentleman believe even by taking that off it would have an appreciable effect upon the price to the consumer?

Mr. TREADWAY. One of the reasons for high prices and why they are continuing to get an extra 50 cents a ton was from that very law. That law must be repealed before there can be any reduction in this cost.

Mr. KELLY I voted against that tax.

Mr. TREADWAY. I am glad the gentleman showed the wise judgment in the legislature that he shows on this floor.

Mr. KELLY. I do not think——

Mr. TREADWAY. The State tax is one of the contributing factors, and a much larger contributing factor is what is being paid under the will of Stephen Girard.

Mr. MORGAN. Will the gentleman yield?

Mr. TREADWAY. Very briefly.

Mr. MORGAN. The gentleman made a statement which was highly important to the country and very interesting to me, and that statement was that this coal was created for the people's use, regardless of their location or for the people in general. May I inquire whether the gentleman has proposed legislation to correct the evils of which he complains and make available these resources on the basis of the statement that it was created for the people's benefit?

Mr. TREADWAY. I will say to the gentleman that I have introduced a bill in the House—H. R. 7587—which I shall be glad to have the gentleman read.

Mr. MORGAN. Does the gentleman deal with the specific question?

Mr. TREADWAY. I am dealing with the authority under our Constitution as we can not go back to the origin, and I deal with it to the best of my ability within the limit of the Constitution under which we are living.

Mr. BRIGGS. Will the gentleman yield?

Mr. TREADWAY. I will.

Mr. BRIGGS. Is the gentleman proposing to regulate this matter to bring about reasonable prices of coal to the consumers under the powers in the commerce clause of the Constitution?

Mr. TREADWAY. That is one of the leading factors, I will say to my friend. We have realized what the definition of commerce is. I will say frankly to the gentleman I have no doubt that any legislation we may pass here will eventually reach the Supreme Court before it can be——

Mr. BRIGGS. Does not the gentleman believe the most effective way to reach it is through the power which Congress has over interstate commerce?

Mr. TREADWAY. I believe that is a very desirable way, and we must do it very largely in that way.

PUBLIC NOT AT CONFERENCE.

The temporary peace which was established between the contesting factions lasted until September 1 of this year. Previous to that date, extended conferences were held both in Atlantic City and New York between the operators and the miners. Again we failed to hear that the consuming public had any representation. Those conferences were absolutely unproductive of results.

A compromise was finally reached by Governor Pinchot which provided practically that the miners receive a 10 per cent increase in wages. Governor Pinchot asked the operators, transportation companies, and distributors to absorb this increase rather than put it on the coal-consuming public. How far his advice was followed was shown by the quickly placed advance of from 75 cents to $1 on every ton of anthracite coal.

The interested parties were not looking for advice, but for profits, and the consumer was again squeezed—another concrete illustration of the unrepresented public.

I have asserted many times and repeat now, that in any future agreement between those responsible for the preparation of anthracite for market, a third party must sit at the council table and in fact be at the head of the table. The industry has been run long enough with two parties at interest, namely, the men and the operators. We are demanding representation for the public and it is our duty as legislators to see to it that the other two interests become subservient to that of the public.

SUMMARY OF ANTHRACITE REPORT.

The results of the year of study of the United States Coal Commission are now before us. No more important report will be in the hands of the Congress at this session. I heartily recommend its careful study to the membership of this House.

Naturally the report is lengthy and is filled with statistical matter which, while of value, detracts from the opportunity of persual by busy men. Permit me, therefore, to summarize a few of the principal features contained in it.

There are two distinct propositions:

(1) RECOMMENDATION OF THE COMMISSION PROVIDING AGAINST A NATIONAL EMERGENCY.

Recommendation of the commission providing against a national emergency, to which President Coolidge refers in his address, in the following language:

The supply of coal must be constant. In case of its prospective interruption, the President should have authority to appoint a commission empowered to deal with whatever emergency situation might arise, to aid conciliation and voluntary arbitration, to adjust any existing or threatened controversy between the employer and the employee when collective bargaining fails, and by controlling distribution, to prevent profiteering in this vital necessity.

This is the administration's approval of the following recommendation of the Coal Commission:

The President of the United States should be authorized by act of Congress to declare that a national emergency exists whenever, through failure of operators and miners in the anthracite industry to agree upon the terms of employment or for any other reason, there is a suspension of mining operations seriously interrupting the normal supply of anthracite fuel in interstate commerce, and to take over the operation of the mines and the transportation and distribution and marketing of the product, with full power to determine the wages to be paid to mine workers, the prices at which the coal shall be sold, and, subject to court review, the compensation to be paid to land and mine owners.

Legislation should be enacted of this nature applicable alike to anthracite and bituminous coal in order that neither the domestic supply of anthracite nor the necessary supply of bituminous for commercial purposes be interrupted from any cause whatsoever.

I will introduce a separate bill covering the possibility of an emergency in accordance with the recommendations of the commission and of President Coolidge.

In fact, from present indications a probable emergency may arise in the bituminous field in that there are already rumblings of a strike on April 1 next, the date of the expiration of the present bituminous agreement. This, however, is not the question to which I am directing the attention of the House.

(2) RECOMMENDATIONS OF THE COMMISSION REGARDING ANTHRACITE SUPPLY.

At the outset of its anthracite report the commission states very positively that it is not in favor of Government ownership. With this view I am in entire harmony, provided through proper legislation the public interests can be protected or the private owners and those engaged in the business can be brought to realize that the interests of the public are paramount to their profits.

I ask unanimous consent, Mr. Speaker, to revise and extend my remarks.

The SPEAKER pro tempore (Mr. TILSON). The gentleman from Massachusetts asks unanimous consent to revise and extend his remarks. Is there objection?

There was no objection.

Mr. BLANTON. Mr. Speaker, I ask unanimous consent that the gentleman's time be extended 10 minutes.

The SPEAKER pro tempore. The gentleman from Texas asks unanimous consent that the time of the gentleman from Massachusetts be extended 10 minutes. Is there objection?

There was no objection.

Mr. TREADWAY. I appreciate the courtesy of the gentleman from Texas, but I do not wish to intrude on the time alloted to other gentlemen, including the gentleman from Georgia [Mr. UPSHAW].

Mr. UPSHAW. I will be glad to have the gentleman proceed.

Mr. TREADWAY. I thank the gentleman.

Mr. MOORE of Virginia. Mr. Speaker, may I break in on the gentleman there without disturbing his argument?

Mr. TREADWAY. Yes.

Mr. MOORE of Virginia. I have listened carefully to the gentleman's address, and I am curious to know if his bill parallels the recommendations made by the Coal Commission.

Mr. TREADWAY. I have followed as closely as I could the suggestions of the Coal Commission, but in an interview with the Coal Commission I find that they do not consider it as within their province to formulate recommendations for legislation. I will say to my friend that I go further in what I think we ought to endeavor to accomplish than is recommended by the Coal Commission. If we can keep within constitutional provisions, I do not care how far we go.

Mr. MOORE of Virginia. In an offhand way I have entertained the general idea that the main trouble in this matter is the failure of the State of Pennsylvania to regulate the industry in all its aspects.

Mr. TREADWAY. I will ask the gentleman, who is a distinguished lawyer in this House, which I am not, this question: Is not the problem of the distribution of the coal much greater than that over which the State of Pennsylvania has jurisdiction?

Mr. MOORE of Virginia. In so far as any interstate commerce feature is concerned, the Federal Government can act, but primarily it seems to me there is a necessity for action, and drastic action, by the State of Pennsylvania.

Mr. TREADWAY. The gentleman from Virginia will probably agree with me in thinking that one of the causes of the high price of coal is the tax levied by the State of Pennsylvania, and the relation of the State toward the coal miners and the necessity of paying the Girard Estate and other owners of coal lands.

Mr. MOORE of Virginia. In my opinion the State of Pennsylvania does not need to hold in abeyance its powers in connection with the control of the industry on account of either the Girard Estate or any other concern.

Mr. LANGLEY. Mr. Speaker, will the gentleman yield?

Mr. TREADWAY. Yes.

Mr. LANGLEY. I have listened with much interest to my friend's remarks. I do not know what has done it, whether the report of the Coal Commission or something else, but the price of bituminous coal in the coal field where I live has been reduced so low that most of the mines have closed down.

Mr. TREADWAY. Another Member has told me that he was obliged to pay $10 a ton within 100 miles of a bituminous mine for bituminous coal.

Mr. LANGLEY. We have coal at $2 a ton better than that in Pennsylvania, if we only had cars enough to get it out.

Mr. BRIGGS. Mr. Speaker, will the gentleman yield?

Mr. TREADWAY. Yes.

Mr. BRIGGS. Does the gentleman propose legislation to provide for a better and more efficient system of distribution?

Mr. TREADWAY. Yes.

Mr. BRIGGS. Whenever there is any reduction is it not true, and has it not been so here within the last month, that the Federal Trade Commission has suggested a reduction of the wholesale price? Has not the selling price been reduced from 50 cents to $1.50 a ton?

Mr. TREADWAY. If that is true, it is an indication that the publicity of the Federal Trade Commission has been of value to the consumers.

Mr. BRIGGS. Has not the price been reduced?

Mr. TREADWAY. No; it has not been reduced to my knowledge. The State commission of Massachusetts has reported that the price has been increased there recently 50 cents per ton.

Mr. BRIGGS. Without legislation you have no control over the matter?

Mr. TREADWAY. Absolutely none unless we have legislation. Otherwise we have no control over the quality, production, or distribution.

Mr. WINGO. Mr. Speaker, will the gentleman yield?

Mr. TREADWAY. Certainly.

Mr. WINGO. I understand the gentleman's bill and argument are based upon the idea that the mining and production of coal is a matter of public interest?

Mr. TREADWAY. Yes.

Mr. WINGO. Does the gentleman think that the mining and production of coal is clothed with any greater necessity than the manufacture and distribution of clothing and boots and shoes and foodstuffs?

Mr. TREADWAY. I do.

Mr. WINGO. What distinction does the gentleman make in reference to it?

Mr. TREADWAY. In the first place, none of the commodities to which the gentleman refers is purely of a monopolistic character as is coal. If you have the money and the brains you can manufacture any one of them. There is but one manufacture of coal. God Almighty put that coal in the ground, and as a natural product it should be considered as free to the public, the ownership of the land being recognized, of course.

Mr. WINGO. Is not that true of iron and other minerals as well as coal?

Mr. TREADWAY. No. I would confine it to coal.

Mr. WINGO. Take sugar and shoes and meats and things of that kind.

Mr. TREADWAY. Have we not already legislation governing the manufacture of foodstuffs? I draw the parallel and ask for controlling legislation over coal.

Mr. WINGO. How does that operate, so far as the consumer is concerned?

Mr. LAGUARDIA. Mr. Speaker, will the gentleman yield?

Mr. TREADWAY. Yes.

Mr. LAGUARDIA. The gentleman has just stated that he is not in favor of Government ownership, and that Providence placed the coal in the ground. If your measure is enacted into law and that regulatory measure fails, what would you suggest?

Mr. TREADWAY. I say in answer to the gentleman's question that I am not in favor of Government ownership to-day.

I think we want to try every possible remedy to avoid it; but I will say that unless those in control of this situation yield to the public demand there is but one other course to pursue. [Applause.] I hope we are not coming to it, and that is why I have introduced a bill to the contrary.

Mr. LAGUARDIA. I think it is inevitable.

Mr. TREADWAY. Well, I hope not.

Let me quote a very few sentences from the Commissioner's report:

The commission does not recommend Government ownership either by purchase at present value or by expropriation. It does, however, hold the view that a limited natural monopoly, like anthracite, held by a relatively small number of individuals, estates, and companies, and supplying a necessity of life for millions of our people, can not continue to be treated as if it were not affected by a public interest.

Coal is quite as much a public necessity as gas, street railway service, or any other service or commodity that has been brought under public regulation. There should be no secrets from the public in regard to mining costs, profits, salaries, wages, or corporate relations.

The guiding principle in such enterprises is no longer maximum profit to owners, but maximum service to the public.

That is a sentiment with which I absolutely agree. I will now answer the inquiry of my friend from Texas by saying that if the commission did nothing else for us—although they have done a great many other things—they have emphasized before the American people the fact that this great monopoly no longer must be a selfish interest, but the interest of the public must be first.

Mr. BLANTON. Will the gentleman allow me to answer the gentleman from New York [Mr. LAGUARDIA]? If the Government owned the coal it would ultimately cost the Government $25 a ton to mine it.

Mr. LAGUARDIA. The gentleman is in error.

Mr. BLANTON. That is my idea of it.

Mr. TREADWAY. I hope the gentleman will not enter into that discussion in my time.

Mr. MACLAFFERTY. If the gentleman will permit, here might be a good time to say to the House that California oil to-day is only 68 cents a barrel, and 4 barrels are more powerful than a ton of coal.

Mr. TREADWAY. How much does it cost to get that California oil to New England?

Mr. MACLAFFERTY. About 10 cents a barrel.

Mr. TREADWAY. However, we want anthracite if we can get it. Oil is all well and good, or anything else in the way of heat-producing units in the region where this weather prevails, but I repeat that anthracite remains in the ground in great quantities and the public is entitled to have the use of it.

The illustration is further used that privately managed businesses, such as banks and insurance companies, like railroads can be more effectively and economically managed by private interest than by public authority, but that they are all subject to such regulation as the public interest and public opinion may by experience prove to be necessary. No longer is maximum profit to owners the first consideration, but rather the maximum service to the public. If the operation of railroads, telephones, water companies, and banks are rightly regulated by Federal or State authority, a much stronger case can be made for the regulation of those engaged in operating coal mines and selling the products.

The commission positively states the public interest should be adequately safeguarded "by the creation of a governmental authority with power to require financial and operating reports, to prescribe uniform methods of cost accounting, and to determine the conditions on which coal may be shipped in interstate commerce."

It is further shown that the price of anthracite has more than doubled in 10 years and has not followed the usual course of recession of peak prices since the war, but has continued steadily upward.

A very interesting part of the commission's report, which I have not the time to cover, has to do with the consumer's dollar and the cost of distribution.

Mr. WYANT. Will the gentleman yield for a question?

Mr. TREADWAY. I will.

Mr. WYANT. Is it not true that the cost of men's shoes since 1913 has gone up 109.3 per cent?

Mr. TREADWAY. Yes; that is true of all kinds of goods. I can answer the gentleman's question before I hear it.

Mr. WYANT. Has not the cost of bleached muslin gone up 110.4 per cent and sheeting 104.2 per cent?

Mr. TREADWAY. Probably.

Mr. WYANT. While the cost of anthracite coal has gone up 99.9 per cent?

Mr. TREADWAY. The figures I have show an increase of 125 per cent in anthracite and still going up. But there is a difference between the competitive chance of the production of everything that is on the gentleman's list, furnished him by the Anthracite Information Bureau of Philadelphia. I know the paper as I have seen it. There is a great deal of difference between that sort of thing and an absolutely hard and fast controlled monopoly of public interests. [Applause.]

In support of previous statements I have made let me call attention to the commission's statement that in the frequent sales between jobbers there is a varying profit of from 15 cents to $4.25 per ton. Many sales are reported at a margin of from 75 cents to $1.50 per ton. Special attention is called to the fact that these jobbers physically handle no coal whatsoever, carrying on only a credit and bookkeeping business, which results in the pyramiding of prices.

The cost of mining coal is dealt with at length, and it is found that labor costs in production of fresh-mined coal during the last 10 years have risen from $1.56 a gross ton to $4.12 in the first quarter of 1923, which was before the increase of 10 per cent in wages made in the Pinchot agreement.

It is found that the total range of the average mining cost of a ton of coal during the 10-year period has increased from $2.23 to $5.75, whereas the Pennsylvania commission, as previously stated, established a fair price at the mines of from $8 to $8.50 per ton, which of itself shows a wide margin of profit for the operators.

The commission deals in great detail with living conditions, the domestic life of the workmen, sanitary conditions, and other features of very useful general information.

We now come to a very important difference between the operators and the report of the commission. It is invariably stated in behalf of the operators that there is no monopoly in the production of anthracite, and that there is free competition in selling of product. This claim is so utterly absurd that it does not need the authority of the commission to refute it. But it is interesting to note the commission's attitude and to have their corroboration of the fact that anthracite is a natural monopoly. To abbreviate their statement, the commission very positively asserts that mining and marketing of anthracite must be regarded as affected by public interest for the reason that there can be no free competition, as the supply is limited and controlled.

Nature favored eastern Pennsylvania by placing within a narrow area there practically the world's supply of anthracite. Two-thirds of the original deposits still remain. Let me again quote from the report:

The coal lands are owned by a small number of corporations, estates, and individuals, who seldom offer even small tracts for sale and who enjoy the full unearned increment caused by increasing demand and by differential advantages. Ninety per cent or more of the unmined coal is controlled by eight coal companies and affiliated corporations. There is a unified control of mine labor, the entire region being for practical purposes 100 per cent organized for collective bargaining.

It is this present control of the supply, an economic combination founded on a community of interest, which has brought the commission to the conviction that the degree of public regulation which it has recommended in normal times and provision for prompt and effective action in an emergency are essential.

The commission urges publicity of accounts and recommends legislation to accomplish this purpose. The commission asserts that the mining and transportation and sale of anthracite coal "impresses that commodity with a public use."

It further very significantly states:

The valuation of coal lands is not like the valuation of farm lands, where the value is determined by the free play of competitive force as millions of owners buy and sell, rent and mortgage. The anthracite industry is not governed by the free play of economic force. The crowding of the resources into an area of less than 500 square miles, concentration of that resource in the hands of a few large corporations that own 90 per cent of the reserves, the elimination of competition in price between them, the recurrence of shortage and consequent high price that may arise at any moment through the exercise by the trade union of its monopoly control over labor at the mines require some measures of protection for the consuming public in the just and equitable valuation of these properties.

Again I quote in reference to the rights of the public:

These breaches of the law have doubtless arisen upon the theory that vast aggregations of capital and vast aggregations of labor have just the same rights as the individual, but the commission believes that the innocent bystander has some rights which both of these contending forces are bound to respect. Corporations, whether de facto or de jure, are not individuals, and they may not exercise unrestrained the natural rights of man. If, as the commission believes, the mining of coal is clothed with a public interest, then both sides must—peaceably and voluntarily if they will and under compulsion if they will not—deal with each other in the light of the general welfare of the American people.

POSSIBILITIES OF LEGISLATION.

I now wish to take up the means of correcting the conditions I have been describing and which are so well covered in the report.

The commission did not find it had the time, even if so disposed, to suggest forms of legislation. It therefore becomes

the duty of Congress to take up for itself the conditions which I have described in the first part of my remarks, apply the findings of the commission, and place upon the statute books necessary legislation. Unless this is done promptly, we do not learn from experience, we have wasted the time of busy men, and thrown away $600,000 of the taxpayers' money. It is therefore my purpose to suggest to this House what appears to me to be a suitable basis of legislation.

We start out with the repetition of the statement that anthracite mining is an uncontrolled monopoly; that the rights of the public are preeminent to that of the ownership of the mines; that in all settlements of difficulties between operators and miners the welfare of the public has never been a factor; that in all gatherings of these classes the public has never been represented; that the public interest is the first consideration of Congress; that if Congress has not the capacity to care for the interests of the public it must acknowledge its impotency and admit that a private monopoly is more powerful than Congress or the Federal Government.

Mr. LINTHICUM. Will the gentleman tell me what proportion of the coal land is controlled by the Girard Estate?

Mr. TREADWAY. They are the largest owners of land rented under royalty, from which 3,000,000 tons are mined annually.

Mr. DENISON. I do not want to take any issue with what the gentleman says about the anthracite operators, because, perhaps, I do not know anything about them; I am concerned principally in the remedy. I want to ask the gentleman from Massachusetts whether he has read carefully the report of the commission of his own State?

Mr. TREADWAY. I have; very carefully.

Mr. DENISON. I call the gentleman's attention to this statement in the report of the Massachusetts commission:

> Anthracite has become and will remain a luxury fuel. The most effective remedy for those who desire to reduce the fuel item in their family budget is the use of lower-cost fuels.

Mr. TREADWAY. I agree with the commission's report, provided we can not legislate in a way to reduce the cost of anthracite. It is prohibitive to-day in its price.

Mr. DENISON. I merely call attention to the fact——

Mr. TREADWAY. I have read the report and I have the highest regard for everything in it, but the difficulty with the report is that it deals only with the possibilities in the State of Massachusetts, while this is an interstate matter, not a local matter, and if you will read other parts of the report you will see that the commission realizes that fact. Anthracite is a natural product for the use of man and it is not intended for the use of the rich alone. Until very recently the ordinary householders throughout the Northern States could use it, but to-day they can not. Two-thirds of the quantity of anthracite is still in the ground, and what we want to do is to secure it for the public in a way which will bring its price within the reach of the ordinary householder. [Applause.]

Mr. DENISON. The point I had in mind was that the gentleman is discussing anthracite as an absolute necessity, while the commission in the gentleman's State does not consider it as a necessity but as a luxury.

Mr. TREADWAY. I have made a statement before the commission similar to the one I have just made here. The commission was a very excellent one, but naturally the judgment of men differs. I do not entirely agree with the findings of my own friends who are members of that board to the effect that we must lay down. They do not see any way of getting around the situation. I am trying to explain some Federal methods. The State of Massachusetts can not meet the situation and the State of Pennsylvania alone can not. The State of Pennsylvania can do, of course, more than any other State.

There are some unfavorable Supreme Court decisions to which I will refer in my extended remarks. There are also some favorable reports or decisions, and no less an authority than the Chief Justice himself offers, to my mind, a very excellent statement. Let me read you just a few of the unfavorable as well as the favorable statements.

Mr. GRAHAM of Illinois. Is the gentleman now reading from a report of the Supreme Court?

Mr. TREADWAY. No; I am not now.

Mr. GRAHAM of Illinois. Is this language taken from the opinion of the court?

Mr. TREADWAY. I intend to refer to some court decisions and will quote from the language of decisions.

LEGAL DIFFICULTIES.

At the inception of any efforts to correct the ills I have been referring to we are at once confronted with the legal situation. It is true the Supreme Court upheld the constitutionality of the Pennsylvania anthracite tax, and in so doing declared that anthracite did not become an object of interstate regulation until it is actually ready for transportation.

This was the case of Heisler against Thomas Colliery Co. (No. 541, October, 1922). The deductions are very largely based upon Coe against Errol (116 U. S. 517), a decision rendered in 1886 having to do with tax upon logs in the State of New Hampshire.

Permit me to call further attention to the Pennsylvania tax decision. The principal question before the court was not that of the constitutionality of the Pennsylvania tax, but rather the fact that discrimination was being shown between anthracite and bituminous in laying the tax on one and not on the other. It was in the course of the decision on this particular point that reference was made to when anthracite became an article of interstate commerce.

It is also true that in other decisions the attitude of the owners of anthracite mines has been fairly sustained. In an endeavor to improve the conditions it appears that Congress is handicapped at the start. Many disinterested members of the legal fraternity would, I fear, at once throw up their hands and say the situation is a hopeless one. There will be others, not disinterested, who will be retained by the mine owners to defend their existing monopoly. Mine owners pooling their interests have the wherewithal to retain most eminent counsel, and in so doing can, of course, charge the expense as cost of production, exacting the amount from the coal-consuming public.

If this attitude of "do nothing because they have the grip on us" prevails, the cost of anthracite will continue to advance. While admitting the public and the public cause are to-day the under dog, I am looking forward to a brighter condition, and if the public shows the right amount of persevering pugnacity some one else will be the under dog in the near future. [Applause.]

I am confident that a way can be found out of this situation. I hope it will be short of Government ownership, but I will say here and now that a continuation of the abuse of the public on the part of those responsible for the high price of anthracite will eventually lead to an uprising that will demand Government interference. I caution those responsible not to pursue their present course.

FAVORABLE LEGAL PRECEDENTS.

It can well be contended that the coal business comes within the class of business affected by a public interest under the law as construed by the Supreme Court. In Munn *v.* Illinois (94 U. S. 113), that court held that grain warehouses in Chicago were affected by a public interest, as their management was a virtual monopoly through control by a small number of firms. This business they held clothed with a public interest and as such subject to public regulation, since the grain from "seven or eight great States of the West" must pass through the warehouses on its way to market. Does not the fact that more than 20 States require anthracite for fuel show what the court would do if an act regulating that monopoly came before it?

Mr. MOORE of Virginia. Was not the court in that case passing on a State statute?

Mr. TREADWAY. It was a Supreme Court case in which that remark was made, but it was a State of Illinois case.

Mr. MOORE of Virginia. And it was a State statute?

Mr. TREADWAY. Yes. Recently, in Wolff Packing Co. *v.* Kansas Court of Industrial Relations (67 Lawyers' Ed. 756), decided June 11, 1923, Chief Justice Taft said:

> The circumstances which clothe a particular kind of business with a public interest, in other cases, must be such as to create a peculiarly close relation between the public and those engaged in it, and raise implications of an affirmative obligation on their part to be reasonable in dealing with the public.

In that case he held that the operation of a small packing plant in Kansas was not within this rule, since it had no monopolistic control over the meat business, which was regulated "by competition throughout the country at large." "The thing which gave the public interest was the indispensable nature of the service and the exorbitant charges and arbitrary control to which the public might be subject without regulation" is the criterion laid down by the Chief Justice. Could a case coming more squarely within his description than this anthracite monopoly be imagined?

Other cases bearing upon this bill are decisions rendered in the case of Stafford *v.* Wallace (258 U. S. 514). Chief Justice Taft said:

> It was for Congress to decide, from its general information and from such special evidence as was brought before it, the nature of the evils actually present or threatening, and to take such steps by legislation within its power as it deemed proper to remedy them.

Again, Congress should follow the advice of Justice Holmes in applying itself to the task of finding a remedy of the conditions described which he so aptly expresses in Missouri *v.* Holland (252 U. S. 415), on page 43, when he says:

> It is not lightly to be assumed that in matters requiring national action "a power which must belong to and somewhere reside in every civilized government" is not to be found.

APPLICATION OF COMMON SENSE.

Let us apply common sense to the legal aspect. There are over 70,000,000 tons of anthracite mined in the limited area of the State of Pennsylvania. About 10 per cent, or 7,000,000 tons, are consumed within the State itself. The market, therefore, for nine-tenths of the anthracite is beyond the boundaries of Pennsylvania. It is apparent that nine-tenths of the product is deliberately mined for interstate use. If only a sufficient amount of coal was mined for intrastate, nine-tenths of the annual output would remain undisturbed. Allowing for one-tenth which becomes an article of intrastate commerce, it requires no great amount of circumlocution to establish the fact that the remaining nine-tenths is in interstate commerce from the time the miner puts his pick into the bed of coal.

No one can dispute the common sense of this position and it seems to me that good law and common sense should be synonymous.

FEDERAL GOVERNMENT ONLY PRACTICAL AGENCY.

Further, Congress is the central or dynamic force that must consider the people's needs and so express the will of the people as to place before the courts when necessary the legal side of questions involved. Unless this course is pursued legislation in behalf of the people could very easily stand still and make no progress whatsoever. In this case the national need and the public welfare on one hand and the monopolistic control on the other are both established and admitted.

There is no recourse for the people other than to Congress. The case is up to us and we must neither shirk it nor be false to the people's interest. It has been suggested that a union of anthracite burning States should be established. Certainly the Congress, representing all the States, should be more powerful in accomplishment than a few banded together in an impractical manner.

I will say, in answer to the inquiry of the gentleman from Illinois [Mr. DENISON] as to why the State of Massachusetts can not take care of its own interests in this case, the reason is right in front of you. [Indicating map.] This little dot [indicating] represents the 500 square miles of area from where anthracite coal goes into every northern section, we might say. Naturally the shorter the haul the greater the quantity consumed. In New Jersey the quantity is 9 per cent; in New York alone, 27 per cent; and in all of New England, 17 per cent; and so on through the Lake region. It seems to me this map is very evident reason why the situation can not be fully met through any form of State legislation.

I call attention to the accompanying map, which offers visual proof that the Federal Government is the only unit that can logically handle this matter. Notice, first, the limited area of anthracite production. Second, the percentage used in the State of Pennsylvania, which is the only amount that would not come within the province of Federal legislation. I next call attention to the various percentages supposed to be distributed into different regions. In what manner, other than through the Federal Government, is it possible to establish uniform control and fair dealing to all concerned, both those responsible for production, transportation, quality, sale prices, and every other contributing factor? A positive duty never was more plainly shown than that which Congress should undertake in this case.

THE MASSACHUSETTS COAL COMMISION.

The States have tried to do their part. The officials of every one have shown a keen interest in the subject, but the more it is studied the more apparent it becomes that the main questions are within the State of Pennsylvania and the power of the Federal Government.

The State of Massachusetts last spring appointed a special commission of investigation which has been diligently at work. It has just filed its report for the incoming session of the legislature. On the question of quality it says that a recent law of the State was an effective means of improving the type of coal shipped into Massachusetts. I have seen numerous letters from coal operators and jobbers which practically threatened boycott of supply to Massachusetts if this law were lived up to. Can it be conceived that a fair quality of goods should not be required of persons selling a high-priced commodity? The attitude of the wholesalers was practically "take what we will give you or get nothing."

It corroborates my statement that the main sources of relief must come through the Federal Government. No other deductions are possible when all phases of the problem are considered.

A UNITED PUBLIC OPINION.

At the time the decisions favorable to the coal owners were rendered the United States Coal Commission had not made its report. Certainly the statement contained therein to which I have already referred ought to have, and I am sure would have, great weight with any judicial body. This was a specially selected commission of most able men and representing various classes of our citizens. They unanimously united in reiterating the fact that anthracite is a public necessity and that the rights of private owners must be subservient to the general welfare of the people. This is an advanced attitude and one which had not been sufficiently impressed upon the judiciary when the legal decisions were rendered.

The work of the commission was not undertaken entirely as the result of the strike of the summer of 1922. The monopolistic features had been gradually increasing from year to year as the interested parties realized more and more their ability to add to the public burden. The strike centered attention upon the conditions. If this had been the sole reason for the establishment of the commission, they would only have been instructed to deal with the strike emergency, whereas, in fact, their instructions were to carefully examine all of the phases of the case and lay them before Congress. In practically every detail the commission's report shows the abuse to which the public is subjected.

Courts are established to deal justly by all parties. In the findings of a disinterested official body a monopoly is stated to be controlling a great necessity. If there is no recourse, is justice being rendered?

It was also found that the interests of the public are paramount to the selfishness of private owners. If a correction of this condition is impossible, is justice being rendered?

The Government must find a way to bring about justice to the consuming public, and at the same time Congress must pass legislation in a form that will bear the scrutiny of the courts. No doubt various suggestions will be made along this line. It will be a pleasure to cooperate in every possible way with Members who are interested in solving this difficult problem.

SYNOPSIS OF H. R. 757.

The bill I have presented—H. R. 757—is based on the so-called stockyards act, which has been declared constitutional by the Supreme Court.

Section 2 of this bill consists of various definitions and concludes with a recital of when a transaction in anthracite coal shall be considered in commerce. It states it to be that "if such anthracite coal is part of that current of commerce from the places of mining and preparation in one State to other States, and which includes any intermediate transaction, though performed wholly within a State."

Section 3 is an important declaration and reads as follows:

> Commerce in anthracite coal is affected with a national public interest, since anthracite coal is a necessity of life to the people of many States; since the supply of anthracite coal lies entirely in a restricted area in a single State; since more than 80 per cent of such coal mined is mined for and is sold or transported in commerce; since the employees in the anthracite coal fields belong to a single union; since a few large corporations control its production and shipment in commerce and fix prices in their own interest and without regard to the needs of the communities dependent on the supply, and so restrict and burden the normal flow of commerce; therefore regulation of commerce in anthracite coal is imperative for the protection of such commerce and the national public interest therein.

Section 4 establishes an anthracite coal bureau in the office of the Interstate Commerce Commission.

Section 5 requires registration with the bureau of every dealer, a dealer having been defined in section 2.

Section 6 fully describes the powers of the director of the bureau, the nature of the reports to be made, and the publicity to be given to information collected by it.

Section 7 refers to public hearings under which proportions for States can be assigned by the director.

Section 8 covers the fixing of proportions for States.

Section 9 permits of changes of these proportions.

Section 10 regulates shipments and provides for permits to dealers and requires that all dealers shall have a registration receipt issued under this act.

Section 11 provides a method of appeal from the order of the director.

Section 12 is a declaration that information in respect to commerce in the production and distribution of anthracite coal is necessary for the information and use of Congress.

Section 13 authorizes the director to require annual reports from all dealers and prescribes penalties for failures to make such reports to the director.

Sections 14 and 15 have to do with investigations and reports of shipments.

Section 16 provides for the cooperation of other governmental agencies, particularly the Bureau of Mines, in preparing standards of size and fixing standards of quality. The remaining sections are of a routine character.

I have thus briefly outlined what very likely will prove to be an imperfectly drawn measure. I think, however, it contains practical possibilities. Of one thing I am certain, the coal consuming public needs legislation. I do not intend to allow the disadvantages which we face to prevent effort. The suggestions contained in this bill do not reach all the evils of anthracite production, nor do the suggestions go as far as I am sure many Members of this House would advocate.

But if we can make a start in reaching the evils through the establishment of the fact that anthracite coal is a public necessity, is in commerce, wherein the natural flow must not be impeded, and is subject to Federal control, we will have brought some measure of relief to the coal consuming public.

I started my remarks with an extract from the address of President Coolidge. No better conclusion can be made than to again quote the President's own words:

> Those who undertake the responsibility of management or employment in this industry do so with the full knowledge that the public interest is paramount, and that to fail through any motive of selfishness in its service is such a betrayal of duty as warrants uncompromising action by the Government.

[Applause.]

The SPEAKER. The time of the gentleman has expired.

PERMISSION TO ADDRESS THE HOUSE.

Mr. BEEDY. Mr. Speaker, having foregone the right to address the House on to-morrow in order that the program of adjournment may be carried out, I ask that I be given an hour on Tuesday next.

The SPEAKER. The gentleman asks unanimous consent to address the House for one hour on Tuesday next. Is there objection? [After a pause.] The Chair hears none.

Mr. DICKINSON of Iowa. Mr. Speaker, I ask unanimous consent to address the House for 10 minutes on Tuesday next, following Mr. BEEDY, of Maine, and to insert in the RECORD as part of my remarks an interview given out by me, which appeared in yesterday's Washington Post, and an interview given out by CYRENUS COLE, of Iowa, my colleague; and I want to proceed on the subject of paying my compliments to my colleague, CYRENUS COLE.

The SPEAKER. The gentleman asks unanimous consent to address the House for 10 minutes on Tuesday next. Is there objection?

Mr. BEGG. I believe I shall object to that kind of a request.

The SPEAKER. Objection is made.

Mr. TINCHER. Mr. Speaker, I ask unanimous consent to proceed for half a minute.

The SPEAKER. The gentleman asks unanimous consent to address the House for one-half minute. Is there objection? [After a pause.] The Chair hears none.

Mr. TINCHER. Mr. Speaker, I want to call the attention of the House to the fact that we have with us to-day a distinguished visitor from the Philippine Islands. I am sure the Congress of the United States appreciates the honor of having this distinguished visitor, who is now in the gallery; a gentleman educated in our American schools, a young man, the Speaker of the House of Representatives of the Philippines, Mr. Manuel Roxas, who is now present in the gallery. [Applause.]

Mr. GARRETT of Tennessee. Mr. Speaker, I ask unanimous consent that on Monday next, after the conclusion of the routine matters and such other speeches as have been planned, the gentleman from Texas [Mr. GARNER] may have permission to address the House for 30 minutes.

The SPEAKER. The gentleman asks unanimous consent that the gentleman from Texas [Mr. GARNER] be permitted to address the House for 30 minutes on Monday next. Is there objection? [After a pause.] The Chair hears none.

The gentleman from Georgia [Mr. UPSHAW] is entitled to the floor for 45 minutes.

THE MAJESTY OF THE LAW AND NATIONAL SOBRIETY—THE CONSTITUTIONAL SOUTH DOES NOT VIOLATE FOURTEENTH AMENDMENT.

Mr. UPSHAW. Mr. Speaker and gentlemen of the House, I crave the indulgence of my colleagues in delivering at least a part of this address while seated, inasmuch as I have been suffering during the holidays from a wound received from a fall in a Pullman car, and I do not feel able to stand all of the time.

Without controversy I think the Members of the House will agree that the subject "The majesty of the law and national sobriety" is a wholesome theme for New Year contemplation. Behold how good and how pleasant it is, not only for brethren in the church but for Congressmen under the dome of the Capitol, to dwell together in unity. Naturally all who are fundamentally dry in precept and practice will indorse such a theme; those who are "personally wet and politically dry," if there be such in this House, are bound to give assent, and even such outstanding "wets"—Representatives who are proudly and avowedly "wet," like the gentleman from Illinois [Mr. SABATH], a Democrat from windy and wanton Chicago, and that gloriously, radiantly, resourceful Republican, the gentleman from Maryland [Mr. HILL], have both gone on record—bless their agreeable souls—as indorsing my theme for the day and my plan to crown the majesty of the law with the beauty and glory of a sober Nation. Such magnanimity between two hitherto widely divergent elements is cause for amazing delight. [Applause.]

The truth is, the gentleman from Maryland [Mr. HILL] has not only agreed publicly—and he manifests it now by joining in the first generous applause to this address which he has dared me to make, but before Christmas he gave widely to the press of the country, even before I received it, a letter—you have all received it since—and I thank him for the wonderfully thoughtful and expensive effort—in which he proposes to mark out the path and make clear the way through which I can better elucidate and illuminate the subject of national sobriety. Such benign consideration in behalf of a man who has been published as "radically dry" by a man who is known to be hopelessly and helplessly wet [laughter] simply staggers my imagination with bewildering bewilderment. It is beyond my most roseate prohibition dreams. I hope, therefore, that inasmuch as this new challenge, a national challenge involving my political honor and the honor of many of my southern colleagues, has been given to me since I was granted the right to address the House for 45 minutes, and the treatment of the preliminary subject on which he asks information requires about the same length of time, I may be granted permission, out of your good nature, your good humor, and our New Year fellowship, to address the House for 40 minutes additional time. I promise to use every minute of it for the "edification of the brethren."

The SPEAKER. The gentleman from Georgia asks unanimous consent that his time be extended for 40 minutes. Is there objection?

Mr. DYER. Mr. Speaker, reserving the right to object, I trust the gentleman will wait a while, so that he may see whether he is going to give us any real knowledge.

Mr. UPSHAW. Inasmuch as the gentleman's pal and comrade, who is as "beautifully wet" as he is, has made it necessary, I hope the gentleman from Missouri will not deny me the privilege. I will let the gentleman speak a whole day when his time comes, if he desires to do so.

The SPEAKER. Is there objection?

Mr. DYER. Mr. Speaker, for the present, I object.

Mr. UPSHAW. Allow me to say to the gentleman that I shall thank him very much if he will be considerate in the matter for I need every minute of the extra time.

Mr. HILL of Maryland. Mr. Speaker, I ask my colleague to reserve his objection. There is a great constitutional question and privilege involved here.

Mr. UPSHAW. Mr. Speaker, before coming to my major theme may I ask the gentleman from Missouri if he will agree to 30 minutes additional? I would like to know how I am to cut my cloth. I hope the gentleman will be generous.

Mr. DYER. I withdraw my objection.

Mr. UPSHAW. You are "a nice man."

The SPEAKER. Is there objection?

There was no objection.

Mr. UPSHAW. Mr. Speaker, before proceeding with my subject I wish to clear away a little brush and level out a "Hill" or two [laughter] that are on the main line, and the first thing is this: I am anxious that the genial gentlemen in the press gallery shall once and for all get my ecclesiastical status straight. During the excitement last year, after I made a plea here for sober leadership and the whole Constitution, they published me widely as being "a preacher Congressman" and "a former evangelist." I want to say in the very beginning that I am not an ex-anything. What I was I am, and without apology. I am not an ordained minister, just "a sinner saved by grace," I hope, and realizing that we have only one time to live in this world between the two peaks of God's

eternity, I believe in using "everyday and Sunday, too," to do all the good I can in Congress and out; and one reason, may I say, that I have never been ordained to preach is because I have wanted to be free as a layman to help lick the fellow who jumps on preachers.

Whenever I hear a blind, stingy parasite say that "a p-r-e-a-c-h-e-r always hears the call where the biggest salary is," I want to be free as a layman to lash him with my tongue or crack him with my crutch and remind him that he is one of the "nuts" that do not pay any of the salary. When I hear a critic of preachers and churches say that "preacher's children are the worst children in the world," I love to be free as a layman to look him straight in the face and tell him "without mental reservation or purpose of evasion" that he is an "unmitigated fool or an unfumigated liar, either all or both." [Laughter and applause.]

If one child of a preacher goes wrong, you tell the world; but you tell nothing of the ninety and nine faithful ones who live on in the modest beauty and conquering glory of their God-fearing lives, going out from the sacred influences of family altars and sacrificial parental example, making a constant gulf stream of blessing to the social, spiritual, educational, and political life of the Nation, fructifying every shore that they touch. [Applause.] Verily the faithful preacher is the pack-horse of the community life. He restrains the erring, marries the loving, he comforts the sorrowing, and buries the dead, and then he usually sinks into his grave without money enough to buy his own winding sheet, because, like his Master, he has loved truth and humanity better than he has loved worldly preferment or the "yellow glare of gold." But—

As over the hilltops, the valleys, and plains,
Tho' the sun hath departed, a glory remains—

Even so does the beauty of the faithful preacher's unselfish, consecrated life throw back its mellowed beams of radiant splendor upon the community sky—a light in which your children and mine walk, thank God, to nobler and grander living. [Applause.] Thinking of how preachers, Bibles, churches, and schools give fundamental value to our homes, our property, and everything that is worth while in our civilization, I love to be free as a layman to crown the underpaid preachers and teachers as the most unselfish men and women the world has ever seen. [Applause.]

WHERE ARE THOSE LISTS? SUPPOSE THEY WERE SPIES?

As Exhibit A in our study for to-day I wish to introduce—but before I do that I believe I wish to make a little local reference. You know these Christmas and New Year days have been rather hectic days; the peace and joy of the Christmastide have been turned topsy-turvy by shocking revelations; the newspapers have been full of all kinds of excitement, carrying every day headlines sometimes across the front page, telling of rum-ring captures and of a list of gilded, guilty customers containing the names of Army and naval officers and even members of the Cabinet.

What I would like to ask is, Where is that list that many saw, according to the newspapers, and which nobody now can find? [Laughter.] The enterprising newspapers should have had a heart—not to disturb yuletide tranquillity in such sensational fashion. The thing that pesters "Old Man Peepul" about all this business is the widespread conviction that the morbid appetite of the poor devil on the street must be satisfied with the back-alley concoction of sulphuric acid, tobacco juice——

Mr. SHALLENBERGER. And wood alcohol——

Mr. UPSHAW. Yes; wood alcohol and concentrated lye, while the sons and daughters of wealth and station, those who—

Sit on velvet cushions,
And 'neath silken curtains sleep—
They who laugh at dance and wanton,
While their fellows toil and weep.

They are able to "get by" with the breaking of the law. They trample the Constitution and defy the flag with their depraved appetite, and then claim the protection of that flag for their palaces and their pleasures; their riches and their reputation. You know and I know that if these had been German spies during war time every name would have been found and published, and execrated by the American people. I want to say to you gentlemen, I think the time has come to do away with the "soft pedal" of the evangel method and use a sledge hammer or a sword with pitiless publicity, to the end that the American people shall have a new-born faith and this American Government a new-born conscience in standing resolutely and aggressively for the Constitution and national sobriety. Another thing—I want to think aloud to my colleagues and confess to you confidentially that I would like to be President of the United States [laughter] just for a day.

IF I WERE PRESIDENT.

If I were President of a Nation that by due governmental process had outlawed the liquor traffic; if I were standing in the footprints of an honest-hearted predecessor who on the floor of this House a year ago declared that "the violation of our prohibition law savors of a nation-wide scandal and is the most demoralizing factor in our American life"; if I remembered that that honest predecessor had fought it out in the sincerity of his own conscience, and in that brave Denver speech a short while before his untimely death had declared that he believed that it was his personal duty to obey the spirit of the eighteenth amendment for the sake of a wholesome presidential example before the citizenship, and especially the youth of America; if I had called a meeting of governors as a presidential legacy left by my noble predecessor to confer on the greatest question before the country, and had come before the assembled Congress of the Nation to discuss this burning question, bigger than ships, bigger than the Army, bigger than taxes, bigger than the revenue—because it deals with the majesty of the law, the ideals of the Nation, and the preservation of our character, our homes, and our happiness—I believe I would have said to those governors, or to that assembled Congress, or would say it now: "Gentlemen, standing by that new-made grave in Marion and recognizing the widespread violation of this law and the cloud of suspicion that rests over official Washington, I here and now announce without equivocation that the White House shall be dry, the President shall be dry, every Executive appointee shall be dry, and I here and now ask as the President of the Nation for the immediate resignation of every Executive appointee, including naval, Army, and Cabinet officers, who is known to drink the liquor that has been outlawed by the Constitution of our country."

That would have made America stand upon its feet. That would have quickened and electrified the moral forces of the watching world. That would have put millions of praying parents on their knees and then lifted them in joyous thanksgiving, singing the doxology and the One hundred and third Psalm, because the day star had appeared in the sky of America's official life. [Applause.]

Let me say, frankly, that I have faith in President Coolidge. I believe in his character and I believe in his courage. But I want him to give me a larger faith—and the people of America a larger faith—in his dynamic initiative by using the Executive guillotine on the head of every drinking official; those who hope and pray for national sobriety are anxious to see him lead the holy crusade by smashing every jug and breaking every bottle in official Washington. [Applause.]

I believe the President would like to see it so, but I am afraid that he knows, as some of the rest of us know, that it would cause a great jolt among many Federal appointees, including Army and Navy officers, and it would even make some inroads upon the Cabinet itself. [Applause.] I want to say another thing right now for fear I may forget. I say to you, gentlemen of the Congress, and to you, those listening in the generously crowded galleries: Pay no attention to what you read in the mostly wet metropolitan newspapers about the prospect of a moist candidate on a moist platform in the next presidential campaign. During the Congress vacation I have spoken widely in this country and in several of the capitals of Europe, and I have told them across the seas what I have found in this country, namely, that there is not the ghost of a chance for any "damp" man on either platform of either party to be nominated or elected. One man actually said to me on the floor of this House, "UPSHAW, suppose the Democrats nominate one very 'damp' man to catch the 'wets' and a very 'dry' man to catch the 'drys.' What do you think about that man?" I quickly answered, "I think he is a 'damp' fool—"d-a-m-p p-h-u-l-e." [Laughter.] I am much obliged to Josh Billings for telling us how to spell an exponent of political folly.

It stands to reason that if we men passed the eighteenth amendment without the votes of the women, then, with the women emancipated—several millions of them—there is no chance whatever for any cowardly straddling or pussyfooting upon this question. I tell you now that the Democratic Party, to which I have pledged my fealty, will not nominate a man who stands for liquor or a weakening modification of the present enforcing statute, and may the Lord have mercy on you Republicans if you do less. I tell you that the women of America will not stand for it. [Applause.] Talk about nominating a man who has always been "wet" or who has had a death-bed repentance. Any man who has presidential or vice presidential dreams who opposed the eighteenth amendment might as well "go way back and sit down." [Applause.]

Talk about modification. The trouble with men who speak on the other side is the fact that they are down with the com-

plaint of not being fundamental statesmen. We read in the papers this morning about the Governor of the great State of New York calling again for his Representatives here to demand modification of the present enforcement act. I remind him and all of you that the eighteenth amendment is organic law.

Mr. LAGUARDIA. Mr. Speaker, will the gentleman yield?

Mr. UPSHAW. I am sorry, but I can not yield now.

Mr. LAGUARDIA. The gentleman ought to yield when he has attacked the governor of my State.

Mr. UPSHAW. I can not yield unless the gentleman from New York wants to contradict the statement that the governor of his State asked his legislature yesterday to have that modification memorial sent to Congress again.

Mr. LAGUARDIA. Will not the gentleman yield, in all fairness?

Mr. UPSHAW. Very well; go ahead.

Mr. LAGUARDIA. Does not the gentleman believe it is fairer and more honest for the Governor of the State of New York to memorialize Congress as to the viewpoint of his State than for the governor of the gentleman's State to permit the manufacture of hootch and moonshine to be sent all over the country? [Applause.]

Mr. UPSHAW. I will say this to the gentleman from New York, that the Governor of New York is within his constitutional rights; but I take sharp issue with his judgment; and I want to say in behalf of nearly a hundred million people that the Governor of New York will not get anywhere with his petition. [Applause.]

Mr. LAGUARDIA. Why should not the gentleman's State stop the manufacture of moonshine whisky?

Mr. UPSHAW. I will come to that in a few moments. But there is no more disregard for law in making "moonshine" in Georgia than there is in a state-wide refusal to support the Constitution in New York.

I remind you who demand modification that the eighteenth amendment outlaws intoxicating liquors. Any kind of a law that would allow one inch or ounce or atom of anything intoxicating would be changing or modifying the organic law, and you can no more modify organic law and let it remain a part of the Constitution than you can modify the deity of Christ and let Him remain a part of the triune God. The eighteenth amendment will not be repealed or modified. [Applause.]

THE STRANGE "GRIEF" OF MR. HILL.

Now, as Exhibit A, I introduce the letter of Mr. HILL:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MILITARY AFFAIRS,
*Washington, D. C., December 22, 1923.*

Hon. WILLIAM D. UPSHAW,
*House of Representatives, Washington, D. C.*

MY DEAR COLLEAGUE: You obtained a few days ago the unanimous consent of the House of Representatives to address the House on January 3 for three-quarters of an hour on the subject of the "Majesty of the law and national sobriety." I could have prevented you securing this unanimous consent by objection, but being deeply interested in the majesty of the law, for which I fought for five years as United States district attorney and nearly five years as a soldier, and also being deeply interested in national sobriety and deeply grieved at the prevalent violations of the Volstead Act, I did not object, but am looking forward eagerly to hearing you discuss this great question, realizing that, representing, as you do, the State of Georgia, which for years has enjoyed State prohibition, you may be able to offer a solution for the contempt in which the Volstead Act is held.

I am deeply concerned this morning to read in the morning papers, however, that people in the great State of Georgia are part of a gigantic liquor plot to flood the Capital of the United States with illicit rum. I read that a "booze syndicate," with headquarters in two of Washington's largest office buildings, and boasting among its patrons Senators and Representatives, other high Government officials, and persons prominent in society, was unearthed yesterday by special agents of the Treasury Department. I also read that much of the liquor sold by this syndicate, "all of which was of the best grades," the police said, "was shipped to Washington by an international rum-smuggling group at Savannah, Ga., in chartered vessels."

Each citizen of the great prohibition State of Georgia is represented in Congress by six Congressmen, in proportion to one Congressman for a similar citizen of Maryland. In your election only 1 out of every 44 of your citizens voted, whereas in my election 1 out of every 5 voted. It would therefore seem that your responsibility for law enforcement in Georgia is especially great.

When, therefore, on January 3, for three-quarters of an hour you discuss the majesty of the law and national sobriety, I hope you will favor your colleagues in Congress and the whole Nation with the promulgation of a workable plan by which the National Capital at Washington may be protected from the onslaught of a gigantic liquor plot having its headquarters in the State of Georgia.

At the same time, when you are dealing with the majesty of the law, there are many of us who would be highly gratified if you would discuss, as applied to your own membership in Congress, section 11 of Article XIV of the Constitution, which provides that when the right to vote at any election for any Representatives in Congress is in any way abridged, that the basis of representation of such State shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens 21 years of age in such State.

Standing, as you do, so energetically for "law enforcement," I feel that the House would be greatly interested in hearing your views in reference to 2.75 per cent suffrage—1 out of every 44 of your population voting—which you represent in the House of Representatives.

Standing, as I do, for the majesty of the law and national sobriety, I deeply deplore the activities of Savannah, Ga., in deluging Washington with Christmas liquor, but I take this occasion to tender to you my very best wishes for a merry Christmas.

Yours very truly, JOHN PHILIP HILL.

In the next place, because it deals with the same question as Exhibit B, I would have given his speech in Buffalo, where he made the same charge of election and intimidation, but it is not necessary now, because he has given you the letter. As Exhibit C I am going to ask the Clerk to read in my time this editorial from the Chicago Tribune, which boasts of being the "world's greatest newspaper."

The Clerk read as follows:

MR. UPSHAW WILL NOT DOWN.

Charles F. Murphy, of Tammany, has said that he would like to see a wet plank in the Democratic platform, with the party committed to a modification of the Volstead law, and go to the voters on that issue. Mr. Murphy probably will be disappointed. It is a fair enough issue to permit the voters to say whether they want the Volstead Act amended or not, and even if they want it amended to permit the use of wine and beer it is still fair enough. If the Constitution can not permit such legislation, there is the Supreme Court to say so. There is no anarchy either in the legislature or the issue.

Mr. Murphy's opinion is a New York opinion. It evokes another, among many others—the opinion of Mr. UPSHAW, of Georgia; Mr. WILLIAM D. UPSHAW, of an Atlanta congressional district in the Congress of the United States. We confess that Mr. UPSHAW is one of our favorite characters. He is much more than a citizen and Congressman. He is a great type. He is people.

Mr. UPSHAW is a citizen of Georgia, a Representative of Georgia, and a Democrat, and, in answer to Mr. Murphy, he says that Tammany seems not to realize that organic law can not be modified. Mr. UPSHAW, of Georgia, says: "Constitutional integrity is too sacred, the majesty of the law is too vital." Mr. UPSHAW, of Georgia, says that Mr. Murphy actually would have the Volstead Act so flexible that the several States could do as they pleased regarding the eighteenth amendment.

"That means," says Mr. UPSHAW, of Georgia, "that several wet States would practically secede from the prohibition union." When the idea is that New York should have beer and red wine, secession is unthinkable. It indicates, even in thought, a monstrous obliquity. When the idea was that black people should have freedom, secession was the first resort of self-respecting whites.

Mr. UPSHAW is in Congress because the fourteenth and fifteenth amendments of the Constitution are dead as doornails in the State he represents. The State he represents is in the Union because it was not allowed to secede. Men from the now wet States of the Union would not permit it. They saved the Union and they passed the fourteenth and fifteenth amendments, which are dead letters in Mr. UPSHAW'S State.

If Congress obeyed the fourteenth amendment, Mr. UPSHAW might not be in Congress, because the representation of his State would be reduced and he might be one of the lost Congressmen. If his State obeyed the two amendments, he probably would not be there, because he is a Democrat and the blacks who are not allowed to vote are Republicans.

It will be noted that Mr. UPSHAW'S reverence for the integrity of union is for the "prohibition union." It is not for a free union, not for a union of men and women invested with franchise rights at their birth, not for a union in which the individual regulates his conduct under the law and is respected in his rights by the law, but a union in which Georgia shall be able to say that the blacks of its territory shall not vote and that the whites of New York shall not drink.

It is no wonder that Mr. UPSHAW is our favorite character. If he were alone in his way of thinking and acting, he would merely be a purple cow, or a warm icicle, or a mouse-bodied elephant, or something else that you put in a museum, but he is not alone. He is a type of democratic (note the lower-case "d") phenomenon which makes us what we are to-day.

He can take his seat in Congress by the nullification of two constitutional mandates in his own State and by the suppression of people to whom that Constitution guarantees liberty and the rights of freemen, and he can then denounce the State of New York because its people want a vote on the modification of the Volstead Act in order that they may drink beer.

Fanaticism, you should have many monuments, and on one enduring base of everlasting granite we should like to have Mr. UPSHAW, of Georgia, in bronze pants, taking away the votes of freemen with one hand and the beer of New York with the other, with political rights under one foot and personal liberty under the other.

[Laughter and applause.]

Mr. UPSHAW. Gentlemen, with this mass and mess thrown on the main line by the enemies of prohibition and likewise the enemies of southern honor, as well as national fellowship, I come with a blending of reluctance and of relish to a brief discussion of these irrelevant but now inescapably indispensable themes. No lion hunter enjoys the tantalizing experience of turning aside to chase rabbits, but I must begin on the gentleman from Maryland [Mr. HILL]. [Laughter.] Allow me to say in all good humor that these men from the North, in their effort to defend jugs and bottles, commenced on me first. I am reminded of the first picture I ever remembered seeing in the almanac. An Irish washerwoman turned from her board and saw her boy scratching his head, and said, "Mike, Mike, stop scratching your head." He answered: "I won't do it, Ma'm. They commenced on me first." [Laughter.] They commenced on me first, and I have got to either run or fight, and I prefer not to run. [Applause.] So I am compelled to say to those who have provoked this discussion, unpleasant as some of it must be, like the little fellow said, when he caught a minnow from the limpid brook and was trying to skin him: "Hold easy, little fish; I will skin you just as easy as I can, but you have got to be 'skun.'" [Laughter.] The truth of the matter is that the liquid loquacity of the gentleman from Maryland [Mr. HILL] makes me inevitably think of the sturdy hunter who was greatly devoted to his favorite dog. The dog ran so fast in following a rabbit that when he struck a barbed wire, with his mouth open, he was split from end to end. The disconcerted, broken-hearted hunter came upon the bleeding form of his pet dog, and remembering some surgical operations, how, when warm flesh was put together, there was life again, he slapped the dog back together, wrapped him up in a blanket and put him down by the fire awaiting developments. By and by he saw the blanket begin to move; he opened it and beheld in his hurry he had put the ends of the dog together wrong. "But," he said, "after all," scratching his head, "this ain't so bad, because this dog can run both ways and bark at both ends." [Laughter.]

I am afraid the gentleman from Maryland [Mr. HILL] has barked one time too many, whatever end it comes from. [Laughter.]

If he is really interested in the triumph of the majesty of the law and national sobriety, why did he give an interview in St. Louis on the 10th of May, 1922, in which he said, "I have been compelled to quit keeping whisky in my office because so many of my prohibition friends called on me that they drink it up from my wet friends." Now, how did he get that liquor there? Was it legally obtained or legally given, and if he really believes in national sobriety, why did he not begin on himself? It seems to me that would have been very consistent; and if he is genuinely interested in the triumph of the Volstead Act, why is he now a defendant before the United States court in Baltimore for the violation of law by manufacturing in his own home wine with 11 per cent or 12 per cent of alcohol? Here is a picture [holding up a press clipping] of the gentleman engaged in that high and mighty process. [Laughter.]

MATCHING SAVANNAH AGAINST BALTIMORE.

Second. Answering his reference to the violation of the prohibition law in Savannah, Ga., and the charge that some of that liquor has been smuggled into the Nation's Capital through "a protected booze syndicate with headquarters in two of Washington's largest office buildings," all men know that there are conscienceless violators of the law—all law—in every State. None of us as American citizens are proud of this fact.

But is this Georgia ring, operating in the largest seaport of America next to New York, any different from the rum ring which was recently unearthed in Boston, another in New York and New Jersey, and another in wholesale defiance of the law in Philadelphia and even in Baltimore? I am perfectly willing to match Savannah against Baltimore on any question of law enforcement. In Savannah we find sporadic cases of law violation brought frequently to speedy justice, but in Baltimore—Heaven save the mark!—you find practically a whole community on a spree. [Laughter.]

Mr. HILL of Maryland. Mr. Speaker, will the gentleman yield?

Mr. UPSHAW. Pardon me—I can not yield now.

Mr. HILL of Maryland. I just wanted to know how you knew that?

Mr. UPSHAW. I have testimony, partly from the gentleman from Maryland.

Listen! This is the thing I want to emphasize. He comes from a city that has dominated the State of Maryland for years in this matter; that has prevented Maryland from passing a concurrent law to support the eighteenth amendment; a State that fills its coffers with the dirty dollars that come from race-track gambling.

Well do I know that the best people in the great State of Maryland, rich in historic memories and opulent with Revolutionary glory, do not agree with this shameful state of affairs; but Baltimore, the "wet" home of the "wet" gentleman from Maryland [Mr. HILL], has choked down every effort of organized decency to redeem the State of Maryland. Well do I remember that when the State of Georgia outlawed the liquor traffic in 1907 several of our most conspicuous dealers were taken to the bosom of Baltimore, and from that sympathetic territory they continued to ship their debauching liquor back into my State that had voted to be free and sober. And well does the whole country remember that when, finally, the Nation's Capital went "dry" by legal enactment, a liquor train and a liquor truck line came from Baltimore every day, bringing an avalanche of liquid damnation for the debauchery of the high and the low in this beautiful Capital that was struggling to be free. O tempora! O mores! I have this other word to say concerning Georgia. The gentleman from Maryland [Mr. HILL] failed to remind the people that that very rum ring of which he complains in Savannah, Ga., was brought to speedy trial; that Judge Barrett, who was appointed by the considerate and lamented President Harding, assessed fines amounting to more than $150,000 and imposed more than 20 years of imprisonment for these violations of this law. Come on, Baltimore, and show a similar, wholesome example. [Applause.]

AN UTTERLY UNFAIR BASIS.

The gentleman from Maryland knows, as well as the editor of the Chicago Tribune knows, that it is utterly unfair and absolutely dishonest to take the general election figures in any Southern State, as well as in many Northern States, as a basis of political culpability. He knows that our State primaries practically settle all elections in the South, and that, with no partisan contest to bring out the vote in the general election, no man who wishes to build his pyramid of argument on a basis of truth will take advantage of such a cowardly subterfuge.

For instance, here is a telegram from Hon. Edgar Watkins, who was the next highest man among my six opponents in my first race for the Democratic nomination for Congress. No knightlier spirit than Edgar Watkins ever went to worthy combat or shivered lance at Camelot or Stirling. Unable to go home on account of a fractured rib, I wired Mr. Watkins to consult the records and give me the figures. Here is his telegram:

(Postal Telegraph—Commercial cables.)

[Telegram.]

ATLANTA, GA., *December 24, 1923.*

Hon. W. D. UPSHAW,
*Washington, D. C.:*

Office secretary state closed for week. From press files I get information that in State primary, 1922, there were cast 204,137 votes in 157 counties. Three counties missing. In 1918 Upshaw received 3,971; Watkins, 2,339; Bell, 1,783; Blackburn, 1,576; White, 1,549; Fields, 1,392; Whitley, 566. In 1922 Upshaw, 12,520; Key, 6,232; Cochran, 1,894; one small precinct missing. Further information, if necessary, can be secured next week from secretary of state. Unable to secure negro vote separately from press. Hope you will soon recover. Merry Christmas.

EDGAR WATKINS.

A second telegram addressed to me, dated to-day, says:

Legal voters Atlanta general election 1922 were 2,997 negroes, 21,898 white; city election, 1923, were 1,347 negroes, 16,805 white.

EDGAR WATKINS.

In the city election, with lack of stimulus, it will be seen there was a slight decrease.

It will be seen that in my first primary the total vote for all candidates was 13,176. That was before the women began to vote. In the next election it was nearly double when the women voted. I had no opposition in the general election.

Now, gentlemen, I want to submit that we are not to blame down South because we do not grow Republicans there. We do not mean a bit of harm by it. They are nice people, most of them, the few of them who are there, and the Lord knows I hope they will grow fewer and fewer as the years go by, but they are simply not indigenous to our soil [laughter], and as our good and honored friend and former colleague, Frank Mondell, said, when I playfully referred to this, "Yes; and remind them that those who are planted there do not seem to thrive."

As I live, I have no pleasure in discussing on the floor of this House the tragic reasons that contributed to southern political solidarity. This defense of my own honor and the honor of my colleagues has been forced upon me by the widely published letter of the "wet" gentleman from Baltimore [Mr. HILL] and by such ridiculous utterances as that devilish editorial in the Chicago Tribune, an editorial position, alas, which has been taken by many of the northern papers since I began my fight for sober leadership and a whole Constitution.

Gentlemen, I call you to witness that I have never precipitated an unworthy sectional issue on the floor of this House. [Applause.]

Gentlemen, I want you to witness that I have never since I have been here raised an unworthy sectional issue on the floor of this House. I have always tried to put the emphasis, as you know, not on the things that divide us but on the things that unite us, and the gentleman from Maryland and the Chicago Tribune and all their sympathizers who are trying to protect the liquor that they love may get all the glory that they want out of the fact of introducing in this late date of fellowship the bloody shirt sectional argument on this floor, when the "sons of the gray from the sun-kissed South" sleep side by side with the "sons of the blue from the wind-swept North" yonder in the fields of France. It is liquor that produces a sectional argument on this floor, liquor that has neither conscience, nor character, nor patriotism. Many good men who stand for it have these things, but the liquor itself makes a man, whether he drinks it or thinks it, forget all of the things that are high and noble beneath our beautiful flag.

Since Mr. HILL raises the unspeakable issue that the failure of certain citizens to vote should be made the basis of indictment against the credentials of the Representative who has been declared duly elected and commissioned by the governor of his State, I must ask that some of his most trusted supporters will hold the gentleman from Baltimore [Mr. HILL] now while I proceed to feed him out of his own election spoon.

FEEDING MR. HILL OUT OF HIS OWN SPOON.

Listen. In the seventh district of Alabama our new and gifted colleague, Mr. ALLGOOD, received 18,576 votes; his Republican opponent, 11,130; making a total vote of 29,706. That was down in this country where intimidation is supposed to reign.

Up in the ninth district of Michigan our Republican colleague, Mr. MCLAUGHLIN, received 21,703 votes; his Socialist opponent, 980 votes; making a total of 22,683 votes. What, I say, is the matter with intimidation in Michigan?

In the sixth district of Michigan our gloriously "dry" Republican colleague, GRANT HUDSON, walking in the footprints of the beloved and immortal Pat Kelley, received 46,791. Mr. Adair, his Democratic opponent, received 29,241 votes, and Mr. Bell, on the Farmer-Labor ticket, got 243 votes. The total vote in Mr. HUDSON's district was only 76,275 in a population of 442,797. Let Mr. HUDSON, Republican, and Mr. MCLAUGHLIN, Republican—neighbors—in the same State, weep on each other's shoulder over the discrepancy between their votes, but for goodness sake do not let them charge that Georgia Democrats had anything to do with the Michigan intimidation.

Again, "just for the good of the order," behold a total vote of 100,873 in the second Republican district of Illinois against a total vote of 122,155 in the sixth Illinois district, where Mr. BUCKLEY, a stalwart Democrat, was elected. Something wrong with that Republican district where 22,000 electors suffered some sort of intimidation that kept them away from the polls. And while we are in Illinois, look with tears streaming down your face at the total vote of only 40,441 in the home district of Hon. MARTIN B. MADDEN with 23,000 plus for the chairman of the Appropriations Committee, nearly 16,000 for his Democratic opponent, and about 550 votes divided between the Socialist and Farmer-Labor candidates.

Between the vote of Mr. MADDEN, Republican, and Mr. BUCKLEY, Democrat, there is a margin of more than 60,000 in favor of Democratic regularity. What on earth shall we say of the intimidation in the district of Mr. MADDEN, where thousands of negro voters are supposed to stop by preference on their way to heaven?

As I live, I have no disposition to disturb the equanimity of the able chairman of the Committee on Appropriations, but he must remember that "uneasy lies the head that wears a crown" in the district of any Congressman who happens not to receive as many votes as some other Congressman somewhere else in this goodly realm. What folly!

The Speaker of the House—Heaven rest his rock-ribbed Republican soul—the Hon. FREDERICK H. GILLETT—let us call him Frederick the Great in this high and solemn hour—he received only 28,639 votes in the second district of Massachusetts, while his Democratic opponent received 19,376 votes, and together they received only 48,015 in a total population of 236,772. Just think of this in the home State of the notorious Hartford convention, which proposed secession from the Union in 1814 because it did not like the way things were going on in the Nation's Capital—think of this in the Republican district that boasts the great city of Springfield, while in the Democratic fifth district of Missouri our smiling new Democratic colleague, Mr. JOST, received 62,702 votes, his Republican opponent 53,262 votes; making a total vote in that Democratic district of 115,964. Intimidation, intimidation, in the home district of the beloved Speaker of this House! Of course, it was a huge joke, but the joke is on Mr. HILL and not on Mr. GILLETT.

And time would fail me to tell of the tenth district of Michigan, where the spunky progressive, the Hon. ROY WOODRUFF, received 23,792 votes with no opposition at all—so much intimidation that even Democrats were afraid to show their heads. Alas, ROY WOODRUFF, alas, I thought from our neighborly fellowship that you were made of kindlier stuff!

Let me here stress the fact that every negro voted who wanted to vote, just as every white man voted who wanted to vote, but those who did vote left several thousand white and black behind who did not care to qualify or vote, adding their quota to the more than 50 per cent of the Nation's indifferent population who do not vote at all. If 5,000 or 6,000 negroes had presented themselves at the polls in Atlanta, qualified on the same basis on which their white neighbors had qualified, they would have voted without any sort of restraint, even as the 2,000 who did register and vote.

In my last race for Congress, where I was fortunate enough to carry every ward in the city of Atlanta and every county in the district in the Democratic primary, an independent Republican had the Spartan hardihood to run in the general election, but my friends and I regarded the opposition so lightly that I remained in Texas on a lecture tour embracing election day.

Shall my seat be placed in jeopardy simply because my district in that election was as overwhelmingly Democratic as WOODRUFF's district in Michigan was overwhelmingly Republican? For, I remind you, we did let a Republican run against me, while no Democrat dared to offer against WOODRUFF; or, rather, perhaps, showed their good sense by voting for a high-class progressive.

ENOUGH TO WAKE THE DEAD.

Yea, and what shall we say of DYER, Republican champion of unconstitutional negro defensive legislation, who received only 15,667 votes, his opponent 11,679, making a shocking total of only 27,246 votes in a total population of 142,189, as a combination of Dutchmen and negroes, who braved the clouds and the thunders and the lightnings of terrible intimidation to express their appreciation of his illustrious career. This, this in a Republican district in St. Louis, with a Democratic district, mind you, right near by giving 122,000 votes; and the Democratic district which sent the chivalric POU from North Carolina polling 24,000 votes with practically no opposition; the Democratic district which sent here our gallant Major STEDMAN, the only Confederate soldier in the House, who looks like a replica of Robert E. Lee in face and lofty ideals—think of it—his district voted a total of 54,000, while dear old BOB DOUGHTON from the eighth Democratic district of North Carolina inspired a total vote of 55,575. It is almost enough to wake the dead to contemplate the fact that the Democratic districts of DOUGHTON and STEDMAN in North Carolina polled several thousand more votes each than GILLETT in Massachusetts or MADDEN in Illinois, and as many, even, as the timid though terrible TINKHAM, who inspired only 55,395 in a population of 235,795 in proud and populous Boston. Yea, and the gay and festive HILL, of Maryland, who has so unwittingly led himself and his "wet" supporters from the North into such a bottomless abyss of inconsistent confusion; for, mind you, Mr. HILL received only 27,740 votes, while his three opponents piled up enough to make the total in the third district of Maryland only 41,238 in a total population of 228,168. In the Democratic district near by, from which Mr. TYDINGS came to bring us "good tidings," in-

deed, from "Maryland, my Maryland," a total of 69,259 votes was polled.

Gentlemen, I think this House will agree, and the country will agree, and even the Chicago Tribune ought to agree, that Mr. HILL should account for the 28,021 votes that are missing between his Republican bailiwick and the Democratic district of his neighbor before he ever dares to lift his voice again about intimidation and discrepancies among the votes of his colleagues. In other words, let the gentleman from Maryland "put up or shut up; speak now or forever after hold his peace."

Mr. HILL. Does the gentleman want me to do that now?

Mr. UPSHAW. Not right now. I mean, to speak all you please later on. Just for the sake of keeping the record straight, I may add here that in my second race for Congress I did have a Republican opponent—we usually have them down South during a presidential year for the sake of establishing a regular approach to the "pie counter" [laughter]—who received in round numbers 4,600 votes. In that total Republican vote were 2,000 negroes who had registered in peace and voted in joyous hilarity, realizing that they were thus making their quadrennial pilgrimage to the shrine wrought out for them by "Marse" Lincoln in his emancipation proclamation.

ALL NEGROES VOTED WHO CARED TO QUALIFY.

But after all, gentlemen of the House, why did Mr. HILL of Maryland single out UPSHAW, of Georgia, as the great "intimidating sinner" in his speech in Buffalo while he was trying to tickle the itching ears of the Buffalo "wets"? And why has he written a letter to UPSHAW reiterating these charges and urging my answer in detail in my speech to-day? Why should my name be mentioned when the same figures would have applied to the general election status of practically every Democratic Congressman from the South? Everybody knows why. Mr. HILL is still smarting under the charge I made against him a year ago when he sought to have me called before Congress for saying that some of the Members had been drinking the devilish stuff, the sale of which he champions every day. He has been resting since then under the fadeless fame of being the "self-appointed 'wet nurse' of this legislative body"—and of that other fitting imputation:

Alas and alack! John Philip sees "red"—
The word "prohibition" has gone to his head!

TAKES UP GAUNTLET FOR HIS SOUTHERN COLLEAGUES.

If the gentleman from Maryland had been the only one making this charge of southern intimidation—I say it without intending offense to him—I might have let it pass by, but as the Chicago Tribune—"the world's greatest newspaper"—said of UPSHAW, of Georgia, Mr. HILL is a "type" and the Chicago Tribune is a "type"—they both represent politicians and editors all over the North who have foolishly made this charge against southern honor for a half a hundred years.

I declare, I believe with the approval of the great majority of my fair-minded Republican colleagues, that the time has come for this un-American, cowardly, and groundless charge to stop. Somebody must make the defense on the floor of this House, and God being my helper, having been challenged to the task, I take my place by the side of my southern patriot colleagues and shoulder the responsibility myself.

Passing over all the petty, pitiful personal flings made at me in the Tribune editorial, I go straight to the heart of the general charge against my colleagues as well as myself. The Tribune says:

> If Congress obeyed the fourteenth amendment, Mr. UPSHAW might not be in Congress, because the representation of his State would be reduced, and he might be one of the lost Congressmen. If his State obeyed the two amendments, he probably would not be there, because he is a Democrat and the blacks who are not allowed to vote are Republicans.

I make bold to answer, and I dare any man on this floor or any editor in the Union to give evidence to the contrary—that not a single State in the South is disobeying the fourteenth amendment, either by statute or by racial intimidation.

BLAINE VINDICATES THE SOUTH.

In Blaine's Twenty Years of Congress, volume 2, page 419, he says:

> The contentions which have arisen between political parties as to the right of negro suffrage in the Southern States would scarcely be cognizable under either the fourteenth or the fifteenth amendment to the Constitution. Both of those amendments operate as inhibitions upon the power of the State and do not have reference to those irregular acts of the people which find no authorization in the public statutes. The defect in both amendments, in so far as their main object of securing rights to the colored race is involved, lies in the fact that they do not operate directly upon the people, and therefore Congress is not endowed with the pertinent and applicable power to give redress.

And in the famous Slaughterhouse cases (16 Wallace, 36, 1872), on the fourteenth amendment, we read this pertinent Supreme Court decision:

> We doubt very much whether any action of a State, not directly by way of discrimination against the negroes as a class, will ever be held to come within the purview of this provision [i. e., the second section].

The finality of these high opinions—one from the brilliant "plumed knight" of Maine, whose position in his debate with Benjamin H. Hill showed that he would have been glad to take the other side if his conscience and judgment had allowed, and the other a declaration of the Supreme Court of the United States itself on the fundamental point at issue, ought to be enough—O, my masters—enough to satisfy any discerning, great-souled American that the South is not violating the fourteenth and the fifteenth amendments. I complacently and fearlessly challenge the opposition to produce one instance of constitutional discrimination or coercion. If it could have been done, it would have been done long ago. And if the gentleman from Maryland, who has brought all this avalanche of pulverizing facts upon his head in his effort to defend Baltimore jugs and bottles, wants to make a fight along the line of his challenge to me, let him have the spunk of performance instead of the spawn of palaver—let him start such a fight here on the borderland of the loyal South, and in addition to the liquorized halo which now envelops his reckless brow will be seen an ebony halo of monumental injustice and un-American fellowship like that which has clung for a generation to the brow of a certain Massachusetts archaic who tried to put the notorious force bill upon the suffering and gallant South.

In 1870 Congress passed a bill declaring that the 10 Southern States had no loyal government because they were not obeying certain parts of the Constitution, and therefore they must be converted into five military districts where major generals of the Army had plenary power to remove governors, Congressmen, and Senators.

If the Government were to take such a step now because Maryland has never passed a concurrent State law in support of the eighteenth amendment, or because New York has trampled the Federal Constitution by repealing her State concurrent law, or because Rhode Island and Connecticut have broken with the fellowship of 46 sister Commonwealths by refusing to enforce this part of the Constitution, all 4 of these States would be put into a military district with governors, Congressmen, and Senators thrown out, and poor Mr. HILL himself would be a "lost Congressman" and would have to go back to "wet" Baltimore to the practice of law, defending bootleggers and others made criminals by the defiant liquor régime. I wish better fortune for Mr. HILL.

Gentlemen of the House, I speak the truth, I lie not, as Paul would say—I find no pleasure in the death of him that dieth, but Mr. HILL and the Chicago Tribune began this un-American business, and I am forced to remember the declaration of that old Bible that I believe from cover to cover, "Jonah, whale, and gourd vine"—"They who live by the sword shall perish by the sword."

SOUTHERN VOTING QUALIFICATIONS WERE BORROWED FROM THE NORTH.

I contend again, with ample proof at hand, that the qualifications for voting in the South are no higher, in some instances not as high as they are in many Northern States. In 1851 Vermont made it necessary for every voter to obtain the approval of the civil board of control in each township before he could vote. That board of control passed not only upon the voter's mental qualifications but upon his habits also. That law obtains to-day. In 1902 the brilliant Sam Small, famous orator, publicist, evangelist, and patriot, who was then chief editorial writer on the Atlanta Constitution, drove several Northern papers to the wall on this very point, bringing out the fact that if we were to adopt Vermont's present law in every State in the South it would legally disfranchise every Negro who was not acceptable to the local board, in spite of the fourteenth and fifteenth amendments.

I hold in my hand the qualifications for voters in Massachusetts, Illinois, and Connecticut. Both Massachusetts and Illinois carry the educational test and the grandfather clause—which the Southern States virtually copied from them. And I call the attention of my friends who have heroic, independent Irish blood in their veins to the fact that these highly rigid

educational qualifications in Massachusetts were originally placed in the law with the hope of shutting out Irish Catholics who were growing dangerously numerous in the politics of the Bay State in general and of Boston in particular.

But it is rather significant that the rigid requirements in Massachusetts have acted as a spur to that vigorous element in the Bay State (as recent political developments show), even as it has been a spur to Italians, Poles, and other foreigners in New York and in Illinois, and even as a less rigid qualification has been a spur to the negro citizens of the South.

Gradually the southern negro is rising in educational qualifications and ideals, and he will testify by the million now that as a class he is not kept from voting except as the white man is kept from voting—by educational indolence and unpatriotic neglect.

After all, gentlemen of the House, let us "shell down the corn" on both sides to the American negro—let us not blame him too harshly for failing to qualify or to use the elective franchise, for he has had his "fling" in the realm of politics, all the way from that unredeemed reconstruction promise of "40 acres and a mule" down to the present moment, and he has found for the most part, North and South, that the negro looks alike to both political parties when it comes to holding office—he is good as a voter, but not regarded "feasible" for a responsible officeholder. He knows that the Democrats will not promise him anything politically and will faithfully keep their promise. He knows that the Republicans have promised him everything and have kept about one promise out of a thousand. And so he balances his account between his political earnings at the hands of both Democrats and Republicans and says "gee, haw" to his mule or his tractor as he turns into another furrow or goes back to his place in the foundry or on the brick wall where side by side with the white man he draws equal wages for equal service. He is walking yet in the light of that wisdom uttered by Booker T. Washington in my own city of Atlanta—the sentence that made the great negro educator famous:

> I want to say this to my colored friends—it is worth far more to you to be permitted to make an honest dollar working side by side with a white man than to be permitted to spend that dollar sitting beside him in a theater.

GREAT DIFFERENCE BETWEEN WEIGHT OF AMENDMENTS.

Finally, on this rather unpleasant theme that has been forced upon me I remind the friends of liquor who side-step the main question because they are unable to defend their devilish darling, that there is a vast difference between the potential and inherent weight with which the eighteenth amendment was adopted and the fourteenth and fifteenth amendments found their way into the Constitution. The fourteenth and fifteenth amendments were born amid the unhappy acrimonies of sectional passion and forced into the Constitution at the end of Federal bayonets.

Technically, the fourteenth amendment was never passed. R. B. Bullock telegraphed Schuyler Colfax, then Speaker of the House, that the Legislature of Georgia had ratified the fourteenth amendment, signing his name "R. B. Bullock, Governor elect," and on that unconfirmed telegram from a man who had not yet taken the oath as governor, John Sherman offered the joint resolution instructing the Secretary of State to proclaim the fourteenth amendment as a part of the Constitution. Thus, by a precarious hairbreadth constitutional margin, the fourteenth amendment was acknowledged a part of our organic law. Two succeeding national Democratic conventions, recognizing its precarious passage, still declared it their purpose not to disturb its equivocal repose.

It is constitutionally significant from the standpoint of the triumphant North that the South was never out of the Union until Congress by a post-war declaration drove out the 10 Southern States under military dictatorship. Abraham Lincoln, with his unquestioned loyalty to the Union and his undoubted love for what he regarded as the mistaken South, and with a poetic vision that we are all willing now to admit and to crown, refused to allow the stars that represented the Southern States to be taken from their field of blue that waved in prophetic solidarity above the battling legions of friend and foe. [Applause.]

Thus the fourteenth and fifteenth amendments were perilously born without carrying with them the mandate for a concurrent enforcement by the States. It was naturally deemed at the time that the Federal Government would have to enforce these new additions to the Constitution.

But how grandly different was the enactment of the eighteenth amendment. Through generations of education and agitation consecrated sentiment and ideals were enacted into law. Thirty-three States, by local action, had already outlawed the liquor traffic, and, as a son of Georgia, I am proud of the fact that my own State was the pioneer in this renaissance of sobriety and righteousness. As a son of the South, I rejoice that a prohibitionized democracy drove the legalized saloon out of the Southland, even as a prohibitionized republicanism drove this cancer of civilization out of many States of the North—even as a prohibitionized Americanism will keep this legalized debauchery out of this Nation from now until the judgment day. [Applause.]

THE RED MENACE OF EDITORIAL ANARCHY.

And now the passion of patriotism brings me to another editorial utterance on the part of the Chicago Tribune, which writhes under a decision of the Supreme Court of Illinois as touching the confines of treason and anarchy. In an editorial in the Tribune of Saturday, January 10, 1923, we find the following astounding utterance:

> People who are opposed to prohibition bitterly resent this meddling in their lives, and they have a real zest in breaking the law. Whole sections of the country resent the law and communities condone or applaud the disregard of it.
>
> That might have been expected. Prohibition is a dictation of one State to another, of one community to another, of one individual to another, and the sections dictated to rebel. What is to be done about it? For one thing, the Federal Government can cease trying to enforce the law. It can allow the Constitution to be annulled by States which want to annul it. It can cease making appropriations for the official rum terriers. Then if a State wants prohibition it can have its own law and enforcement. If one does not want it there will be no enforcement. The prohibition amendment will remain in the Constitution. Many generations will find it there, but it can be annulled where it is not wanted.

If this "red" editorial utterance had appeared on the editorial page of an organ of the Industrial Workers of the World, or some other agitator against our American institutions, especially during the stress of war, the writer, and perhaps the owner of the paper, would have been put behind the bars.

To boldly advocate that the Federal Government allow the Constitution to be annulled by States which want to annul it, is as treasonable as the doctrine of nullification itself. It is nothing more nor less than the advocacy of the overthrow of our republican institutions. Ours is an inseparable Union. This question was settled once for all at the time of the Civil War. As long as a State is a part of the Union there never has been, nor never will be, any justification for the nullification of Federal laws. Even Jefferson Davis, in his closing address in the United States Senate, said of nullification:

> I hope none who hear me will confound this expression of mine with the advocacy of the right of a State to remain in the Union and to disregard its constitutional obligations by the nullification of the law. Such is not my theory. Nullification and secession, so often confounded, are indeed antagonistic principles.

In the face of the facts that neither secession nor nullification is justifiable under the Constitution, how can any great paper—"the world's greatest newspaper"—whose editor is loyal to the Constitution, advocate the nullification of the eighteenth amendment? As a matter of fact the Supreme Court of Illinois recently held that the laws of Illinois make it an offense to advocate the overthrow or change of Government, except as provided by law. The court said:

> The advocacy within any one of the several States to overthrow the representative form of Government of the United States, or of the several States, is, therefore, an assault upon the established government of each and every one of the 48 separate sovereignties, and it would be strange, indeed, if any one of these sovereignties did not have the right to protect itself against destruction. The overthrow of the National Government would be a direct blow at the representative form of government now secured to each of the several States, and the overthrow of the government of any one of the several States would be an indirect assault upon the government of each of the other 47 States.
>
> The State of Illinois is, therefore, interested in the preservation of our National Government and the government of each and every one of her sister States, and she, without doubt, has the right under the police power inherent in every government to enact laws for the preservation and protection of her government.

LIQUORITES CRUSHED BY SUPREME COURT DECISIONS.

The United States Supreme Court, in passing upon the validity and meaning of the eighteenth amendment, said:

> That part of the prohibition amendment to the Federal Constitution which embodies the prohibition is operative throughout the entire territorial limits of the United States, binds all legislative bodies, courts,

public officers, and individuals within those limits, and of its own force invalidates every legislative act, whether by Congress, by a State legislature, or by a Territorial assembly, which authorizes or sanctions what the amendment prohibits.

Chief Justice White, of the Supreme Court of the United States, in speaking with reference to the duty of Congress to enact a national prohibition law, said:

* * * In the first place, it is indisputable, as I have stated, that the first section imposes a general prohibition which it was the purpose to make universally and uniformly operative and efficacious. In the second place, as the prohibition did not define the intoxicating beverages which it prohibited, in the absence of anything to the contrary, it clearly, from the very fact of its adoption, cast upon Congress the duty not only of defining the prohibited beverages but also of enacting such regulations and sanctions as were essential to make them operative when defined. * * *

In Neal *v.* Delaware (103 U. S. 370), it says:

A State must recognize as binding an amendment to the Constitution of the United States, and enforce it within its own limits without reference to any inconsistent provisions in its own Constitution or statutes.

In the case of Hauenstein *v.* Lynham (U. S. Sup. Ct. (1879), 100 U. S. 483), Justice Swayne said:

It must always be borne in mind that the Constitution, laws, and treaties of the United States are as much a part of the law of every State as its own local laws and Constitution. This is a fundamental principle in our system of complex national polity.

NULLIFICATION AND SECESSION.

The whole spirit of this "wet" opposition is a challenge to the Constitution and the law. Many of us have heard "wet leaders" say on this floor: "This law can not and ought not to be enforced." Gentlemen of the House, that is nullification—nullification from a strange geographical center—and nullification and secession are inseparable twins. I remind you of that immortal declaration of Daniel Webster in his reply to Calhoun:

To begin with nullification and not to proceed to secession, dismemberment, and general revolution is as if one were to take the plunge of Niagara and cry out that he would stop halfway down. In the one case, as in the other, the rash adventurer must go to the bottom of the dark abyss below, were it not that that abyss has no discovered bottom.

It has come to this, then, that a son of the South, the son of a Confederate soldier in our reunited country, must teach to liquor advocates of the North the majesty of the law, the supremacy of the flag, and the integrity of the Federal Constitution. And I remind these festive and illogical champions of liquor that, great as was New England in Revolutionary glory, rich and "wet" and defiant as New York and New England and Maryland are to-day, they constitute a very small part of the whole United States; and to those who wish to "secede from the Union" in order to get all the liquor they want, we who believe in sober, constitutional government answer them as we point to the American flag: "Nothing doing! That emblem waves higher than the insignia of any State. We write again in burning letters that withering declaration of that heroic old war horse and pathfinder of reforms, Dr. Wilbur F. Crafts, 'You would not ratify and you shall not nullify.'"

Come on, ye boasted champions of democracy, and salute anew the flag that protects your homes!

PRESERVING "LIBERTY" IN ALCOHOL.

Packed into one paragraph, all who have heard the "wet" speeches of the eloquent gentlemen from New York and Boston and Baltimore will agree that they mean this and only this: That all laws must conform to the customs of the communities for which they are made, and that all efforts to regulate and restrain by law the inclinations, the habits, and the "liberties" of the individual are born of fanaticism and doomed to failure. Weaving a halo of eloquence around the brow of the great lawyer, James C. Carter, who spent the last seven years of his life writing lectures for the Harvard law school on "The Philosophy of Law," the late Mr. Cockran made this statement:

The main proposition underlying them was that all law is merely custom; that no statute can have the force of law which does not enforce customs already established in the locality affected by it.

Why, gentlemen of the House, that unthinkable position would nullify every law of God and man from Sinai to Washington, D. C.; yea, and that utterly unthinkable contention would shatter the towering temple of every State and National Government on earth. It would subject every governing entity to the caprice of every defiant atom. Illinois would tremble daily before the behest of Chicago. Ohio would crouch and cower when Cincinnati showed its gnashing teeth, Massachusetts would run under the bed when "rum-cultured" Boston entered the door, and the Goddess of Liberty herself would splash into the waters of the bay of New York or plunge from her sunlit apex on the proud dome of this Capitol in which we make laws for the whole Nation to-day just because boozy Baltimore and gay and godless Gotham shake their fists at the Constitution and the flag and tell sober "Uncle Sam" to go where it does not snow!

The difference between their concept of "liberty" and mine is this: I think liberty can be preserved in the duly enacted Constitution and in the loyal hearts of sober American citizens, and they think liberty "can only be preserved in alcohol."

These gentlemen complain that the purpose of prohibition—"to make men good"—is "utterly repugnant to every element of democracy." It is further declared concerning the purpose to make men good by law:

This is precisely what no government can do and which no democratic government can undertake to do without violating the principles that are absolutely fundamental.

THE WISDOM OF GLADSTONE.

Over against this baseless governmental fallacy I offer the declaration of William E. Gladstone, that towering genius and Christian statesman, of whom Henry Grady said:

He seems to have caught the inspiration of the Infinite and towers, half human and half divine, from his earthly eminence, while the light of another world seems beating in his grand old face.

This great builder of Christian civilization said:

It is the duty of government to make it as hard as possible for the citizen to do wrong, and as easy as possible for him to do right.

That is wisdom; fundamental governmental wisdom, in radiant consonance with wisdom divine.

PROHIBITION ON A FIRM FOUNDATION.

Standing on this firm foundation of the Constitution and the majesty of the law, we have at once, first and finally, an answer to those who ignorantly, and therefore blindly, or willfully and maliciously, declare that our prohibition law was surreptitiously put over on the American people.

I spoke on the same platform in London last summer with Herbert Tracy, the great labor leader and editor of the Brotherhood Outlook. In reply to his request for an article on American prohibition, I asked: "From what angle, Tracy?" He replied, "Tell us, first of all, whether prohibition was put over unfairly on the American people, and whether Congress took advantage of the 2,000,000 soldiers who were fighting for liberty in France."

You should have heard me laugh almost from London to Washington. "And so that liquor tale has reached London, I see." "Yes," he said, "that is what they are telling over here."

Here is a recent sample from the Washington Post:

Millions of people in this country have respect for every law except the eighteenth amendment, when they remember how it was foisted on the country by underhanded trickery and chicanery for the benefit of a lot of impecunious down and outers. It was never incorporated into the Constitution properly, but was pasted on by means of prohibition mucilage, liable to come off at any time.

Shades of Ananias and Sapphira! In the face of the facts of history as you and I know them, any man who makes that statement in America, in England, or anywhere else under the shining sun, is as blind as a bat, as ignorant as a fool, or as mean as the devil. Let us hope he is only liable to the first indictment.

I sat in that gallery yonder and saw the Hobson prohibition amendment receive a majority of eight, but not being a constitutional majority the battle was on again. The "dry" leaders announced the next morning all over America that they would go home and elect a Congress that would pass a Federal prohibition amendment as a national remedy for a national evil. And with that as the burning issue in the next campaign the Sixty-fifth Congress was elected—elected, mind you, five months before a single soldier was sent to France; and if those soldiers had been at home they would not have changed the mandate of the American people, unless they had made it stronger.

What crocodilian lachrymations on the part of those who declared that "while the American soldier was fighting for freedom across the sea the American Congress stabbed him in the back and took from him the freedom for which he was offering

his heroic life." That same American Congress, obeying the mandate of the American people, simply acted on the wisdom of the War Department and went that department one better, for we decided that if it required a sober soldier to fight well, it would require a sober citizen to live well.

Again, I sat in the gallery with the friends of national sobriety, looking down on the lawmakers who were to sign a new declaration of constitutional independence from the thralldom of legalized shame. The Woman's Christian Temperance Union was there—the brave women whose white badge I rejoice to wear—the fair evangels of truth—women who, like the vestal virgins, kept the fires burning on the altar when we tardy men said it could not be done. The Anti-Saloon League, through its far-visioned, unselfish representatives, was there—where it had a right to be—the brother executors of the women of America; sitting in the selfsame seats where the liquor lobbyists had been hovering in defiant domination for half a hundred years. It was America's way to pass a constitutional amendment, and the amendment was triumphantly passed.

It was then carried by constitutional process to the legislatures of 48 States in the American Union, and 46 out of the 48, fifteen-sixteenths of the legislative power of the Nation, indorsed the eighteenth amendment with the eyes of their constituents upon them; and then, with all of the brilliant ability which the blood-stained money of liquor could buy leading the opposition before the Supreme Court of the United States, that great tribunal handed down the high decision that every step in the process of the adoption of the eighteenth amendment was according to the Constitution of our fathers.

Gentlemen of the House, people of America, that is the way we change our Constitution and pass our laws in this country, and if there is anybody in Chicago or Baltimore or New York or in Boston, or anywhere else beneath the American flag, who does not like the way we make our laws in America, I respectfully submit that the boats are still running to Russia! And I suggest that the first reservation on the next boat that leaves should be made for the editor of the Chicago Tribune, who wrote that defiant treasonable editorial I have just read to you, and who would doubtless make a welcome addition to the staff of the Moscow Mutilator or the Petrograd Pulverizer.

Certainly I find no pleasure in remembering that noisy lawbreaking paper is Republican, for there are plenty of "boozeocratic" papers almost as bad as the Chicago Tribune, encouraging the defiant friends of liquor on every hand and likewise hiding behind the fourteenth and fifteenth amendments in order to find comfort for their opposition to the eighteenth amendment and the Volstead law—for the Volstead law, let it be remembered, was made mandatory by the amendment itself, and is simply the eighteenth amendment in action.

Let it be remembered, too, that the man who breaks the law for the sake of a thing as poisonous and debauching as liquor can not be charged up to either the Democratic Party or the Republican Party—he is simply a criminal—an enemy of national sobriety and a practical enemy of our Christian civilization.

NEEDED—A NEW NATIONAL CONSCIENCE.

The thing we need, gentlemen of the Congress, is a new governmental conscience on the question of enforcing our prohibition law. Suppose it were war time again—suppose a row of German ships were lined up along the 3-mile limit, or the 12-mile limit, if you please—suppose these enemy ships were darting in and out along our defenseless shores, landing their cargoes of munitions and spies! Suppose enemy automobiles were being filled from protected bases of supply and were distributing seditious propaganda upon our street corners or planting bombs in every back alley by day and by night! Suppose American officials were winking their eyes at these nefarious performances; and suppose good American citizens were attending social functions where it was considered smart to house a German spy by day and present him to a brilliant gathering of friends at some midnight hour—great goddess of American liberty, what would the American masses do with the officials in Washington, or any other place on American soil, who allowed such traitorous betrayals of our endangered country! I tell you what you already know—that Benedict Arnolds and Bolo Pashas are walking the streets of Washington and every other great city of America to-day. I tell you what you already know—that the man whose distorted patriotism would put an alien flag over your home, but still allow you to live in peace with your family and pursue happiness and prosperity without daily interference, that man is an angel of light compared to the black-hearted scoundrel, the thief, and the villain who seeks to put money in his pocket or ballots in his box, by trampling our Constitution, by the defiance of our flag, and the liquorized debauchery of your children and mine. The bootlegger is all of this. He will lie—he will steal—he will murder with the poisonous liquor that he sells; and it has been proven ten thousand times that he will murder the officer of the law who seeks to interfere with his hellish trade. And every man who patronizes him, whether a plain citizen of America, a self-opinionated editor, or a Member of this Congress, or an Army or naval officer, or a judge on the bench, or a Cabinet member, is a partaker of his crime and a conspirator against this Government. For God's sake, stop jesting about a thing that is so desperately serious.

Not only as a Member of this Congress, but as a citizen of America and a friend of humanity, and especially as a friend of the nearly 4,000,000 students to whom I have spoken in America, and their many millions of comrades in their plastic youth whom I have never seen, I make a New Year's call for a new national, militant conscience that will save our American ideals, guard our schools and churches, and snatch the beauty and the glory of American youth—the future fathers and mothers of our country—from this raging saturnalia of insidious debauchery and moral decay.

A RUM-PROOF CLEAN-UP PROGRAM.

To meet the needs of the present moral crisis, I offer a rum-proof, "booze-tight," clean-up program, a part of which I have introduced, will soon introduce, or will have introduced by others—a part of which I have urged on executive consideration, and for all of which I will fight, God helping me, until I fall in my tracks, for the redemption of America and America's glorious leadership in the redemption of the world.

First. Let Congress clean around its own door by passing a resolution declaring persona non grata to the floor of the House any Member found under the influence of liquor in the Capitol or House Office Building or known to have liquor illegally acquired in his office.

Second. Immediate deportation, without grace or privilege of returning to America, for all aliens found guilty of violating the prohibition law.

Third. Withdrawal of citizenship from all United States citizens who go to any foreign country and engage in smuggling liquor into the United States.

Fourth. Make buyer of liquor equally guilty with seller, and imprisonment plus fine imperative in all cases.

Fifth. Confiscation of all liquor in bond with fair payment by Government; a special commission being appointed by the President to appraise value of said liquor and destroy all except that that may be denatured for strictly legitimate uses.

Sixth. Stop all manufacture of intoxicants by private concerns, the Government manufacturing and distributing such alcohol as may be necessary for medicinal and scientific purposes.

Seventh. Independent bureau for prohibition enforcement with commissioner having full power and amenable only to the President.

Eighth. Put all prohibition enforcement officers, except the head commissioner, under civil service, with all political influence absolutely prohibited in making appointments.

Ninth. Require pledge of total abstinence from all Federal appointees, including consular and diplomatic representatives abroad, Cabinet officers, Army and naval officers, and the executive guillotine for all such appointees who are known to drink the liquor outlawed by our Constitution.

Tenth. Employ the Army and the Navy, if necessary, to prevent liquor smuggling and otherwise aid in prohibition enforcement.

Eleventh. Withdrawal of charter from all national banks and prosecution of all other banking institutions that extend financial aid to bootleggers or receive deposits from those known to be engaged in the illicit liquor traffic.

Twelfth. Let the State Department respectfully request that all foreign governments discontinue sending to this country diplomatic and consular representatives who exert a demoralizing influence upon our official and social life by dispensing from their residences and offices intoxicating liquors prohibited by our laws to American citizens.

Only a word or two in developing each of these points, for they speak for themselves.

First. No man ought to be a Member of Congress who is not a moral example to the young citizens of the district that elects him.

Second. Every decent, sober, red-blooded American will agree that an alien who defies the laws of the flag that protects him should not receive that protection for a single day.

Third. No man should enjoy the privilege of being a citizen of the United States who seeks the habitat and connivance of foreigners to help break down his own country's laws.

Fourth. No man or woman can escape the logic that makes the buyer of illicit liquor equally guilty with the seller.

Fifth. The picture of "Uncle Sam" getting on the water wagon four years ago with 40,000,000 gallons of liquor in bond on the wagon with him is an incongruity too ridiculous to even admit of argument. Bonded liquor has been the source of unspeakable corruption. Stop all permits and smash the distribution of the devilish poison forevermore.

Sixth. Evidence is cumulative through generations that, in about 9 cases out of 10, men who make money out of the manufacture or sale of intoxicating liquor can not be trusted.

Seventh. The people of this country are growing increasingly tired of seeing the biggest job in the Nation, next to that of President, in the hands of a subordinate removed to the fourth power. Commissioner Haynes is a stainless and resourceful man, but Haynes revolves inside of Blair, Blair revolves inside of Mellon, Mellon revolves inside of the President, and the Lord knows that is too many revolutions to the minute for the highest sobriety of this Nation.

Eighth. It is an outrageous procedure for Congressmen and Senators to pay political debts by the appointment of "wet" men to enforce "dry" laws. The civil service, vigorously applied, will largely cure this evil.

Ninth. It is safe, sane, and constitutional to require and enforce a pledge of total abstinence from all Federal appointees. The shame of drinking officials at home and abroad is a blot on the stainless flag of America.

Tenth. The employment of the Army and the Navy in certain defiant sections of this country would rest upon an inescapable precedent. The Federal Government kept the troops in the Southern States for 12 years after the Civil War to enforce the fourteenth and fifteenth amendments. God knows that this Government ought to be as much interested in the majesty of the law and the sobriety of its citizens as it was in putting ballots in the hands of black men who had not been trained to use them. Listen to this news item:

GREAT FLEET ON WAY TO PANAMA.

American warships weighed anchor to-day for Panama.

There the greatest fleet ever gathered in American history will stage winter maneuvers.

Admiral R. E. Coontz will be in command of more than 100 warships, including 15 battleships, 4 light cruisers, 63 destroyers, 11 submarines, and many others, besides 87 airplanes.

May the God of the seas protect them from danger, but I think it would be a more sane and vitally beautiful thing if some of these vessels were guarding our daily endangered shores and sending an occasional cargo of illicit rum to the bottom of the sea.

One of the most convincing and inspiring briefs I have yet seen as an epitome of the achievements of our national prohibition law, despite the devilish, desperate, and traitorous opposition and violation by the political and personal enemies of prohibition, is found in that shining cluster, "Victory jewels," sent out by that clean, keen statesman in sober and sobering legislation, Wayne B. Wheeler. Read them and wear them upon your frontlets as a New Year's inspiration toward "the majesty of the law and national sobriety":

PROHIBITION'S NEW YEAR'S GIFT.

The best New Year's gift to the American people is the one brought by prohibition. A few of the cumulative results of four years of sober industry are:

A cut in the death rate that saved 873,000 lives, profiting the insurance companies and policyholders $678,769,000.

A decrease in the rate of preventable illness equivalent to 1,747,950 people continuously ill for one year.

A reduction in the ratio of drunkenness arrests per 100,000 population equivalent to 500,000 fewer arrests for drunkenness in 1923 alone, or over 2,000,000 fewer in the four dry years.

A decrease in the penal ratio resulting in 20,000 fewer persons being committed to penal institutions in these four years.

Elimination of intemperance as a cause of poverty, releasing $74,000,000 of charity funds for constructive work.

Wiping out 177,790 licensed saloons, around which huddled the homes of families whose revenues were drained by the liquor leech.

Over a billion dollars added to our savings accounts and over $11,000,000,000 to our new life-insurance policies in 1923.

Increased the taxable wealth of former license cities by increasing valuation of former saloon sites.

Lowered industrial accidents by a quarter of a million annually.

Made possible vast expenditures on moving pictures, athletic equipment, and other wholesome entertainment which replaced the saloon.

Made roads safer for the 4,000,000 automobiles manufactured last year, many of which were bought by former impoverished drinkers.

Increased home building by 2,000 more new homes built per month in 1923 than in 1919, in spite of higher costs.

Added a daily Pentecost of 3,000 new members to the churches.

Sent throngs of youths and girls to high school and college by eliminating the liquor drain on the family purse.

Prohibition was not unaided in creating these benefits, but only a sober, thrifty, and industrious country could have wrought these glorious things.

With such a golden sheaf of prohibition victories, it does seem that so-called decent men and women who violate this law would never again be able to look in the glass at themselves without remembering that withering utterance of Vance McCormick, the stalwart Pennsylvania editor of the Patriot and former chairman of the National Democratic Committee, when he declared:

The trouble is, the intelligent man who violates the prohibition law is a civic moron, a new type of undesirable, that rages at the thought of a Bolshevist, but fails to recognize the picture when he looks in the mirror. Perhaps his conscience is beyond being stabbed, and what he needs is a place in the chain gang.

And that other terrific indictment of William J. Bryan:

The patron of the bootlegger is worse than the bootlegger himself, for the illicit seller of liquor has money as his object, while his patron puts his appetite above the law of his country.

Yes; and that almost paralyzing philippic of Col. Dan Morgan Smith, the eloquent soldier-patriot:

Laugh at this law if you will, because you and your hilarious friends want liquor, but murmur not if very soon the spirit of anarchy will laugh at the law that protects your home and all that your heart holds dear.

These ringing, startling truths in behalf of the majesty of the law and personal and national sobriety are a part of my New Year call to my every colleague, to official Washington, and leaders everywhere.

My first thought for you and America is my last thought. The eyes of the Nation—the eyes of the world—are upon us. Let us begin the new year right and keep every page white in the new volume—1924—that has just been handed to us out of the Library of Eternity.

As a help to our purpose and our reputation in Washington and everywhere I propose the following:

NEW YEAR HOUSE RESOLUTION FOR 1924.

Whereas this Government after many years of education and agitation has outlawed the liquor traffic by due constitutional process; and

Whereas this action was taken because the sale and use of intoxicating liquors had a debauching effect upon many of our citizens and a corrupting influence upon our politics and the personal habits of many of our political leaders; and

Whereas we believe that all Members of Congress ought to set a high, safe, moral example, personally illustrating the wholesome wisdom of this law and our loftiest ethical and constitutional ideals before the eyes of American youth: Therefore be it

*Resolved by the House of Representatives at its first session in the new year,* That any Member of this body who may be found under the influence of intoxicants in the Capitol or House Office Building is hereby declared persona non grata to the floor and the membership of this House.

No man can oppose this resolution unless he wishes to reserve the bacchanalian privilege for himself or some friend.

Is there opposition? Silence gives consent [laughter], and in the name of the Continental Congress and the Lord God Almighty I hereby declare this resolution the New Year sentiment of this House. [Laughter and applause.] Congress is overwhelmingly "dry" in practice as well as precept. I have always said this, but suspicion lurks. Let us make the people believe in us. I rejoice right here to read you this word from Thomas Jefferson, showing that my position is not extreme, but sane and safe:

Were I to commence my administration again, with the knowledge which from experience I have acquired, the first question I would ask with regard to every candidate for public office should be, Is he addicted to the use of ardent spirits?

You want to be Jeffersonian Democrats and you want to be Lincoln Republicans. Then remember Jefferson's wisdom and that Lincoln signed the pledge.

Hear my last words:

A few men rule the world—a few master spirits lead and all the earth are followers. The late Ollie James, so long an honored Member of this House, said:

We are filtered from a hundred million people. Our being here ought to be regarded as an expression of faith on the part of our neighbors in our ability and our character.

Secretary Wallace uttered a layman's vital truth the other day and Secretary Davis put that truth into italics when they declared what our God-fearing preachers are declaring every Sunday that "old-time religion is the hope of the world." If we have that old-time religion that comes from the miracle of regeneration, we will rejoice to set the example of a sober, God-fearing manhood before the youth of America—yea, and the youth of the staggering, yet upward-reaching world. Henry Grady said:

All reforms are born through doubt and suspicion, but back of them, as back of the coming sun, stands the Lord God Almighty.

A cloud does rest, we know, on the sky above official Washington. Let us as leaders of the Nation's political life wipe out that cloud and throw a crown of light about the most beautiful dome of any capitol in all the world, a moral and spiritual life that shall widen and deepen until "the crimson streak on ocean's cheek grows into the great sun." [Prolonged applause.]

Mr. HILL of Maryland. Mr. Speaker, I ask unanimous consent to address the House for 15 minutes.

The SPEAKER. The Chair will state to the gentleman from Maryland that two gentlemen already have that privilege—the gentleman from Virginia and the Resident Commissioner from the Philippines.

Mr. HILL of Maryland. May I ask unanimous consent to follow their time?

The SPEAKER. The gentleman from Maryland asks unanimous consent that, after completion of the remarks of the two gentlemen who have the floor, he be allowed to speak for 15 minutes. Is there objection? [After a pause.] The Chair hears none.

PHILIPPINE INDEPENDENCE.

The SPEAKER. The gentleman from the Philippines is recognized for 20 minutes. [Applause.]

Mr. DYER. Mr. Speaker, may I ask unanimous consent before the gentleman proceeds that he may have 20 minutes additional if he needs them? I made the request the other day and I was not informed of the time he needed.

The SPEAKER. The gentleman from Missouri asks unanimous consent that the time of the gentleman from the Philippines be extended from 20 to 40 minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. GUEVARA. Mr. Speaker and gentlemen of the House, it is a rare good fortune for me to have the patriotic task of conveying to this House a message from the people of the Philippine Islands. A year ago the Philippine Legislature passed a concurrent resolution asking from the Congress of the United States of America authority to assemble a constitutional convention to formulate and adopt a constitution for an independent Philippine republic. That resolution was submitted for the consideration of the Sixty-seventh Congress by my predecessor who in his introductory speech presented arguments which I believe amply covered the grounds favorable to the granting of that petition. It may therefore seem unnecessary for me to take the valuable time of the distinguished Members of this House to set forth the same arguments in support of a proposition already within your parliamentary knowledge. However, facts and circumstances obtaining at the time of the adoption and presentation of the resolution to this House have changed in a multiple way; conditions have altered to such an extent that there is now no course for me as one of the representatives of the Filipino people here but to renew with added vigor the plea for a final and definite answer to our petition.

The resolution adopted by the Philippine Legislature to which I have just alluded does not in sound doctrine contain any new formula or principle of government. It does not differ from American policies. That resolution was the natural and legitimate consequence of a fruitful intercourse and association between the United States and the Philippine Islands since that time when Providence in His inscrutable wisdom sealed the destiny of my country in association with your Republic. For each period of this relationship Congress has wisely outlined the terms and conditions to be followed by the two peoples concerned.

HISTORICAL SURVEY.

Permit me to set forth briefly this relationship as recorded in history. The 1st day of May, 1898, marked the historical beginning of the relationship between the United States of America and the Philippine Islands. On that glorious day the Filipino people for the first time saw anchored in Manila Bay the fleet under the command of the immortal Admiral Dewey. That brave, brilliant officer destroyed the Spanish Navy that maintained the authority of a Government which exercised jurisdiction over the Philippines without the consent and despite the armed protest of the inhabitants therein. The Spanish Government made every effort to secure the support of the Filipino people, offering liberal concessions and reforms in the home government. It even appealed to the sentiment attaching to more than 300 years of association with us. But the Filipino people, knowing the Americans through their history and traditions, did not hesitate to join the cause of the United States, and they fought the Spanish Army with the ardor of patriots.

I do not now need to examine, neither is it my desire to remind this House of the promises made to the Filipinos by those officials to whom the United States Government had committed the task of destroying the fleet and the army of Spain in the Philippines. They belong to the ages now and history will perpetuate them. That which will interest the House most, I believe, is the proposition of the final solution of the Philippine problem. Therefore I shall concentrate my effort upon that point.

In 1902 the Fifty-seventh Congress of the United States passed Act No. 235, which constituted the organic act of the government of the Philippine Islands for a period of nearly six years. In that law the Congress promised the people of the Philippine Islands that a popular assembly would be established as soon as a general and complete peace, with recognition of the authority of the United States, should exist in that portion of the Philippine Islands not inhabited by Moros or other non-Christians, and until such facts should have been certified to the President. This promise, solemnly made by Congress on behalf of the American people, was duly redeemed when a popular assembly was instituted in the islands in 1907. The success of that 100 per cent Filipino body was admitted by all. Constructive and progressive laws were enacted. That experience justified another step forward on the road to self-government.

This House, faithful to its traditions, honorable to its promises, initiated the step to grant the Filipino people a new franchise and added governmental powers in order that the instruments of their redemption might be placed within their reach. And in 1916 the Sixty-fourth Congress approved Act No. 240, commonly known as the Jones bill, by virtue of which a definite policy was laid down in regard to the future relationship between the United States and the Philippine Islands.

It was then stated that the purpose of the people of the United States "is to withdraw their sovereignty over the Philippine Islands and to recognize their independence as soon as a stable government can be established therein." It is evident that since the approval of that law the United States has carried out the only purpose which that law intended, namely, to establish a stable government in the Philippines in order that the United States might terminate her supervision over that country. Seven years have passed since the passage of the Jones law, and during that entire period property and individual liberty have been duly safeguarded by the government established in accordance with its provisions.

Let biased critics oppose this affirmation if they will, but a thorough examination of this situation in the light of facts inevitably leads to the conclusion that a stable government has been successfully established in the Philippines. Study this proposition under the microscope of historical analysis and it will then, and only then, be fully realized how great a success has been achieved in the Philippines. I need not take the time of this House for an extended discussion of the overwhelming evidence supporting this fact. It is enough for me to refer to the "Statement of conditions" appearing in the CONGRESSIONAL RECORD: Proceedings and debates of the second session, Sixty-seventh Congress, volume 62, part 10, pages 9821–9844, which I beg to call to the attention of the gentlemen of this House. That "Statement of conditions" contains a detailed specification of facts through which the students of history will find full justification for American pride.

GOVERNMENT OF, BY, AND FOR THE PEOPLE.

Certainly the American people have a right to be proud of the progress accomplished in the Philippines. It is a lesson to an ambitious world, a warning to imperialistic nations, an inspiration to weak peoples. Such progress proves that the path traced by the builders of this great Nation has been faithfully followed by their successors to the end that now the principle of popular sovereignty for which Washington fought, for which Lincoln died, and for which all Presidents of the United States of America have struggled, is to-day more vigorous and effective in its practical application than ever before.

The probation of the Filipino people has long been ended.

The present situation of the Philippines necessitates a new arrangement, one more in accord with American principles. We covet no more than you coveted and obtained.

Your principles of government are that the right of self-determination is inherent in the people, and that the people

can no more divest themselves of that inherent right and power than the Almighty could divest Himself of His omnipotence. That was the foundation of the principle enunciated by the immortal Lincoln when he voiced his prayer "that government of the people, by the people, for the people shall not perish from the earth."

The Filipino people are asking at the hands of this Congress the fulfillment of a promise that is in full consonance with Abraham Lincoln's immortal words. We are asking that we be given our independence, that we be governed by and with our advice and consent to the end "that government of the people, by the people, and for the people shall not perish from the earth." [Applause.]

AMERICA CHAMPIONED FREEDOM OF SMALL NATIONS.

Monarchs have been dethroned because despite the most elaborate plans and schemes laid by the selfish and the ambitious, the power to determine who should rule them after all remained exclusively inherent in the people.

So, then, we aspire to be placed on the same plane as those who have enjoyed the benevolent and humanitarian influence of the American flag. Cuba has been freed, Czechoslovakia, Lithuania, and Poland are now free, thanks to the moral intervention of the United States of America. Egypt has recovered her independence through recognition by the British Empire of American doctrines. Ireland has secured from England a free state political status. But the Philippines, under the American flag, have not thus far been able to secure freedom, that priceless treasure of a people which America herself has helped other small countries to acquire.

The present political status of the Philippines is absolutely unjustifiable under American principles. The American people struggled for and finally obtained a constitutional government in which true power is lodged in the people, the magistrates being mere trustees and servants to whom the people delegate powers for a certain period of time.

PRESENT ORGANIC ACT NOT EXPRESSION OF FILIPINOS' WILL.

The framers of the Constitution held that the object of government is to secure to the people their happy existence. To secure those fundamental principles of government, the American people defied British sovereignty, and so the American Thirteen Colonies, without authority from the mother country, met, deliberated, and adopted resolutions for the common weal. Since then the American people have been a very zealous guardian of popular sovereignty. Even after they had become independent of the British Empire the people of the various States of the Union were exceedingly careful in the preservation of their rights to approve and amend constitutional provisions. It could not have been otherwise. A democratic, liberty-loving people who successfully won their God-given rights through hardship and sacrifice would not yield their prerogatives to any man or group of men. Had they done so, they would have stultified their own consciences and outraged the memory of the sacred blood spilled on Revolutionary battle fields by their forefathers. And never will the American people permit intruders and impostors to cast ajar the gate of the holy edifice of liberty guarded by the soldiers of freedom. [Applause.]

When the people of Massachusetts in 1778 challenged the action of the legislature by approving a constitution for the State without the people's authority, it was a real alarm to the country for the preservation of popular sovereignty. And today the people of each State of the Union enjoy the prerogatives and privileges of formulating and amending their own State constitutions.

Since the Constitution should be a true expression of the popular will in accordance with American principles and doctrines of government, it is oppressive, despotic, and un-American to impose upon any people living under the Stars and Stripes obedience to a Constitution which is not in any way the product of their will freely expressed. [Applause.]

These principles were promulgated and championed by your forefathers in framing your various bills of rights and are embodied in the Massachusetts Declaration of Rights, which in substance declares that, as all power resides originally in the people and is derived from them, the several magistrates and officers of the government are their representatives and agents and are at all times accountable to them. But it is regrettable, gentlemen of the House, that the system of government instituted in the Philippines gives occasion for the claim that some officials of that government are not responsible to the people, but to the President of the United States alone, and that officials appointed by the President of the United States are the ones empowered to define what is the public interest and what is the people's need, regardless of the attitude of the people's legitimate representatives. The conduct of such officials is in direct conflict with the principles laid down by the lamented President William McKinley, who besought the Taft Commission that it "should bear in mind that the government which they are establishing is designed not for our own satisfaction, nor for the expression of our theoretical views, but for the happiness, peace, and prosperity of the people of the Philippine Islands, and the measures adopted should be made to conform to their customs, their habits, and even their prejudices, to the fullest extent consistent with the accomplishment of the indispensable requisites of just and effective government." This, gentlemen of the House, despite the policy laid down by Congress in the Jones law that "it is desirable to place in the hands of the people of the Philippines as large a control of their domestic affairs as can be given them without, in the meantime, impairing the exercise of the rights of sovereignty by the people of the United States in order that, by the use and exercise of popular franchise and governmental powers, they may be the better prepared to fully assume the responsibilities and enjoy all the privileges of complete independence."

PRESENT GOVERNMENTAL SYSTEM UNSATISFACTORY.

It will be noted by this House that the present organic act for the government of the Philippine Islands can be properly regarded in some respects as its written constitution. Un-American, as it is, because the Filipino people had no voice in its formulation and adoption, nevertheless they abided and are still abiding by it, thereby proving the depth of their faith and hope in you—aye, in your people, in your history, in your traditions. We are fully confident that American occupation in the Philippines will not be at all a duplication of the policies of the British Government toward the Thirteen American Colonies. But no matter how liberal you may intend to be in your treatment of us, regardless of how generous and altruistic your intentions may be, yet so long as there shall exist in the Philippines a government not based on the popular will the Filipino people are not far removed from the chains of slavery.

The freedom the Filipinos are enjoying is not guaranteed by the principles of democracy through permanent institutions therein. Experience has shown that our rights can be disregarded or withdrawn at any time without any chance for the people to protect those rights at the polls.

It is true that the United States Government always has been generous in heeding the grievances of the Filipinos, but it must be borne in mind that distance and other circumstances prevent the administration in Washington from obtaining an accurate account of the facts, and consequently the administration fails to apply the proper remedies in time for real relief. Sometimes the human element can not be prevented from interjecting itself into the solution of incidental questions. Your own domestic affairs, which are numerous and complicated, the confidence placed in men of your own creed, and the natural regard you must extend to those who are intrusted to assume the duties of guarding sovereignty in the islands are circumstances that must be taken into consideration by all fair and just minded men. That is not new in the life of subjugated peoples nor in the policy of colonizing nations. England is an example; Spain is another.

EMANCIPATION AND NOT EXPLOITATION AIM OF ALL PRESIDENTS.

During the association and intercourse of the United States of America and the Philippine Islands, it will be interesting to the Members of this House to consider for a moment the claim that the United States Government can not assume responsibility without authority in the Philippine Islands. It deserves a discussion of the aims of the American occupation in that country. It is a challenge to good faith and a call for service. It is a detraction from the policy announced and adhered to by former Presidents of the United States of different party affiliations.

Presidents McKinley, Roosevelt, Taft, and Wilson have defined in an unequivocal way the aim of American occupation in the Philippines on behalf, not of any party, but of the American Nation. The lamented President Harding, too, adhered to the doctrine proclaimed by them when he said:

> No fixed intent, no thought of conquest, no individual or governmental desire to exploit, no desire to colonize, brought us together.

Congress has also defined the spirit of the American occupation in the Philippines. In the light of these facts I submit to you, gentlemen, that it is un-American now to sustain the theory of responsibility without authority. Only conquering nations can uphold such a principle of government. The American people as a Nation have won for themselves a moral authority not only in the Philippines but throughout the whole world. The true American spirit, to my mind, prefers moral authority to material subjugation. The genuine aim of the American people is to establish among all nations relationship based upon sympathetic cooperation. We are ready to respond to a man to your call. It is for you to make the call. We

have proven our loyalty to your country, and we are again ready to offer proofs of that loyalty.

The world's civilization and progress will profit more by building up your moral authority in the Philippines than by upholding your material authority there. Material authority has meant, means now, and will forever mean oppression to any subjugated people. No matter how altruistic may be your designs in the Philippines, they will not make my people happy. And I know that the gentlemen of this House can not and will not be satisfied to see a people living discontented under the shadow of the American flag, which of all the flags in the world has most proudly floated above a people happy in their liberties. [Applause.]

Our struggle to be politically independent from the ties that now bind the Philippines to the United States must not be construed as a lack of appreciation on our part of the progress accomplished under your benevolent guidance. We are deeply grateful for it, and it will be regarded by my people down the corridors of time as a providential blessing. And it is in the very fact that the present Philippine generation is anxious to preserve forever the hearty gratitude we feel to America and our everlasting love for her that we are constantly reminding you to redeem your pledge.

The Filipinos of the present generation who have been associated with Americans in the magnificent task of building up the Philippine Islands will be proud to see their country as the bulwark of your civilization and the watchful sentinel of your interests in the Far East. This sentiment we want to leave for inheritance to coming generations. The mutual relationship between the United States and the Philippines will be closer, stronger, more cordial under the moral bond than under a material one. [Applause.] We want to nourish into even stronger attachment the sentiment now prevailing in the Philippines that your interests are our interests, that your safety is our safety, that your liberty is our liberty, and that your principles are our principles. [Applause.]

FILIPINOS' FAITH IN AMERICAN PRINCIPLES UNSHAKEN.

We face the future with confidence and faith. We rely on the sense of justice of the American Nation. And this House, wherein resides the essence of real Americanism, surely will not be deaf to the plea of my people.

I am certain you will realize that the Filipino people are fighting the battle of American principles. Our victory will be your victory, our defeat your defeat. The Filipino people do not ignore the geographical situation of their country. Nor do they ignore the interest of this Nation in those latitudes. Our dream is to be useful to your Nation, to show her and the world our gratitude for the unselfish leadership of the American people during our association.

Our coasts and mountains, our lakes and bays, our rivers and seas will be yours in time of need. Our fortunes, our lives, gentlemen, will be at the disposition of this Nation should destiny call you again to the fields of battle in defense of the safety of the world, justice, and liberty. [Prolonged applause.]

An independent Philippines will be stronger for Americanism than a subjugated Philippines possibly can be. No matter how altruistic your designs, a dependent Philippines must behold Americanism less affectionately than would a free Philippines. This is but human. You have won the sincere friendship and admiration of China, though you have done less for that country than you have for the Philippines.

Gentlemen, before you is a wonderful opportunity for service. The American Nation, through its Congress, is called again to see to it that pledges incarnated in solemn documents be properly redeemed; that the sovereign will of the American people, as expressed by their constitutional representatives, be faithfully executed. Those were the principles which led the American armies into the battle fields of Europe, and a cheer for those principles was the last cry from the lips of American heroes now sleeping beneath the poppy fields of Flanders. It was for these principles that those who for eternity rest in the hallowed tombs of Arlington laid down their lives. It was for these principles during the delirium of Europe that the heroes of your Nation carried the holy flag of freedom forward to the astonishment and undoing of tyrannical powers.

I ask at your hands, gentlemen, the redemption of the solemn pledge of the Congress of the United States made to the people of the Philippine Islands.

I ask you that the Filipino people be given independence, to the end that my people may be happy, helpful to the world, ever grateful to the United States, and champions of the eternal principle of justice for all peoples. [Prolonged applause.]

The SPEAKER. The gentleman from Virginia [Mr. TUCKER] is entitled to the floor for 45 minutes. [Applause.]

THE SO-CALLED STERLING-TOWNER BILL.

Mr. TUCKER. Mr. Speaker, I greatly hesitate at this late hour to inflict myself—I will not say—upon a wearied House, for you have had great oratory to stimulate your ideals—but I have risen to discuss with you for a little while the so-called Sterling-Towner bill. I should like very much to discuss it in detail, if time permits.

The advocates of the bill claim its constitutionality under what is known as the general-welfare clause of the Constitution.

The bill itself must be read in detail for full information. For the purpose of my argument it is only necessary to state some of the cardinal features of the bill:

1. It provides for the creation of a Secretary of Education, to be a member of the President's Cabinet.

2. It authorizes an appropriation of $100,000,000 to the States for the purposes of education.

3. Assuming the power of Congress to appropriate $100,000,000 for the purposes of education to the States, the bill imposes various conditions upon the States; among these conditions is one which requires the $100,000,000 donated by Congress to be duplicated by each State by its proportion of the $100,000,000. Also a condition that any State accepting the benefits of this bill must have a compulsory education law, and also that every State accepting the bill must have a term of at least 24 weeks during the year for its schools.

4. The bill also provides for the creation of a National Council on education to consult and advise with the secretary of education, who is to be the chairman of the said council. This council is to be constituted (a) of the chief educational authority in each State, (b) 25 educators representing the different interests in education to be appointed by the secretary of education, (c) and 25 persons, not educators, who may be interested in education from the standpoint of the public, to be appointed by the secretary of education. The council is to meet once a year, and the expenses of the conference are to be paid by the department of education. A modest beginning, indeed, for ultimate political control of the schools of the States.

I.

CONSTITUTIONALITY OF THE SO-CALLED STERLING-TOWNER BILL UNDER THE GENERAL-WELFARE CLAUSE OF THE CONSTITUTION—THE MEANING OF THE WORDS "THE GENERAL WELFARE" AS SHOWN BY THEIR USE WHERE ORIGINALLY FOUND.

The "welfare" of the people to be provided for by these words must be that which affects the whole people; not a part; not a class; but the public. It must be "general." A law, therefore, to help the people of a State, a class, or community would not be general, but special welfare. The welfare contemplated must affect the whole and not a part of the people, for the words are broad and will embrace anything looking to the benefit, comfort, or improvement of the people. So that a law looking to these ends passed by Congress which is general in its application and not special, in the opinion of the advocate of this interpretation, is contemplated by the Constitution of the United States, because its aim and object is the welfare of the whole people. The words are of the broadest import. Could any be broader? What need, what want of the people of the United States fails to be embraced in their boundless compass? Are not the blessings of liberty found therein? Is not freedom, civil and religious, embraced in them? Are not the rights of property, domestic rights, and civil and religious rights, commercial and financial, and all other rights contained in them? Can the human mind conceive of anything affecting the well-being of the people which would not be embraced in these words? They are as broad as humanity itself and as boundless as the sea. And this amplitude of power is sought to be given to Congress by those who advance this construction.

In getting at the real meaning of a phrase, of course, the words themselves must first be considered; but if the phrase has been used in other papers or documents, the construction and meaning which attached to it there would naturally attach to it in its new environment. And we inquire where the words "the general welfare" can be found elsewhere than in the Constitution of the United States. It is well known to all students of our constitutional history that these words were first found in the Articles of Confederation, in the third, the eighth, and the ninth articles. In Article III they appear as follows:

> The said States hereby severally enter into a firm league of friendship with each other, for their common defense, the security of their liberties, and their mutual and general welfare.

Under this article the Congress is given no power, and it is akin to a preamble declaring the fact that an alliance has been formed and setting forth the objects in view. How these are to

be accomplished by Congress is set forth in the subsequent Articles VIII and IX.

In Article VIII they appear as follows:

All charges of war and all other expenses that shall be incurred for the common defense or general welfare and *allowed by the United States in Congress assembled* shall be defrayed out of a common treasury.

Did these words in the Articles of Confederation bear the broad interpretation which is sought to be given them now by those whose views we are combating? If not, what was their meaning in these articles? The Articles of Confederation were confessedly inadequate. The Constitution was framed to strengthen that weak instrument and to give to the United States a government that could function. Article II of the Articles of Confederation declares:

Each State retains its sovereignty, freedom, and independence and every power, jurisdiction, and right which is not by this Confederation *expressly* delegated to the United States in Congress assembled.

It is claimed to-day that under these words in the present Constitution Congress has power to pass this bill and others of like character. These same words, "the general welfare," we find used three times in the Articles of Confederation. Will any man claim that under the Articles of Confederation, from which we derive this clause, this bill would have been considered for a moment or recognized as a valid exercise of power under these articles? Article II, just quoted, declares that unless expressly granted no such power existed in the Congress under the Articles of Confederation, and I think no one would be bold enough to-day to assert that under the Articles of Confederation such bills would have had a moment's consideration in the Congress of the Confederation. If that be true, we find that the advocates of this new interpretation are seeking to give to these words transplanted from the Articles of Confederation to the Constitution of the United States a meaning which they never had in those articles. Bound hand and foot by Article II, which denied to Congress any power except those expressly given, this phrase lay imbedded in three articles, completely impotent as the source of any legislative power, in the Articles of Confederation. If impotent as a source of legislation where found originally, by what process of construction and by what species of ingenuity can their complete impotency—while resting in the Articles of Confederation—be transformed into a virile power which subordinates all other powers in the Constitution of the United States to its imperial sway?

Congress, under the Confederation, could lay no taxes nor raise money but by loans and the emission of bills of credit and by requisition on the States, and so on. Congress could not raise an army, for this was left to the States. Congress could not regulate commerce.

These objects and others confided to Congress in the Constitution of the United States all pertain to the general welfare of the United States. Congress could do none of these things because the articles did not grant it the express power to do them. Can it be claimed then that the Congress of the Confederation, though denied these powers, could, under the "general-welfare" clause, have exercised such powers? Though denied the power to raise armies, or to lay taxes, yet these two powers are clearly embraced in the power to provide for "the common defense and general welfare," and if these latter words were endowed with the power sought to be given them now in the Constitution of the United States, how can the patriots of that day in the Confederation Congress be excused for failure to raise armies and lay taxes when American liberty was trembling in the balance; and, if powerless in the Articles of Confederation to do these things under the welfare clause, why should such power be assumed for these words when transferred to the Constitution of the United States, which abounds in specific grants to Congress, but which is limited by the Constitution of the United States as to all other grants by the tenth amendment? By what process of governmental construction could the architects of our present Constitution in the use of one of the stones of the defunct Confederation temple transfer this stone into our new constitutional building and give to it additional length and breadth and height unknown to it in its original place? "Which of you, by taking thought, can add one cubit unto his stature?" And this is the more remarkable when it is remembered that when placed in our constitutional building it was circumscribed by 17 other stones chiseled with exactness in length and breadth to bear their proportionate share of the burden of the whole building.

As Mr. Madison said (Federalist, No. 41):

But what would have been thought of that assembly (Congress of the Confederation) if, attaching themselves to those general expressions and disregarding the specifications which ascertain and limit their import, they had exercised an unlimited power of providing for the common defense and general welfare? I appeal to the objectors themselves, whether they would in that case have employed the same reasoning in justification of Congress as they now make use of against the convention. How difficult it is for error to escape its own condemnation.

Mr. J. Randolph Tucker on this subject says (Tucker on the Constitution, vol. 1, p. 481):

A very conclusive argument on this point is derivable from the language of the eighth article of confederation, for which this clause is an unquestioned substitute.

That article provides that all expenditures for the common defense and general welfare "shall be defrayed out of a common treasury, which shall be supplied by the several States," etc., and raised by their own system of taxation. This money, so derived to the United States from the several States, is to be devoted to the common defense and general welfare; just as under the tax clause of the Constitution the revenue derived from such taxation is to be applied to the common defense and general welfare. The mode of raising money is different; the object, to provide for the common defense and general welfare, is the same. What would have been thought of the Congress of the Confederation had it taken the money supplied by the several States and expended it for State purposes in aid of State education (these words were written by Mr. Tucker in 1896; it was not strange that he should have referred to the matter of education in the application of this principle, for he had opposed in Congress for years the Blair educational bill, which had for its object the appropriation of $77,000,000 to the States for the purposes of education), under the idea that all of these might be considered by Congress as for the common defense and general welfare? That the States should send to Congress their revenue for Congress to send back to them to be expended for State purposes would be a great and absurd anomaly. How, then, can it be supposed that the revenue derived by Congress under the present Constitution can be properly applied to pay for carrying into execution the unreserved power of the States?

These words are also found in the preamble to the Constitution of the United States, which is as follows:

We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

Of course, it will not be claimed that these words in the preamble constitute any grant of power any more than the expression to establish justice or secure the blessings of liberty to ourselves or any other provision in this preamble could be the source of power for action by Congress.

This conclusion has been sanctioned by the Supreme Court, but nowhere more clearly than Justice Harlan, speaking for the court, in Jacobson *v.* Massachusetts (197 U. S. 11):

Although the preamble indicates the general purposes for which the people ordained and established the Constitution, it has never been regarded as the source of any substantive power conferred on the Government of the United States or on any of its departments. Such powers embrace only those expressly granted in the body of the Constitution and such as may be implied from those so granted. Although, therefore, one of the declared objects of the Constitution was to secure the blessings of liberty to all under the sovereign jurisdiction and authority of the United States, no power can be exerted to that end by the United States unless, apart from the preamble, it be found in some express delegation of power or in some power to be properly implied therefrom.

The meaning of words, if a question of doubt arises as to their proper construction, would be determined by the consideration of the whole instrument in which they are placed and that construction arrived at which will give effect, if possible, to all parts of the instrument. Section 8 of Article I contains most of the specific powers granted to Congress, and this clause is included therein. These words are merely an expression of the general objects of the Government, immediately followed by the specific enumeration of 16 distinct powers and then by the coefficient clause, which enlarges and expands those powers in the right of Congress to pass all necessary and proper laws for carrying them into effect. The advocates of this new construction must therefore explain why a power which embraces every need and every want of a people in every phase of human development in society, which needs no specifications to enlarge its power—why such a power should be lodged in an article which follows with 17 specific grants of power to Congress. These specific grants, under their claim, were useless, aimless, and of no effect, for they were all embraced in "the common defense and general welfare."

To sum up the argument, these words, "the general welfare," are found in the Articles of Confederation where Congress could exercise only powers *expressly* granted; the express grants of power in the articles embrace the right to declare war, make treaties, establish post offices, and so forth, but not the power to lay and collect taxes or regulate commerce; but these words, "the general welfare," embrace also the power to lay and collect taxes, to regulate commerce, and so on, which are denied to the Congress of the Confederation, because not expressly granted. If this be true, why could not the Congress, if the words "general welfare" meant *then* what is *now* claimed for them, have laid taxes, raised an army, and regulated commerce, and so forth? But this it never attempted to do; but did not the exigencies of the times demand it? And yet these same words appear in the Constitution of the United States (Art. I, sec. 8), in the first specific power granted to Congress, between the grant and a limitation upon that grant—a location that imports sterility and not power; and it is claimed that their impotence in the Articles of Confederation, by transfer, has been changed to an omnipotent power for legislation of every kind and description that the wisdom of Congress may suggest or the cupidity of the States demand.

Mr. Hamilton, in his report on manufactures in 1791, which is referred to in another part of this paper, in speaking of the power of Congress to appropriate money under "the general welfare," says:

> The only qualification of the generality of the phrase in question which seems to be admissible is this: That the object to which an appropriation of money is to be made must be general and not local—its operation extending in fact, or by possibility, throughout the Union, and not being confined to a particular spot.

Now, observe his conclusion:

> No objection ought to arise from this construction from a supposition that it would imply a power to do whatever else should appear to Congress conducive to the general welfare. A power to appropriate money with this latitude, which is granted in express terms, would not carry a power to do any other thing not authorized in the Constitution, either expressly or by fair implication.

Under this statement of Mr. Hamilton, Congress, under "the general welfare of the United States," may appropriate money for any and for everything that Congress may deem for the general welfare. These words, with no limitation, are boundless in their scope and embrace everything which Congress may deem for the good of the whole country. But, to soften opposition to such a sweeping power, he adds:

> No objection ought to arise from this construction from a supposition that it would imply a power to do whatever else should appear to Congress conducive to the public welfare.

If the words "general welfare" embrace all, what else is left upon which legislation may be had? His limitation on this power is disclosed in these words:

> A power to appropriate money with this latitude, which is granted in express terms, would not carry a power to do any other thing not authorized in the Constitution, either expressly or by fair implication—

that is, Congress, because granted, as he claims, in express terms, the power to appropriate money for the general welfare, to wit, to schools in the States, can not do "any other thing," to wit, establish or create school systems in the States, because not authorized by the Constitution of the United States. This is a plain construction of his language. The result is that under this view Congress is prohibited from building a university or a school system in a State because the power has not been granted in the Constitution, but is allowed to support either with unlimited resources from the Treasury of the United States when built or established by the State. Why should Congress be denied the power to create what it may maintain and support after creation? Or why should Congress have power to support by taxation an institution or a system of schools which it is denied the right to create? And how can such a position consist with the language of Judge Marshall in Gibbons *v.* Ogden (9 Wheaton, 198-199):

> Congress is not empowered to tax for those purposes which are within the exclusive province of the States.

Congress need not, in levying a tax, set forth the purpose for which the tax is intended, but by reason of the very nature of our Government such a tax, when levied by Congress, has excluded from its use and destination, as declared by Judge Marshall, "those purposes which are within the exclusive province of the States."

As against Mr. Hamilton's position, I invite careful consideration of the views of Mr. Madison—which are entitled to more force than those of any other man connected with the making of the Constitution—found in a letter to Mr. Stevenson of 27th of November, 1830:

> If it be asked why the terms "common defense and general welfare," if not meant to convey the comprehensive power, which, taken literally, they express, were not qualified and explained by some reference to the particular power subjoined, the answer is at hand that, although it might easily have been done, and experience shows it might be well if it had been done, yet the omission is accounted for by an inattention to the phraseology, occasioned, doubtless, by identity with the harmless character attached to it in the instrument from which it was borrowed.
>
> But may it not be asked with infinitely more propriety, and without the possibility of a satisfactory answer, why, if the terms were meant to embrace not only all the powers particularly expressed but the indefinite power which has been claimed under them, the intention was not so declared; why, on that supposition, so much critical labor was employed in enumerating the particular powers, and in defining and limiting their extent?
>
> The variations and vicissitudes in the modification of the clause in which the terms "common defense and general welfare" appear are remarkable, and to be not otherwise explained than by differences of opinion concerning the necessity or the form of a constitutional provision for the debts of the Revolution, some of the members apprehending improper claims for losses by depreciated bills of credit, others, an evasion of proper claims, if not positively brought within the authorized functions of the new government, and others, again, considering the past debts of the United States as sufficiently secured by the principle that no change in the government could change the obligations of the Nation. Besides the indications in the Journal, the history of the period sanctions this explanation.
>
> But, it is to be emphatically remarked, that in the multitude of motions, propositions, and amendments there is not a single one having reference to the terms "common defense and general welfare," unless we were so to understand the proposition containing them, made on August 25, which was disagreed to by all the States, except one.
>
> The obvious conclusion to which we are brought is that these terms, copied from the Articles of Confederation, were regarded in the new, as in the old instrument, merely as general terms, explained and limited by the subjoined specifications, and therefore requiring no critical attention or studied precaution.
>
> * * * * * * *
>
> That the terms in question were not suspected in the convention which formed the Constitution of any such meaning as has been constructively applied to them may be pronounced with entire confidence. For it exceeds the possibility of belief that the known advocates in the convention for a jealous grant and cautious definition of Federal powers should have silently permitted the introduction of words or phrases in a sense rendering fruitless the restrictions and definitions elaborated by them.
>
> Consider for a moment the immeasurable difference between the Constitution limited in its powers to the enumerated objects and expanded, as it would be, by the import claimed for the phraseology in question. The difference is equivalent to two constitutions of characters essentially contrasted with each other, the one possessing powers confined to certain specific cases, the other extended to all cases whatsoever. For what is the case that would not be embraced by a general power to raise money, a power to provide for the general welfare, and a power to pass all laws necessary and proper to carry these powers into execution, all such provisions and laws superseding at the same time all local laws and constitutions at variance with them? Can less be said, with the evidence before us furnished by the Journal of the convention itself, than that it is impossible that such a Constitution as the latter would have been recommended to the States by all the members of that body whose names were subscribed to the instrument?
>
> Passing from this view of the sense in which the terms "common defense and general welfare" were used by the framers of the Constitution, let us look for that in which they must have been understood by the conventions, or rather by the people, who, through their conventions, accepted and ratified it. And here the evidence is, if possible, still more irresistible that the terms could not have been regarded as giving a scope to Federal legislation infinitely more objectionable than any of the specified powers which produced such strenuous opposition and calls for amendments which might be safeguards against the dangers apprehended from them.
>
> Without recurring to the published debates of those conventions, which, as far as they can be relied on for accuracy, would, it is believed, not impair the evidence furnished by their recorded proceedings, it will suffice to consult the lists of amendments proposed by such of the conventions as considered the powers granted to the Government too extensive, or not safely defined.
>
> Besides the restrictive and explanatory amendments to the text of the Constitution, it may be observed that a long list was premised under the name and in the nature of "Declaration of rights," all of them indicating a jealousy of the Federal powers and an anxiety to

multiply securities against a constructive enlargement of them. But the appeal is more particularly made to the number and nature of the amendments proposed to be made specific and integral parts of the constitutional text.

No less than seven States, it appears, concurred in adding to their ratifications a series of amendments which they deemed requisite. Of these amendments 9 were proposed by the convention of Massachusetts, 5 by that of South Carolina, 12 by that of New Hampshire, 20 by that of Virginia, 33 by that of New York, 26 by that of North Carolina, and 21 by that of Rhode Island.

Here are a majority of the States proposing amendments, in one instance 33 by a single State, all of them intended to circumscribe the power granted to the General Government by explanations, restrictions, or prohibitions without including a single proposition from a single State referring to the terms "Common defense and general welfare," which, if understood to convey the asserted power, could not have failed to be the power most strenuously aimed at, because evidently more alarming in its range than all the powers objected to put together. And that the terms should have passed altogether unnoticed by the many eyes which saw danger in terms and phrases employed in some of the most minute and limited of the enumerated powers must be regarded as a demonstration that it was taken for granted that the terms were harmless, because explained and limited, as in the "Articles of Confederation," by the enumerated powers which followed them.

A like demonstration that these terms were not understood in any sense that could invest Congress with powers not otherwise bestowed by the constitutional charter may be found in what passed in the first session of Congress, when the subject of amendments was taken up with the conciliatory view of freeing the Constitution from objections which had been made to the extent of its powers or to the unguarded terms employed in describing them. Not only were the terms "common defense and general welfare" unnoticed in the long list of amendments brought forward in the outset, but the Journals of Congress show that in the progress of the discussions not a single proposition was made in either branch of the Legislature, which referred to the phrase, as admitting a constructive enlargement of the granted powers and requiring an amendment guarding against it. Such a forbearance and silence on such an occasion, and among so many members, who belonged to a part of the Nation which called for explanatory and restrictive amendments, and who had been elected as known advocates for them, can not be accounted for without supposing that the terms "common defense and general welfare" were not, at that time, deemed susceptible of any such construction as has since been applied to them.

Surely nothing more need be added to this lucid and conclusive statement.

II.

THE MEANING OF THE GENERAL-WELFARE CLAUSE AS SHOWN BY THE DISCUSSIONS AND ACTIONS OF THE FEDERAL CONVENTION UNTIL ITS FINAL LOCATION IN ARTICLE I, SECTION 8, PARAGRAPH 1.

To trace the "general-welfare clause" through the Federal Convention, to determine its real meaning, is of the first importance. When the convention met, much doubt was expressed as to whether their powers permitted them to go further than amend the Articles of Confederation, but before the convention had finished its work it was generally felt that, as their work was merely a proposal, to be ratified by the people in their sovereign capacity in the different States, their powers were not limited to the amendment of the Articles of Confederation. Four propositions were brought to the convention. One by Edmund Randolph, or Virginia, which was offered in the form of 15 resolutions on the 29th of May, 1787. On the same day Mr. Charles Pinckney submitted his plan; Mr. Hamilton's plan was never submitted to the convention, but was read to it on June 18, 1787. On June 13, and again on June 19, 19 resolutions were reported by the Committee of the Whole to the convention. On June 15, 1787, Mr. Patterson offered his plan to the convention.

On the powers of Congress it is of interest to note the proposals of the different plans. Mr. Hamilton proposed that the Congress of the United States should be clothed—

with power to pass all laws whatsoever subject to the negative here after mentioned.

In his fourth proposition he proposed that the executive should "have a negative upon all laws about to be passed."

Mr. Patterson's plan as to the powers of Congress provided:

That in addition to the powers vested in the United States in Congress by the present existing Articles of Confederation, they be authorized to pass acts for raising a revenue by levying a duty or duties on all goods and merchandise of foreign growth or manufacture imported into any part of the United States—by stamps on paper, vellum, or parchment, and by a postage on all letters and packages passing through the General Post Office—to be applied to such Federal purposes as they shall deem proper and expedient. (Elliott's Debates on Fed. Const., 1787, p. 208.)

Mr. Randolph's plan provided:

That the National Legislature ought to be empowered to enjoy the legislative right vested in Congress by the confederation; and, moreover, to legislate in all cases to which the separate States are incompetent or in which the harmony of the United States may be interrupted by the exercise of individual legislation; to negative all laws passed by the several States contravening, in the opinion of the National Legislature, the articles of union or any treaty subsisting under the authority of the Union. (Id. p. 180.)

Mr. Charles Pinckney's draft provided:

ARTICLE VI.

SECTION 1. The Legislature of the United States shall have power to lay and collect taxes, duties, impost, and excises;

To regulate commerce with all nations and among the several States;

To borrow money and emit bills of credit;

To establish post offices; etc. (Id. p. 184.)

The remaining powers being practically those in the present Constitution, except the one giving the power to Congress to appoint a Treasurer by ballot.

On the 18th of June, after the convention had been in session nearly a month and Mr. Hamilton had participated but little, if any, in its debates, he offered a sketch for a constitution, the cardinal features of which show his imperialistic convictions, the first clause of which is as follows:

I. The supreme legislative power of the United States of America to be vested in two different bodies of men—the one to be called the Assembly, the other the Senate—who together shall form the Legislature of the United States, with power to pass all laws whatsoever, subject to the negative hereafter mentioned.

This clearly set forth the "general-welfare" clause.

Article III of his sketch provides:

The Senate to consist of persons elected to serve during good behavior.

Article IV provides:

The supreme executive authority of the United States to be vested in a governor, to be elected to serve during good behavior. * * * The authorities and functions of the Executive to be as follows: To have a negative on all laws about to be passed and the execution of all laws passed.

Article VI provides:

The Senate to have the sole power of declaring war.

Article X:

All laws of the particular States contrary to the Constitution or laws of the United States to be utterly void; and the better to prevent such laws being passed the governor or president of each State shall be appointed by the General Government and shall have a negative upon the laws about to be passed in the State of which he is the governor or president.

Article XI:

No State to have any forces, land or naval; and the militia of all the States to be under the sole and exclusive direction of the United States, all officers of which to be appointed and commissioned by them.

Had this proposition for a constitution been adopted it would have compared favorably with that of any monarchical government in Europe. Mr. Hamilton was a wonderful man, a patriotic man, but his belief in republican principles was extremely attenuated. He believed in and desired a strong centralized government. Think of the effect of the Senate being elected during good behavior, or the President during good behavior! Think of the power of the President against the wishes of the Congress to deny the passage of any and every law which he did not approve! This was not the veto power, but the power to say to Congress that as he did not approve, therefore a bill could not become law. Such a provision practically exists in the constitution of Japan to-day, which states that the legislative power rests with the Emperor, with the approval of the Diet. Consider for a moment the power given to the Senate, whose Members are to hold office during good behavior, to have the sole power of declaring war. Consider what "a wheel within a wheel" would have resulted had the Federal Government the power of appointing the governor of each State, and that governor had the power to negative any law passed by his State. Not only is power by these articles given the President practically to legislate for the United States but to legislate for the States, because under it he would have the power of appointing the governor of the State who would have the power to negative any law passed by the legislature of any such State, and then the capstone of the arch is seen in Article XI, where the militia of the States,

which, under the present Constitution, is reserved to the States for their protection and defense, is put under the sole and exclusive direction of the United States in order to stifle any spark of resistance that this monarchical system might create in the minds of the people. And in his speech in the convention presenting this scheme (Madison Papers, Vol. V, pp. 202–203) he said "that the British Government was the best in the world, and that he doubted much whether anything short of it would do in America."

And discussing the conflict between the powers of the States and of the Congress as proposed in the Patterson plan, he said:

Giving powers to Congress must eventuate in a bad government or in no government. The plan of New Jersey, therefore, will not do. What then is to be done? Here he was embarrassed. The extent of the country to be governed discouraged him. The expense of a general government was also formidable, unless there were such diminution of expense, on the side of the State government, as the case would admit. If they were extinguished he was persuaded that great economy might be obtained by substituting a general government. He did not mean, however, to shock the public opinion by proposing such a measure. On the other hand, he saw no other necessity for declining it. They are not necessary for any of the great purposes of commerce, revenue, or agriculture. There must be district tribunals—corporations for local purposes. But cui bono the vast and expensive apparatus now appertaining to the States.

How different this view, which relegates the States to the scrap heap, and that would have merged the people into one body politic, from that of Judge Marshall, the great Chief Justice, when he used these wonderful words:

No political dreamer was ever wild enough to think of breaking down the lines which separate the States and of compounding the American people into one common mass. (McCulloch *v.* Maryland, 4 Wheat. 403.)

How different from the judgments of Marshall and Taney, Chase and Waite, Fuller and White and Taft, who have often proclaimed the doctrine that to pull down the States would be to destroy the superstructure of the Federal Government.

On the next day (Id. 212) Mr. Hamilton said he—

had not been understood yesterday. By an abolition of the States, he meant that no boundary could be drawn between the National and State legislatures; that the former, therefore, must have indefinite authority. If it were limited at all, the rivalship of the States would gradually subvert it. Even as corporations, the extent of some of them, as Virginia and Massachusetts, would be formidable. As States, he thought they ought to be abolished.

The explanation only emphasizes his former position.

On the same day he used this language before the convention:

My situation is disagreeable, but it would be criminal not to come forward on a question of such magnitude. I have well considered the subject, and am convinced that no amendment of the Confederation can answer the purpose of a good government, so long as the State sovereignties do, in any shape, exist. (Yates's Minutes. Elliott's Debates on Federal Constitution, 1787, vol. 1, p. 464.)

And further (Id., p. 464):

Such are the lessons which the experience of others affords us, and from whence results the evident conclusion that all federal governments are weak and distracted. To avoid the evils deducible from these observations, we must establish a general and national government, completely sovereign, and annihilate the State distinctions and State operations; and unless we do this no good purpose can be answered.

And further (Id., p. 466):

What can be the inducements for gentlemen to come 600 miles to a national legislature? The expense would at least amount to 100,000 pounds. This, however, can be no conclusive objection if it eventuates in an extinction of State governments. The burden of the latter would be saved, and the expense then would not be great.

Compare these extracts with the following, from a speech made afterwards by Mr. Hamilton in the New York convention, urging them to ratify the Constitution (Elliott's Debates on Federal Constitution, 1787, vol. 2, p. 334):

I insist that it never can be the interest or desire of the National Legislature to destroy the State governments. It can derive no advantage from such an event; but, on the contrary, would lose an indispensable support, a necessary aid in executing the laws, and conveying the influence of government to the doors of the people * * *. Can the National Government be guilty of this madness? What inducements, what temptations, can they have? Will they attach new honors to their station? Will they increase the national strength—will they multiply the national resources—will they make themselves more respectable in the view of foreign nations or of their fellow citizens by robbing the States of their constitutional privileges, etc.?

*Quantum mutatus ab illo Hectore qui redit exuvias indutus Achilli.*

Mr Hamilton went to the convention with these monarchial ideas, which, if they had been adopted, would have built up upon this continent a monarchy more tyrannical than that of Imperial Rome. In this attempt he failed, and having failed, some of his followers seek by their interpretation of these words, "general welfare," to put into the Constitution that which the convention was asked to adopt, which was considered by it and rejected (for Article I of his proposed constitution would have given Congress the power *to pass all laws whatsoever*), which was temporarily adopted by the convention and afterwards reconsidered and rejected, when a part of the Pinckney plan, Article I, section 8, clauses 1, 2, 3, 4, 5, 6, 7, and 8, was adopted on August 16, and again on August 25, when a separate resolution embracing the Hamiltonian proposition of giving Congress the power to legislate in all cases was voted down by a vote of 10 States to 1.

It is of interest to observe that in a paper, "State of the Resolutions," offered by Mr. Randolph June 19, the word "national" is used 26 times in such phrases as "National Government," "National Legislature," "National Treasury," and so forth, while the word "national" does not appear in the Constitution at all; and on motion, June 23, the words "National Government" were stricken out of the third resolution. (U. S. Constitutional Convention, 1787, Journal, p. 145.) And also on June 25, by motion, in the fourth resolution the word "national" was stricken out and the words "United States" substituted for it. (Id., p. 146.)

On July 17 the resolution moved by Mr. Bedford, and passed by the committee (yeas 6, nays 4), seemed to embrace Mr. Hamilton's proposition and a part of Mr. Randolph's, which read:

The Legislature of the United States shall have the power to lay and collect taxes, duties, imposts, and excises; and, moreover, *to legislate in all cases for the general interest of the Union;* and also in those in which the States are separately incompetent or in which the harmony of the United States may be interrupted by the exercise of individual legislation.

Had this section become a part of the Constitution there would remain no doubt of the constitutionality of this proposed educational bill. It gave to Congress unlimited, unrestricted power. The passage of this resolution shows conclusively that the very question at issue here had been considered by the convention. Up to this time the convention was feeling its way, and had evidently not yet reached the conclusion whether the Hamiltonian idea for a centralized, consolidated government or a federal republic, as suggested by Mr. Pinckney's plan, was to prevail. The adoption of this resolution, however, indicated the temporary supremacy at least of the Hamiltonian idea in the convention.

On the 23d of July the first important step was taken in accomplishing the purpose of the convention by the appointment of a committee composed of Rutledge, Randolph, Gorham, Ellsworth, and Wilson "for the purpose of reporting a constitution." Here the struggle began between the contending forces. Rutledge and Randolph represented opposing views.

Mr. Rutledge, on the 6th of August, brought in from his committee a report of a draft of a constitution for the United States. (U. S. Constitutional Convention, 1787, Journal, p. 215.)

DRAFT OF A CONSTITUTION.

Reported by the committee of five, August 6, 1787:

We, the people of the States of New Hampshire, Massachusetts, Rhode Island and Providence Plantation, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, do ordain, declare, and establish the following constitution for the government of ourselves and our posterity:

ARTICLE I.

The style of this government shall be "The United States of America."

* * * * * * *

ARTICLE VII.

SECTION 1. The Legislature of the United States shall have—

1. The power to lay and collect taxes, duties, imposts, and excises;

2. To regulate commerce with foreign nations and among the several States;

3. To establish a uniform rule of naturalization throughout the United States;
4. To coin money;
5. To regulate the value of foreign coins;
6. To fix the standard of weights and measures;
7. To establish post offices;
8. To borrow money and emit bills on the credit of the United States;
9. To appoint a treasurer, etc.

Containing many of the other provisions contained in Article I, section 8, of the present Constitution; and the convention began at once the discussion of this proposed draft, which was the subject of discussion until the close of the convention. Article VII of this draft, section 1, it will be observed, does not include the amendment passed by the House on July 17 on motion of Mr. Bedford, but is in the exact form and wording of Mr. Charles Pinckney's original draft submitted to the convention on the 29th of May. And on the 16th of August the first eight clauses of section 1 of said article were unanimously adopted by the convention, and afterwards many of the remaining sections of that draft, with amendments, were adopted.

The Rutledge committee, by its report submitted August 6 for a constitution, having rejected the resolution adopted by the convention on the 17th of July, giving Congress the power "to legislate in all cases for the general interest of the Union," in favor of giving specific powers to Congress for certain purposes, and no more, as shown in Article VII of the plan submitted August 6, the convention was naturally considering whether all necessary Federal powers had been granted to the Congress; and on the 18th of August 20 additional propositions, giving additional powers to Congress, were referred to the Rutledge committee. Some of these were afterwards adopted and became parts of the Constitution. (For a list of these propositions, see page 260, United States Constitutional Convention, 1787, Journal, Boston, 1819.) The exclusion of certain of these propositions sheds great light upon the meaning of those that were adopted. Among those proposed which were not adopted were the following:

To establish a university.
To establish seminaries for the promotion of literature and the arts and sciences.
To establish public institutions, rewards, and immunities for the promotion of agriculture, commerce, trades, and manufactures.

A vote was taken on the proposition to establish a university and it was defeated, and the provision for the establishment of seminaries for the promotion of literature, as well as the others, failed to become a part of the Constitution, while propositions referring to the disposition of unappropriated lands, regulating the affairs of the Indians, exercising exclusive legislative authority at the seat of the General Government, securing to authors copyrights, the granting of patents for useful inventions, securing to authors exclusive rights for a certain time, and others were adopted and put into the Constitution among the powers of Congress. Of these 20 propositions, those which were adopted and those which were rejected all are embraced in the phrase "the general welfare of the United States." If some were put into the Constitution and others rejected, can the rejected ones claim the right of recognition in legislation under the general-welfare clause in the face of their rejection by the convention? This bill proposes to give money to support "seminaries for the promotion of literature and the arts and sciences." The convention denied the right of the Congress to do either. How then can Congress give money for any purpose outside of those for which it is authorized to legislate or for purposes distinctly rejected by the convention? If its taxes may be bountifully distributed to objects from which it is excluded, and which alone can be created and controlled by another government, is it not an anomaly in the history of governments?

September 8:

It was moved and seconded to appoint a committee of five to revise the style of and arrange the articles agreed to by the House. Passed. Committee appointed, as follows: Messrs. Johnson, Hamilton, G. Morris, Madison, and King.

But the advocates of consolidation in the convention were not yet ready to yield; and though the convention had adopted the plan submitted by the Rutledge committee on the 6th of August limiting the powers of Congress, and though additional specific powers had been added to those on the 18th of August, on the 25th of August one more attempt was made to undo what had already been agreed to by the adoption of a resolution, which was reported, to add to the first clause of the first section, seventh article, which reads:

The Legislature of the United States shall have the power to lay and collect taxes, duties, imposts, and excises—

the following—

for the payment of said debts and for the defraying of expenses that shall be incurred for the common defense and general welfare.

Observe that the words "of the United States" are not found after the words "general welfare" in the above; but they do appear in the Constitution.

This was passed in the negative, Connecticut alone voting for it and 10 States against it. Here we find for the first time in the proceedings of the convention the words "the common defense and general welfare." Mr. Johnson, of the Rutledge committee, on the 12th of September reported "The Constitution as revised and arranged," section 8, Article I of which reads:

The Congress may by joint ballot appoint a treasurer. They shall have power to lay and collect taxes, duties, imposts, and excises;
To pay the debts and provide for the common defense and general welfare of the United States;
To borrow money; etc.
To regulate commerce; etc., through the 18 powers.

On the Rutledge committee were two men of exceptional power in all matters of detail and of accurate expression, Mr. Madison and Gouverneur Morris. The convention was in three days of adjournment, and if the Constitution as adopted had contained section 8, Article I, as presented to the convention on the 12th day of September, the ratification of the Pinckney plan on the 6th day of August, which limited Congress to specific grants of power, would have been uprooted, and in its stead would have been substituted the Hamiltonian provision granting to Congress the power "to legislate in all cases for the interest of the Union," for in the form submitted on the 12th of September the power "to pay the debts and provide for the common defense and general welfare of the United States" appears as clause 3 of section 8, Article I, and is one of the distinct, specific powers granted to Congress separated from the second clause by a semicolon just as every other grant in that section is separated from the previous grant. It constitutes a clear, distinct, substantive grant to Congress. Rutledge, who had fought for limiting the powers, Madison, who believed in limiting the powers, saw the effect of it, and when the Constitution finally emerged from the convention on the 15th this form of Article I, section 8, had been changed to read:

The Congress shall have power—
To lay and collect taxes, duties, imposts, and excises to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States;
To borrow money on the credit of the United States;
To regulate commerce; etc.

The removal of the words "to pay the debts and provide for the common defense and general welfare of the United States" constituting the third clause as reported in the Constitution by Mr. Johnson on the 12th of September, up into the second clause, and the elimination of the semicolon after the word "excises," and the addition after the words "United States" of the words "but all duties, imposts, and excises shall be uniform throughout the United States," robbed the words "to pay the debts and provide for the common defense and general welfare of the United States" of any substantive grant of power and merely made them descriptive of the powers subsequently enumerated. This is an apt illustration of the different meanings that may be given to a sentence containing the same words, it may be, but limited by punctuation and by the location of a clause in the whole sentence or paragraph. When a barber was asked by a customer to give him a drink after he had shaved him, the barber refused and asked his reason for it. The customer replied, "Why, here is the sign out on your door which reads, 'What do you think, Jim Johnson will shave you and give you a drink for 15 cents.'" The barber replied, "You haven't read it right. There is some punctuation left out. It should read thus: 'What! Do you think Jim Johnson will shave you and give you a drink for 15 cents?'" The words were exactly the same as seen on the sign by the barber and the customer, but their setting, their punctuation, and their arrangement make the two constructions different.

Had the provision reported September 12 been adopted it would have meant that Charles Pinckney, who had carried his plan through successfully to the last few days of the convention, had surrendered the question of limiting the powers of Congress and had consented to give Congress one unlimited,

omnipotent power. The change could mean but one thing, a determination to settle finally and forever that no such sweeping power as is now sought in this bill was intended to be given to Congress. *Res ipsa loquitur.* No man in the convention had a clearer conception of its object than Mr. Madison. He was on this committee to arrange and revise the Constitution.

The arrangement of the words "common defense and general welfare" in the draft submitted on the 12th of September was fatal to the objects of Pinckney and Madison; and by changing the arrangement and the position of that clause and the punctuation the same words make an entirely different meaning. If the contentions of those who advocate this bill be correct that though this Government is one of limited powers, as enumerated in Article I, section 8, that still the insertion of the words "common defense and general welfare" give Congress the power to legislate in all other particulars not enumerated in that article, the subsequent enumeration of any powers was useless and absurd. Mr. Madison, one of the committee who made this change, indorses this view:

For what purpose could the enumeration of particular powers be inserted if these and all others were meant to be included in the preceding general power? Nothing is more natural and common than first to use a general phrase and then to explain and qualify it by a recital of particulars. But the idea of an enumeration of particulars which neither explain nor qualify the general meaning and can have no other effect than to confound and mislead is an absurdity which, we are reduced to the dilemma of charging either on the authors of the objection or on the authors of the Constitution, we must take the liberty of supposing had not its origin with the latter.

And though the advocates of this bill rely on Judge Story and his construction of this clause to justify this bill, he adopts Mr. Madison's construction and argument in the following words:

For what purpose could the enumeration of particular powers be inserted if these and all other particulars were meant to be included in the preceding general power? Nothing is more natural and common than to use a general phrase and then to qualify it by a recital of particulars. But the idea of an enumeration of particulars will neither explain nor qualify the general meaning and can have no other effect than to confound and mislead—is an absurdity which no one ought to charge on the enlightened authors of the Constitution. It would be to charge them either with premeditated folly or premeditated fraud. (Story on the Constitution, § 910.)

The words "general welfare," as seen in Article I, section 8, clause 1, we hold therefore are merely descriptive of what follows through 17 distinct grants to Congress, each separated from the other by a semicolon, showing that the whole constituted but one sentence; but the whole 17 grants of power in this section 8, Article I, can be referred naturally either to the "common defense" or the "general welfare." The words "common defense" are merely descriptive of those grants which follow in the same section, to wit, the power of Congress "to raise armies; to build a Navy; to use the militia," under certain circumstances. And so as to the words "general welfare," which embrace the powers "to regulate commerce; to coin money; to establish post offices and post roads," etc.; and by an examination of this section it is seen that every grant of power can be referred either to the clause to provide for the "common defense" or to provide for the "general welfare." The change made in this clause from its location as reported in the Constitution on the 12th of September shows conclusively that these words were intended to be merely words of description, and had no force beyond that.

Judge Story, after discussing the different stages of progress of this clause through the convention, concludes with these words:

In other words, it (this clause) conformed to the spirit of that resolution of the convention, which authorized Congress "to legislate, in all cases, for the general interests of the Union."

Very true, as the learned commentator says, that the "general welfare" clause means the same as the words—

to legislate, in all cases, for the general interests of the Union.

But Judge Story fails to note that the resolution containing these words which passed the convention was finally rejected when Mr. Pinckney's report was brought to the convention from the committee on the 6th of August. Judge Story fails to realize that while the general welfare and the clause to which he refers mean practically the same, the convention rejected the clause giving to Congress the power—

to legislate, in all cases, for the general interests of the Union—

on the 26th of August.

If this clause meant what the words "the general welfare" mean, and this clause was rejected by the convention, how can we reach any other conclusion than that the meaning which Judge Story would now give to the words "the general welfare" was also rejected by the convention? The fact that such a resolution was proposed in the convention and rejected but adds strength to the view that the construction now sought to be given to the words "the general welfare" was deliberately considered by the convention and rejected. Could demonstration be stronger or clearer? Not only that, but did not the convention fail to adopt Mr. Randolph's resolution, which resembled in some respects that proposed by Mr. Hamilton? (Madison Papers, 1220–1221; U. S. Constitutional Convention, 1787, Journal, pp. 131, 132, 220.) And did it not fail to adopt the provision suggested by Mr. Hamilton as set forth in article 1 of his plan, as follows:

The supreme legislative power of the United States of America to be vested in two different bodies of men, the one to be called the Assembly, the other the Senate, who, together, shall form the Legislature of the United States, *with power to pass all laws whatsoever,* subject to the negative hereafter mentioned.

Here are two propositions, Randolph's and Hamilton's, both of which in their meaning and scope would have fully covered the construction now sought to be put upon the "general welfare clause." They were both represented by able and prominent men in the convention, each of whom came to the convention to press a certain form of constitution, and each failed to get incorporated into the Constitution that clause which would have given Congress the power to legislate on all subjects; and having failed in getting the convention to adopt it, Judge Story seeks to put a construction upon the words "general welfare," stuck away in the bowels of another power, which it divided asunder, that would mean exactly what the rejected proposition meant. Can it be possible that so obvious a fact could have escaped the detection of the constitutional students of those days in the convention?

The Constitution was agreed to, as amended in the convention, on the 15th of September, all the States concurring.

The foregoing recitals embrace practically all of the action of the convention on the clause of the Constitution which we are now considering, and we have traced these different steps from the beginning to the end to show the impossibility of such construction as is now sought to be given to the words "the common defense and general welfare."

The purposes and divisions among the members of the convention when it met were quite different and distinct from its very beginning. They are so well stated by Luther Martin, a member from Maryland, in a speech which he made to the Legislature of Maryland on his return home, giving an account of his stewardship, that I give a portion of it. He says (Elliott's Debates on Federal Constitution, vol. 1, p. 388):

But it may be proper to inform you that on our meeting in convention is was soon found there was among us three parties of different sentiments and views.

One party whose object and wish it was to abolish and annihilate all State governments and to bring forward one general government over this extensive continent of a monarchical nature under certain restrictions and limitations. Those who openly avowed this sentiment were, it is true, but few; yet it is equally true that there was a considerable number who did not openly avow it, who were, by myself and many others of the convention, considered as being in reality favorers of that sentiment, and acting upon those principles, covertly endeavoring to carry into effect what they well knew openly and avowedly could not be accomplished.

The second party was not for the abolition of the State governments nor for the introduction of a monarchical government under any form, but they wished to establish such a system as could give their own States undue power and influence in the government over the other States.

A third party was what I considered truly federal and republican; this party was nearly equal in number with the other two and were composed of the delegations from Connecticut, New York, New Jersey, Delaware, and in part from Maryland; also of some individuals from other representations—

And so forth.

The purpose of the convention and the object in view in the production of such a Constitution are seen in a letter addressed to the Congress by the Federal Convention September 12, 1787, which was agreed to, and contains the following:

The friends of our country have long seen and desired that the power of making war, peace, and treaties, that of levying money and regulating commerce, and the correspondent executive and judicial authorities shall be full and effectually vested in the General Govern-

ment of the Union. But the impropriety of delegating such extensive trust to one body of men is evident. Thence results the necessity of a different organization. It is obviously impracticable, in the Federal Government of these States, to secure all rights of independent sovereignty to each and yet provide for the interest and safety of all. Individuals entering into society must give up a share of liberty to preserve the rest.

Mr. GARRETT of Tennessee. Mr. Speaker, will the gentleman yield for a question?

Mr. TUCKER. Certainly.

Mr. GARRETT of Tennessee. I concur with the ideas that the gentleman is expressing. I wish to ask him this: If the Federal Government can properly spend money on any enterprise, is it not after all the duty of the Federal Government to follow that money and see how it is expended?

Mr. TUCKER. My discussion of that question comes later on in my speech. I have not gotten to it yet. Undoubtedly the gentleman is correct. What power has the Congress of the United States, if it has the power to appropriate this money, to give it to another government it can not control? We, as the trustees of the people of this country, are empowered to levy taxes, and what right have we as their trustees to transfer that tax money to another government over which we have no control? It is a violation of a clear trust duty. There is no question about it.

Mr. BOYCE. Mr. Speaker, may I ask the gentleman a question?

The SPEAKER. Does the gentleman from Virginia yield?

Mr. TUCKER. Yes.

Mr. BOYCE. How about Government aid to roads?

Mr. TUCKER. I have never doubted the constitutional power of the Government of the United States to build certain roads.

Mr. BOYCE. Under the Constitution?

Mr. TUCKER. Yes, sir.

Mr. BOYCE. Post roads?

Mr. TUCKER. Yes.

Mr. BOYCE. I have your idea. How about the Smith-Lever Act?

Mr. TUCKER. I am not so well acquainted with that.

Mr. BOYCE. Or the Smith-Hughes Act?

Mr. TUCKER. If the gentleman will read my remarks, which I am going to extend, he will find that I take up the discussion of the road question and legislation under the Morrill Act; "The Congress shall have power to dispose of * * * the territory or other property belonging to the United States." (Art. IV, sec. 4, Constitution of the United States.)

Mr. BLANTON. Mr. Speaker, will the gentleman yield for a question?

Mr. TUCKER. Yes.

Mr. BLANTON. Is it not a fact that where the Federal Government has rendered aid to the States for education the educational department here in Washington in such cases has insisted upon approving the course of study?

Mr. TUCKER. Oh, absolutely.

Mr. BLANTON. That is done in every State now?

Mr. TUCKER. Yes.

Mr. HILL of Maryland. Mr. Speaker, I ask unanimous consent that the gentleman from Virginia may have half an hour additional. He is making a very interesting address.

Mr. TUCKER. I thank the gentleman.

The SPEAKER. The Chair does not understand that the gentleman would like to have his time extended.

Mr. TUCKER. Yes; I would appreciate an extension.

The SPEAKER. The gentleman from Maryland asks unanimous consent that the time of the gentleman from Virginia be extended half an hour. Is there objection?

There was no objection.

Mr. HILL of Maryland. I would like to have an extension also.

III.

ANALYSIS OF THE CONSTITUTIONAL VIEWS ON THIS SUBJECT BY KEITH AND BAGLEY, AS DEVELOPED IN THEIR BOOK, "THE NATION AND THE SCHOOLS," AND OF JUDGE HORACE M. TOWNER AND OTHERS DURING THE LAST CONGRESS.

Mr. TUCKER. The views just stated would ordinarily constitute the conclusion of the constitutional argument against this bill, but, in the anxiety of certain parties to carry out what they believe to be a good thing for the country, we find two extraordinary propositions advanced by the advocates of this scheme to meet the lack of power in the Federal Government, so necessary to the accomplishment of their purpose. The first of these propositions is found developed in a book entitled "The Nation and the Schools," the Macmillan Co., 1920, written by John A. H. Keith, president, State Normal School, Pennsylvania, and William C. Bagley, professor of education, Columbia University. The book is written to advance the Smith-Towner educational bill. Interesting novelties in constitutional law are found within its pages. On page 294 we find the following:

The federal form of government limits, in many ways, the exercise of national power. Therefore, and fortunately, the Government has resorted to leadership and as a constitutional substitute for the direct exercise of power.

On page 264 they declare:

The plan of having the local community exclusively responsible for the public-school facilities has been tried and always with failure. The State has found it necessary to set up standards of various kinds and to provide supervision. And the Nation has contributed in various ways.

And on page 265 we find:

Our Federal Constitution, by silence in its original articles and by the negative of the tenth amendment, makes the organization, management, and supervision of public education exclusively a matter of State responsibility. No constitutional barrier, however, lies against the encouragement of public education by the Federal Government.

And on page 266:

If the Federal Government desires to appropriate money to the several States, to encourage them to equalize educational opportunities within their own borders, it has a clear right to do it, and in this act the Federal Government may include whatever conditions seem to it reasonable and desirable.

In describing the provisions of the bill and the reasons therefor, we find the following on page 297:

3. A department of education is needed to coordinate and integrate the educational forces of the Nation. In discharging this function leadership and not law must be the potent force. One of the first steps that a secretary of education would take would be to call a conference of the chief educational officers of the several States for the consideration of national educational policies. Any policies that this conference adopted affecting State and local education could be carried into effect, of course, only through cooperative State action. With the prestige attaching to a department of education the leadership essential to this, the only method of working out the Nation's educational problems, would come most readily, and yet not so readily that the secretary of education could become in any sense an educational dictator. Whatever plans this official proposed would be subject to correction, even to rejection, by the conference; only a true leader with convincing policies could wield a lasting influence.

And, on page 299, in describing the necessity for the establishment of a secretary of education, it is declared:

Through leadership of this type every significant value of a Federal system of education could be realized without imposing upon the country a centralized and necessarily autocratic school administration.

And further, page 305, in speaking of Federal aid to the schools:

Such subventions are clearly consistent with historic precedent, and a department of education, rather than a national board of education, is in harmony with historic method of safeguarding and advancing national interests in fields to which the sovereignty of the United States does not extend.

The book abounds in statements like the above, and constitutes an argument and a plea that will find sympathetic hearers among those who are seeking to uproot the Constitution of the United States. There is not pending to-day a controversy in the United States between organized capital and organized labor that will not find conclusive sanctions for disregard of law in the arguments which these learned and distinguished gentlemen have advanced for this bill. What a relief to the contending forces who are to-day threatening the peace and good order of America to find that a resort "to leadership as a constitutional substitute for the direct exercise of power" is recognized as a valid remedy for their troubles.

Mr. Speaker, *if the torch is ever applied to the Temple of liberty in America, it will doubtless be carried in the hand of one who has substituted "leadership" for law at the demand of the mob.* These gentlemen hold that "the federal form of government limits in many ways the exercise of national power," and in the same sentence provide a substitute for that limitation. "Leadership!" By whom ordained? The red-coated soviet? Can he, against the constituted authority of our country, by his *ipse dixit* make what is denied to him in the Constitution valid by a self-assumed leadership?

Having stated, as just quoted, that under the Federal Constitution "the management and supervision of public education" is exclusively a matter of State responsibility they now add that though the power to control the education of the country has been denied the Federal Government, that Government may assume "leadership" on a subject which is denied to its control, and that this leadership, mark the words, is to be a "constitutional substitute for the direct exercise of power." Does Article V of the Constitution include this mode of amendment? How can the Government of the United States, denied the right to control in any manner the educational systems of the States, create "a leadership" in the Government as a "constitutional substitute" for the exercise of powers which are denied to it? Is not this anarchy and defiance of law, pure and simple? And this idea is not advanced by soap-box orators on the street corners of our American cities, nor by the lately enfranchised German, Italian, Hungarian, Polish, or Russian citizens of the United States with their ignorant and immature schemes of government. But it comes from the highest type of our educated citizenship, and, in my judgment, has never been surpassed by the pronouncements of the wildest leaders among those who would destroy our constitutional form of government. Such doctrine is an open defiance of the Constitution; a recognition of what is sought in so many directions to make Congress and not the Constitution the controlling influence in the country. We are witnessing to-day the organization of societies of all sorts in every State and every community of the Union to teach our own people and the foreign elements in our population that the Constitution must be preserved as the guiding star of our existence as a Nation. The soviet, the Bolshevik, do not hesitate to proclaim the doctrine of resistance to and the destruction of all governments, and it is therefore the more surprising to find among the educated classes, represented by these leading gentlemen, the indorsement of this vicious, heretical doctrine. See how strongly this proposition is put in the quotation made above, "In discharging this function leadership and not law must be the potent force." What has become of the doctrine, the pride of America, that boasted doctrine, "that we live in a country controlled by law, not by men," when our educated men can lend the influence of their positions to those who would subvert the law and in its place enthrone man panoplied in "leadership" as "a constitutional substitute" for law?

The object of Keith and Bagley is a good one, the removal of illiteracy from the country. As developed at the outbreak of the late war, it naturally produced a profound sensation. No nobler, higher purpose can possess the human soul than that of shedding light into darkness and substituting knowledge for ignorance among the people.

The assaults upon our form of government and upon the Constitution of the United States and the need of enlightened study of those questions has emphasized in their minds the need of some remedy, for how can the Constitution or our Government be studied with effect by people who can not read? But it must not be forgotten that the cardinal principles of education are not limited to knowledge. Education must embrace three lines of development to constitute real education, *head*, *heart*, and *hand*. Its derivation (*e* and *duco*) shows this. To draw out all that is within the man's nature. Physical, intellectual, and moral development are all necessary to constitute education.

These constitute a trinity in unity, each important in itself, but all three necessary to accomplish the one thing—education. The development of the intellect of man at the expense of his physical life is fatal. The development of the physical man when the heart and head are permitted to shrivel and die is equally fatal, and the development of the head and hand at the expense of the heart is an educational monstrosity. And thus we find Keith and Bagley, to save our form of government and Constitution from destruction at the hands of illiteracy, inculcating the lesson that in order to secure the education necessary to *save* the Constitution it is first necessary to *break* it; for finding that under its provisions this education can not be given by the Federal Government they boldly proclaim a doctrine above the Constitution, "a constitutional substitute" for the very instrument which they are seeking to preserve from destruction. This is but the echo of a doctrine that for years was heard throughout the land—"there is a higher law than the Constitution." What boots it that the Constitution which is thus to be smashed can or can not be read? What sort of moral education can be secured to the people of the United States which can be secured only by a violation of the fundamental law of the country? Illiteracy is bad, but by no means so bad for the country as moral obliquity. If the Constitution is to be broken under this fatal doctrine of "leadership," the education attained by it will be a poor exchange for honest illiteracy. The moral stamina of a people is not always determined by literacy or illiteracy. And so if this bill should pass and become a law, what would be accomplished would not be education, if my definition be correct; but the so-called education under it might be likened to the good which a so-called minister of the gospel accomplished among his people when he boasted that he had succeeded in smuggling in 50 volumes of the Holy Bible for them that he had brought from Europe, though subject to duty at the customhouse. From such teachings and examples as these I invoke the language of the litany, "Good Lord deliver us." It is the doctrine of resistance to constituted authority, to the Constitution, and to the law of the country, and is forgetful of the fact that the object of a constitution is to prescribe certain powers for government and to restrain within prescribed limits the activities of the people. To substitute "leadership" for the Constitution when a desirable temporary measure may be wanted is to subvert the Constitution. Our Constitution has been to our people a great rock of protection, beneath whose shadows they have rested secure in their liberties and their rights of property for more than 130 years; and now, when some measure is sought which can not be brought within its grants of power, it is regarded as an impediment to progress.

It has been our security amid sunshine and storm in the past, and the attempt to uproot it by methods like these proposed must be resisted to the last; its provisions for the protection of civil and religious liberty, for the security of property, for the maintenance of equality, of opportunity to all alike have been "houses of refuge" to the weak and oppressed during its long and glorious history. I commend to the advocates of this bill who invoke such doctrine in its support the impressive language of the Book of Books:

*Remove not the ancient landmark which the fathers have set.* (Proverbs, xxii: 28.)

And if this admonition be not accepted, I add the awful malediction of Jehovah's spokesman:

*Cursed be he that removeth his neighbor's landmark; and all the people shall say, Amen.* (Deuteronomy, xxvii: 17.)

But the most fatal admission in this book is that quoted above, that the Federal Government can appropriate money to the States for education and "may include whatever conditions seem to it reasonable and desirable." It is this claim by the proponents of the bill that makes its acceptance impossible. Admitting, as they do, that the States alone can control their educational systems, they yet claim that the Government may appropriate money to such schools and put such conditions upon it as they deem proper. If the States accept the conditions, is not the control of the system given to the Federal Government to that extent? Suppose the Federal Government after a few years should exact as a condition of the appropriations that all schoolbooks should be selected by the proposed secretary of education, and the States should accept that condition, would their acceptance make it valid? By no means; for the right to select schoolbooks for children of the States is by the tenth amendment left with the States, which they can not surrender; to transfer this power to the Federal Government would require an amendment to the Constitution of the United States, and the consent of the States through their legislatures does not meet the requirements of Article V of the Constitution for such a change.

This bill, in one of its provisions, sets forth that the $100,000,000 provided by it is to be given to the States to be "administered exclusively by the legally constituted State and local educational authorities of said State, and the secretary of education shall exercise no authority in relation thereto except as herein provided," and so on.

The first few years of its administration would probably be free from criticism; and if, as Keith and Bagley say, the Government may give the money upon conditions, suppose the next year, after the States have tasted of this "forbidden fruit" and find it good, and the Congress of the United States, the bountiful provider of these funds, should direct that the $100,000,000, or $200,000,000, or $300,000,000 should be given to the schools under this law on condition (with the view of "nationalizing" education) that the teachers for the California and Maine schools should be selected from Virginia and Louisiana, and *e contra*, the teachers for Virginia should be secured from Utah, North Dakota, and Nevada; or suppose the secretary of education in the exercise of his or her judgment and power as above claimed, in order to nationalize education, should conclude that the textbooks for all of the schools of the United States should be written by certain men to be selected by him or her, and that those books alone that met his or her approval should be open to use in any schools in the United States; or

suppose the secretary of education, in the exercise of the power he or she would have in prescribing conditions upon the money to be carried by the bill, should require, in order to minimize the number of schools in the United States, and in order to institute economical methods in their development, that these millions of dollars that are to go to the schools could only go upon the condition that no separate schools recognizing racial differences in the States should exist in the States, can it be doubted what would be the result in the United States?

In this bill the camel only desires to get his neck under the tent covering, an act in itself perfectly harmless, but the circus managers, for the safety of their business, have found it most important not to allow the camel to get his neck in that position. No man who has studied this bill can fail to see that if its proponents can only get it passed and started, the control of the school systems of the States will pass to the Federal Government. The plain declaration on its face that its administration is to be by State officers and by them alone amounts to absolutely nothing in the face of the open declaration that the Federal Government may appropriate the money on any conditions it pleases; and the next few years would see these conditions imposed, knowing that this bill is for the purpose of "nationalizing" education. Keith and Bagley, page 299, confirm this. "Through leadership of this type every significant value *of a Federal system of education could be realized.*"

The object of its proponents is to "nationalize" education. In order to do that they introduce this bill giving money to the States for their schools, to be administered solely by State officers. The Federal Government can easily get its hands on the schools through this bill in its present form, in which Federal control is excluded, for the Government it is claimed can impose any conditions it pleases in the future upon the appropriations it makes. Then, alas! it will be too late for the States to resist or to retire, and the Federal Government will be secure in its power to "nationalize" the educational system or do with it as they please. How can any man doubt this? We have an instance of the effect of the 50-50 proposition in our roads. Money appropriated for roads by the Federal Government is to be administered by State authorities. It started just as this bill does, very innocently and with proper regard for the rights of the States, and yet to-day not a mile of road can be built in any State of the Union with Federal money without the declaration of the officers of the Federal Government that it measures up to their requirements of a road. Look at the militia of the States. A few years ago the Federal Government began appropriating money for the purpose of aiding the militia—the military arm of the State. Year by year they have increased these appropriations for various and sundry purposes, protesting—"I vow thou doth protest too much"—that it was merely a desire to aid, not control, the militia of the States. To-day the word "militia" is not found in the vocabulary of our Government, but the "National Guard," the substitute for the militia, it is now claimed owes its first service to the Government of the United States, whereas the old militia owed its entire service to the State, except when called by the Federal Government to execute its laws, to suppress insurrections, or repel invasions. See Judge Marshall's view of this subject, *supra*.

I am not one of those who believe the nationalization of education is a desirable thing; that the same education must be given to every child in the United States. Such an idea is unscientific and would meet with dismal failure if attempted. The variety in educational forms and problems found in the different States of the Union are stimulating to educational activities in others which would be nullified and destroyed by a national system. The strength and the beauty of our American system is found in its variety. Just as the varied flora of the United States adds new interest and beauty to the country as we pass from one section to the other, so the variety of character, developed in different parts of the country, under different conditions, not all alike, not all equally desirable, but each with its own individuality, adds strength and beauty to the whole. A system that would mold us all alike should be resisted. Men from the Southern States of the Union modestly admit that they represent the best people in the United States.

I have a large sympathy with that feeling, and yet I should dislike very much to see all the people of the United States molded into the southern type. I would miss the economic traits, the thrift, and the sturdy character of New England; I would miss the breezy spirit of the great Northwest, the center of energy of this country, with its indefatigable energy, with its powers of endurance, and with its wonders of accomplishment; I would miss the cosmopolitan spirit of the people of the Pacific coast, circumscribed by thousands of miles of ocean on the one side and the Rocky Mountains on the other, who, with their wonderful climate and diversified population, have developed many of the most attractive features of the civilization of all sections of the country. America is strongest because of these varieties, and would be weaker by the adoption of one common mold that would make us all alike. America is a mosaic in character incomparably more beautiful and stronger on that account than any uniformity of training can bring to its people. We boast of all nationalities—Scotch-Irish, Irish, French, Germans, British, Italians, Hungarians, Poles, Scandinavians, and so forth. Could this uniform mold that is proposed ever make a Frenchman of a Scotch-Irishman? Emphatically no; and the attempt would ruin both and improve neither—and so with other nationalists.

Leadership as "a constitutional substitute for the direct exercise of power" has carried many a mob to the door of the county jail and given over the helpless victim of its displeasure into the hands of the misdirected populace. Surely no such basis as this, in defiance of law and of constitutional limitations, should be considered for a moment as the foundation for this bill. This bill, if enacted into law, inevitably means the ultimate unconditional control of the schools of this country by the Federal Government. Starting with the admission that any conditions may be made which the Government regards as desirable, what matters it that the present bill declares that the schools are to be administered solely by State officials? That is merely the law of to-day, not of to-morrow. Two years from now another bill will be presented, and every clause in this bill may be uprooted in the enactment two years hence. Only 17 States of the 48 provide for separate schools for the whites and blacks. With the power to fix conditions upon which the money shall be spent, will not 31 States control 17 in eliminating the separation of races in the schools? The 17 States that demand a separation of the races have in the House of Representatives 152 Members. The 31 States that make no such requirement have 283 Members, leaving a majority of 131 from States that have no such requirement. In the Senate the proportion would be 34 to 62. This preponderating influence would certainly be felt by the secretary of education. To allow our school systems in the South to be put in this dangerous position can not be defended. The man who puts his head in a lion's mouth may get it out safely, but surely his friends can not complain if he loses it. The same principle applies to schoolbooks, teachers, and all the administration of the intricacies of the system.

And lastly, though none of these objections be valid, and the 48 systems could be united in one consolidated system at Washington, constituting a "Federal system of education," or the "nationalization" of education, such a system would never be as effective in meeting the wants of the people in the various parts of the country or in its efficiency as that adopted by the people of the separate States.

The second point, which has been emphasized by many, notably by Judge Towner in a speech made in the House of Representatives on the 29th of June, 1922, is that the right of the Government to appropriate money to the States for school purposes is legal and constitutional because the Government in times past has contributed money for such purposes. This doctrine seems to me to be somewhat vague, for the question is not whether the Federal Government has in the past appropriated money for school purposes, but, if it has, had it the constitutional power to do so? The question is not whether it has ever been done but whether it has been rightfully and constitutionally done. The question has never been determined by the Supreme Court, and every law passed by Congress is valid until declared unconstitutional by that great tribunal. If the former acts of Congress in appropriating money for these purposes were wrong and illegal and unconstitutional, can it be contended that such acts, because passed by Congress, would make this bill legal and constitutional?

The argument drawn from this proposition is that continued *wrong* if persisted in will become *right*. It may be presented thus: Here is a law passed by Congress 100 years ago which to-day all parties would agree is unconstitutional. It could only be set aside by being brought to the Supreme Court and tested there. Very few laws of Congress get to the Supreme Court. This specific law, not having been declared void, remains upon the statute books. It is followed by another involving the same principle, equally notorious in its unconstitutionality, and by another, none of which reach the Supreme Court. How often, I ask, must this repetition of lawlessness occur to constitute lawfulness? How many infractions of the law are necessary to constitute the lawbreaker a law observer? Must we "continue in sin that grace may abound"? God for-

bid! How often can a man commit murder and go unchallenged because he escapes detection, and finally be able, when caught, to claim his innocence because not prosecuted for the previous 20 murders he has committed? Can the bootlegger claim immunity from punishment when caught because he successfully eluded the officers of the law for months and was never punished; or can his unpunished trips, on which he was never caught, save him from punishment when he is caught? Could such a plea be admitted in any court—that because a prior violation of law has gone unwhipped of justice the commitment of another can wipe out the former stain and make the last an act of innocence? In the practical operation of Congress, often when a Member desires the passage of a bill which he feels sure is not constitutional he looks for a precedent. That precedent may be admittedly unconstitutional, but he feels as if he were in a haven of safety if only he can find a precedent. That precedent has never been tested by the courts. The Member himself may regard it as unconstitutional, but because it has escaped the courts he tries it, hoping his bill will likewise escape.

And so we are often met by proponents of this law with the statement that the "general welfare" clause, without regard to its original validity, has become valid from its accepted use and exercise by Congress, and numerous instances are given of measures which are said to have no other standing than this claim of power.

The first measure to which usually attention is called is the 50-50 appropriation by Congress for roads in the States, and this is claimed to be done under the "general welfare" clause. Whether such a policy is advisable or not is one question, but the power of Congress to act is not justified under the "general welfare" clause, but under the war power and the power to establish post offices and post roads. Numerous bills were discussed in the early history of the country involving this principle, among them the Cumberland road bill, and while the sentiment was by no means unanimous on the proposition it has always had strong advocates and, in Congress, sometimes a majority in its favor.

In 1817 President Monroe, in his annual message, denied the constitutionality of such legislation, but recommended an amendment to the Constitution allowing such. That portion of his message was referred to a special committee of the House, of which Judge Henry St. George Tucker, of Virginia, was chairman.

The report (see Annals of Congress, pp. 451–460) sustained the following propositions:

"That Congress has the power (1) to lay out, improve, and construct post roads through the several States, with the assent of the respective States; and (2) to open, construct, and improve military roads through the several States, with the assent of the respective States; (3) to cut canals through the several States, with their assent, for promoting and giving security to internal commerce and for the more safe and economical transportation of military stores, etc., in time of war, leaving in all these cases the jurisdictional right over the soil in the respective States" (p. 458).

"And on March 10, 1818, as a result of this report, the following resolutions were adopted by the Committee of the Whole House on the state of the Union:

"'*Resolved*, That Congress has power, under the Constitution, to appropriate money for the construction of post roads, military and other roads, and of canals, and for the improvement of watercourses. (Ayes 78, noes 58.)

"'*Resolved*, That Congress has power, under the Constitution, to construct post roads and military roads; provided that private property be not taken for public use without just compensation. (Ayes 76, noes 70.)

"'*Resolved*, That Congress has power, under the Constitution, to construct roads and canals necessary for commerce between the States; provided that private property be not taken for public purposes without just compensation. (Ayes 70, noes 69.)

"'*Resolved*, That Congress has power, under the Constitution, to construct canals for military purposes; provided that no private property be taken for any such purpose without just compensation being made therefor.' (Ayes 75, noes 63.)

"When these resolutions were brought into the House on March 14, the first was adopted by a vote of 90 to 75; the second was defeated by a vote of 82 to 84; the third was defeated by a vote of 71 to 95; the fourth was defeated by a vote of 81 to 83." (Annals of Congress, pp. 1385–1389.) (Tucker's Woman Suffrage by Constitutional Amendment, pp. 153–155, Yale University Press.)

While all four of the above resolutions passed the Committee of the Whole House, only one, the first, when brought into the House, received a majority, though the vote on the others was very close in the House. I have never doubted the power of Congress to make such appropriations under the above first, second, and fourth resolutions, but have had doubts of its power under the third resolution.

We are constantly met also with the claim that the Morrill Act of 1862, establishing agricultural colleges, was passed under the "general welfare" clause, and that the principle has been broadened from time to time. Without going into this question exhaustively, I beg to submit the following facts in reference to the western territory ceded to the United States by Virginia. On the 10th of October, 1780, Congress passed the following resolution:

*Resolved*, That the unappropriated lands that may be ceded or relinquished to the United States, by any particular State, pursuant to the recommendation of Congress of the 6th day of September last, shall be disposed of for the common benefit of the United States, * * *.

That the said lands shall be granted or settled at such times and under such regulations as shall hereafter be agreed on by the United States in Congress assembled, or in nine or more of them. (Journals of Congress, No. 6, p. 145.)

Theodoric Bland, Edmund Randolph, and James Madison were among those who represented Virginia at that time in the Congress.

The resolution of Congress of September 6, 1780 (Journals of Congress, No. 6, p. 123), urged the States that had claims on the western territory to yield them and convey the land to the United States. In compliance with this resolution, Thomas Jefferson, S. Hardy, John F. Mercer, Arthur Lee, and James Monroe, duly appointed by the General Assembly of Virginia, being Members of the Continental Congress from Virginia, conveyed the northwest territory belonging to Virginia to the United States on the 1st day of March, 1784. (See Henning's Statutes at Large, 1782–1784, Vol. II, p. 571.) In this deed they convey "unto the United States in Congress assembled, for the benefit of the said States, all right, title, and claim, as well of soil as jurisdiction, which this Commonwealth hath to the territory or tract of country within the limits of the Virginia charter situate, lying, and being to the northwest of the River Ohio, subject to the terms and conditions contained in the before-recited act of Congress the 13th day of September last," and so on.

And, further, the deed of cession contains the following (p. 574):

That all the lands within the territory so ceded to the United States and not reserved for or appropriated to any of the before-mentioned purposes, or disposed of in bounties to the officers and soldiers of the American Army, shall be considered as a common fund for the use and benefit of such of the United States as have become, or shall become, members of the Confederation or Federal alliance of the said States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatsoever.

On Friday, May 20, 1785, Congress passed—

An ordinance for ascertaining the mode of disposing of lands in the western territory:

*Be it ordained by the United States in Congress assembled*, That the territory ceded by individual States to the United States, which has been purchased of the Indian inhabitants, shall be disposed of in the following manner.

Minute directions are given to surveyors as to how to lay out plots of townships in the territory, and among the provisions in this ordinance is the following:

There shall be reserved for the United States out of every township the four lots, being numbered 8, 11, 26, 29, out of every fractional part of a township, so many lots of the same number as shall be found thereon, for future sale. There shall be reserved the lot No. 16 of every township for the maintenance of public schools within the said township, etc. (Journals of Congress No. 10, pp. 118–121.)

This ordinance was passed in compliance with the resolution of Congress of October 10, 1780, which gave Congress the power to grant such lands under such regulations as they might agree upon. By Virginia's deed a trust power was conferred upon the Congress by Virginia for all the States of the Union and all that might come into the Union. The Congress accepted the trust with the declaration that it was to have the power to dispose of the lands at such times and under such regulations as they deemed fit. Virginia, knowing these facts, conveyed accordingly. This trust duty which rested on Congress was naturally assumed by the United States of America when the Constitution was adopted, and this Constitution recognized such trust obligations, for Article VI declares:

All debts contracted and engagements entered into before the adoption of this Constitution shall be as valid against the United States under this Constitution as under the Confederation.

So the United States accepted the trust which expired with the expiration of the Confederation, and declared in Article IV, section 3, how this trust should be administered:

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

The Congress of the Confederation had indicated by the ordinance of May 20, 1785, that under power given it by the resolution of October 10, 1780, to convey this land under such regulations as they deemed fit, they would impress it with the obligation of supplying the people of the infant Republic with education. This is clearly seen in the above ordinance of May 20, 1785, wherein lots Nos. 8, 11, 26, and 29 were reserved for the United States "as a common fund" for all of the States (Virginia's deed of cession), and the same paragraph which reserves the above to the United States reserves "lot No. 16 to every township for the maintenance of public schools within the said township." Why, in the same paragraph, are lots Nos. 8, 11, 26, and 29 reserved to the United States generally and lot No. 16 reserved to the township for educational purposes? Because the latter was to remain in the township for township purposes which Congress could prescribe under the above resolution of Congress of October 10, 1780, while the former were to be distributed or granted, under Virginia's deed, proportionately; and lots Nos. 8, 11, 26, and 29 in one State under this proposition might go to another State in the proportional distribution. When lot No. 16 was reserved expressly for educational purposes, Congress made known the "regulations agreed on by the United States in Congress assembled," which may apply to all public land not otherwise provided for, and, as far as can be ascertained, the ordinance of May 20, 1785, had not been repealed when the Constitution of the United States became operative, in which all agreements of the Congress of the Confederation were taken over under the Constitution of the United States. Congress followed up this principle by law, March 3, 1803. In 1826, on the Louisiana Purchase, and in 1848, on the acquired Oregon territory. This trust duty, thus impressed, became one of the "engagements" which it became our duty, under the Constitution, to live up to; and when Congress, in the Morrill Act, dedicated a part of the same lands to agricultural education, it was but executing an agreement which came to it from the old Congress and which had been executed by that Congress under the ordinance of October 10, 1785, for educational purposes. Therefore grants of these public lands for educational purposes are only fulfilling the trust duty imposed upon the United States Government, when it agreed to fulfill all "engagements entered into" by the Confederation (Article VI, Constitution of the United States). The United States, under the Confederation, impressed these public lands with an educational trust. They had a right so to do, and as their successors we can and have carried it out.

The above two examples of appropriations by the Federal Government for roads and agricultural schools are those most commonly cited by the proponents of this bill as indorsing the doctrine that the general-welfare clause justifies the passage of this bill, when, as we have attempted to show, they have been maintained and can be justified on consistent constitutional principles without reference to the general-welfare clause; but it is urged by Keith and Bagley in their book, and by others, that this law is justified under the general-welfare clause because there have been similar laws passed by Congress from the foundation of the Government up to this date, though it is admitted that in that length of time—now more than 130 years—the Supreme Court has never passed upon the validity of any such law, and it is urged that the insistence of Congress in passing these laws and the construction of officers of the Government in their administration lends a sanctity to such laws and must carry conviction of their constitutionality because of the longevity of the practice. The effect of the action of Congress in passing such laws and the construction of these officers of the Government in their administration has been the subject of much discussion. I have sought, therefore, as a basis of this discussion the enlightened judgment of one of our greatest judges in the deliverance of the Supreme Court on this question.

Judge Brewer, in delivering the opinion of the court in Fairbank *v.* United States (181 U. S.), presents this question in the most logical and convincing way, and upon that opinion we rest this branch of our subject. In referring to the case of Knowlton *v.* Moore (178 U. S. 41), he says:

That was not the first case in which this matter has been considered by this court. On the contrary, it has been often presented. See in the margin a partial list of cases in which the subject has been discussed. An examination of the opinions in those cases will disclose that they may be grouped in three classes: First, those in which the court, after seeking to demonstrate the validity of the true construction of a statute, has added that *if there were doubt* in reference thereto the practical construction placed by Congress, or the department charged with the execution of the statute, was sufficient to remove the doubt; second, those in which the court has either stated or assumed that the question *was doubtful*, and has rested its determination upon the fact of a long-continued construction by the officials charged with the execution of the statute; and, third, those in which the court, noticing the fact of a long-continued construction, has distinctly affirmed that such construction can not control when there *is no doubt* [all italics mine in these quotations] as to the true meaning of the statute.

The first class is illustrated by Cohens *v.* Virginia (6 Wheat. 264). There the question presented was the jurisdiction of this court over proceedings by indictment in a State court for a violation of a State statute. In an elaborate argument Chief Justice Marshall sustained the jurisdiction and then added (p. 418):

"Great weight has always been attached, and very rightly attached, to contemporaneous exposition. No question, it is believed, has arisen to which this principle applies more unequivocally than to that now under consideration."

And in support of that referred to the writings in the Federalist, which were presented before the adoption of the Constitution and were generally recognized as powerful arguments in its favor; also the judiciary act of 1789 (1 Stat. 73), the decisions of this court and the assent of the courts of several States thereto, saying (p. 421):

"This concurrence of statesmen, legislators, and of judges in the same construction of the Constitution may justly inspire some confidence in that construction."

Again, in United States *v.* State Bank of North Carolina (6 Pet. 29, 39), Mr. Justice Story in like manner said:

"It is not unimportant to state that the construction which we have given to the terms of the act is that which is understood to have been practically acted upon by the Government as well as by individuals ever since its enactment. Many estates, as well as of deceased persons as of persons insolvent who have made general assignments, have been settled upon the footing of its correctness. A practice so long and so general would of itself furnish strong grounds for a liberal construction and could not now be disturbed without introducing a train of serious mischiefs. We think the practice was founded *in the true exposition* of the terms and intent of the act, but if it were susceptible of some doubt so long an acquiescence in it would justify us in yielding to it as a safe and reasonable exposition."

In the second class may be placed Stuart *v.* Laird (1 Cranch, 299); Burrow Lithograph Co. *v.* Sarony (111 U. S. 53), in which last case Mr. Justice Miller, speaking for the court, used this language (p. 57):

"The construction placed upon the Constitution by the first act of 1790, and the act of 1802, by the men who were contemporary with its formation, many of whom were members of the convention which framed it, is of itself entitled to very great weight, and when it is remembered that the *rights thus stablished have not been disputed during a period of nearly a century* it is almost conclusive."

See also The Laura (114 U. S. 411); United States *v.* Philbrick (120 U. S. 52, 59); United States *v.* Hill (120 U. S. 182); Robertson *v.* Downing (127 U. S. 607); and Schell's Executors *v.* Fauche (138 U. S. 562, 572), in which it was said:

"In all cases of *ambiguity* the contemporaneous construction, not only of the courts, but of the departments, and even of the officials whose duty it is to carry the law into effect, is universally held to be controlling."

The third class is the largest. While the language used by the several justices announcing the opinion in these cases is not the same, the thought is alike. Thus in Swift Co. *v.* United States (105 U. S. 691, 695), Mr. Justice Matthews said:

"The rule which gives determining weight to contemporaneous construction put upon a statute by those charged with its execution applies only in cases of *ambiguity and doubt.*"

In United States *v.* Graham (110 U. S. 219, 221), Chief Justice Waite thus stated the law:

"Such being the case it matters not what the practice of the departments may have been or how long continued, for it can only be resorted to in aid of interpretation, and *it is not allowable to interpret what has no need of interpretation.* If there were *ambiguity or doubt*, then such a practice, begun so early and continued so long, would be in the highest degree persuasive if not absolutely controlling in its effect. But with language clear and precise and with its meaning evident there is no room for construction; and, consequently, no need of anything to give it aid. The cases to this effect are numerous."

In United States *v.* Tanner (147 U. S. 661, 663), it was said by Mr. Justice Brown:

"If it were a question of doubt, the construction given to this clause prior to October, 1885, might be decisive; but, as it is clear to us that this construction was erroneous, we think it is not too late to overrule it. United States *v.* Graham (110 U. S. 219); Swift Co. *v.* United States (105 U. S. 691). It is only in cases of doubt that the construction given to an act by the department charged with the duty of enforcing it becomes material."

In United States *v.* Alger (152 U. S. 384, 397), Mr. Justice Gray used this language:

"If the meaning of that act were doubtful, its practical construction by the Navy Department would be entitled to great weight. But as the meaning of the statute as applied to these cases appears to this court *to be perfectly clear, no practice inconsistent with that meaning* can have any effect."

In Webster *v.* Luther (163 U. S. 331, 342), Mr. Justice Harlan stated the rule in these words:

"The practical construction given to an act of Congress, fairly susceptible of different constructions, by one of the executive departments of the Government is always entitled to the highest respect, and in doubtful cases should be followed by the courts, especially when important interests have grown up under the practice adopted. Bate Refrigerating Co. *v.* Sulzberger (157 U. S. 1, 34); United States *v.* Healey (160 U. S. 136, 141). But this court has often said that it will not permit the practice of an executive department to defeat the obvious purpose of a statute."

From this résumé of our decisions it clearly appears that practical construction is relied upon only in cases of doubt. We have referred to it when the construction seemed to be demonstrable, but then only in response to doubts suggested by counsel. Where there was obviously a matter of doubt, we have yielded assent to the construction placed by those having actual charge of the execution of the statute, but *where there was no doubt* we have steadfastly declined to recognize any force in practical construction. Thus, before any appeal can be made to practical construction it must appear that the true meaning is doubtful.

We have no disposition to belittle the significance of this matter. It is always entitled to careful consideration and in doubtful cases will, as we have shown, often turn the scale; *but when the meaning and scope of a constitutional provision are clear, it can not be overthrown by legislative action, although several times repeated and never before challenged.* It will be perceived that these stamp duties have been in force during only three periods: First, from 1797 to 1802; second, from 1862 to 1872; and, third, commencing with the recent statute of 1898. It must be borne in mind also in respect to this matter that during the first period exports were limited and the amount of the stamp duty was small, and that during the second period we were passing through the stress of a great civil war or endeavoring to carry its enormous debt; so that it is not strange that the legislative action in this respect passed unchallenged. Indeed, it is only of late years, when the burdens of taxation are increasing by reason of the great expenses of government, that the objects and modes of taxation have become a matter of special scrutiny. But the delay in presenting these questions is no excuse for not giving them full consideration and determining them in accordance with the true meaning of the Constitution.

Consider for a moment Judge Marshall's sentiment quoted from Cohens *v.* Virginia, above:

This concurrence of statesmen, legislators, and of judges in the same construction of the Constitution may justly inspire some confidence in that construction.

And Judge Towner's (from his speech June, 1922, supra):

The view as stated by Hamilton, Story, and Pomeroy has been the accepted view of America's greatest jurists and statesmen.

In these pages we have recorded the fact that Hamilton, Story, and Pomeroy held to one interpretation of the general-welfare clause, but we have also quoted the views and opinions of the following who have maintained the contrary view: Chief Justice Marshall, Judges Miller and James Wilson, Madison, Jefferson, Cooley, Hare, Willoughby, Von Holst, Curtis, Duer, Grover Cleveland, and Tucker. Have not some of these the right to rank among "America's greatest jurists and statesmen"? And when the long catalogue of names that could be recounted among the legislators of the country who have contested this question from the formation of the Government to this day; when the Blair educational bill was before Congress for 10 or 12 years, pressed by its advocates under the general-welfare clause, and finally defeated; when Presidents Madison, Monroe, Jackson, Pierce, and Buchanan have signalized their disapproval of this view by vetoing measures passed by Congress under this supposed claim of power, there is no place for the claim of "concurrence of statesmen, legislators, and judges" in the one construction affirming the validity of this clause. This doctrine in our parliamentary history has never gone unchallenged whenever the question has arisen. It has never received such sanction "as to afford a basis for the argument that a practical construction of the Constitution to that effect has been established." After reviewing all of the cases, Judge Brewer settles this doctrine in this clear and simple expression:

But when the meaning and scope of a constitutional provision are clear it can not be overthrown by legislative action, although several times repeated and never before challenged.

What can make this provision clearer than that on the 18th of August, among the number of propositions submitted to the Federal convention to increase the powers of Congress, were these two:

To establish seminaries for the promotion of literature and the arts and sciences.

To establish public institutions, seminaries, and immunities for the promotion of agriculture, commerce, trades, and manufactures.

Under these provisions, had they been adopted, the right to appropriate money for the purposes of this bill would have been unquestioned. The convention, therefore, had this distinct, specific proposition before it and rejected it. How can any man then claim that the words "general welfare" embrace what had been rejected by the convention that framed the Constitution? And further, how could any doubt exist when, as we have shown, the right of Congress to legislate in all cases for the interest of the people was voted down in the convention?

Judge Brewer, in this very case of Fairbank *v.* United States, page 292, recognizes the conclusiveness of this view in the following language:

In other words, the purpose of the restriction is that exportation, all exportation, shall be free from national burden. This intent, although obvious from the language of the clause itself, is reinforced by the fact that in the constitutional convention Mr. Clymer moved to insert after the word "duty," the words "for the purpose of revenue," but the motion was voted down. So it is clear that the framers of the Constitution intended not merely that exports should not be made a source of revenue to the National Government, but that the National Government should put nothing in the way of burden upon such exports.

Judge Cooley, in his Constitutional Limitations, after discussing some cases such as Stuart *v.* Ladd (1 Cranch, 299) and others referring to this doctrine, says (p. 106, 7th ed.):

It is believed, however, that in each of these cases an examination of the Constitution left in the minds of the judges sufficient doubt upon the question of its violation to warrant their looking elsewhere for aids in interpretation, and that the cases are not in conflict with the general rule as above laid down. Acquiescense for no length of time can legalize a clear usurpation of power, where the people have plainly expressed their will in the Constitution and appointed judicial tribunals to enforce it. A power is frequently yielded to merely because it is claimed, and it may be exercised for a long period, in violation of the constitutional prohibition, without the mischief which the Constitution was designed to guard against appearing, or without anyone being sufficiently interested in the subject to raise the question; but these circumstances can not be allowed to sanction a clear infraction of the Constitution.

(See also Bronson, Ch. J., in Oakley *v.* Aspinwall, 3 New York, 568.)

District Judge Rodgers has met this question with judicial emphasis:

No case has been cited tracing the power to enact any statute to the general-welfare clause above quoted, and I do not believe any can be. The learned counsel, in this connection, has cited various acts of Congress of a nature quite similar to the one in question, but no number of statutes or infractions of the Constitution, however numerous, can be permitted to import a power into the Constitution which does not exist, or to furnish a construction not warranted. They, too, must stand or fall, when brought in question, by the same principles which are to be applied alike in all cases. (Rogers, J., United States *v.* Boyer, 85 Federal Report.)

The vice of this whole question lies in the fact that all laws are not, and can not be, passed upon by the Supreme Court, and Congressmen, in their eagerness to satisfy the demands of their constituents, are sometimes willing to satisfy them by passing such bills, often plainly unconstitutional, in the hope that they will never reach the Supreme Court; and then, when not contested, they remain on the statute books as examples to be followed. In the moral and in the political world there is a common principle, and that principle is well expressed in the sentiment, if not the words, of the poet:

Vice is a monster of such hideous mien,
That to be hated, needs only to be seen;
But as we grow familiar with its face,
First we pity, then endure, *and then embrace.*

Mr. STEVENSON. Mr. Speaker, will the gentleman yield?

Mr. TUCKER. Yes.

Mr. STEVENSON. The gentleman from Virginia said that in the course of a few years there would be a condition imposed of mixed schools, or that there would be only one kind of a school. Does not the gentleman know that the Congress controlling the schools in this city since 1878 have absolutely separated the schools of the whites and the blacks? Is there a likelihood of Congress attempting to enforce mixed schools instead of separate ones? Since it took charge of the Washington schools in 1878 it has maintained separate schools here for 45 years.

Mr. TUCKER. The city of Washington has a large population of Maryland and Virginia people, fortunately for the city. [Applause.] That question has been controlled by the sentiment of the people here. Let me ask the gentleman this question: Have you visited the departments down here and seen any mixture of races down there? For I have.

Mr. STEVENSON. Yes, sir; I have visited there.

Mr. TUCKER. That is where Congress rules over the Nation.

Mr. STEVENSON. Does the gentleman contend that the Virginians and Marylanders who have lived in the District have controlled Congress for 45 years?

Mr. TUCKER. No, sir.

Mr. STEVENSON. Well, the people such as you have referred to have ruled except for 16 years in that time.

Mr. MANSFIELD. Mr. Speaker, will the gentleman yield?

Mr. TUCKER. Certainly.

Mr. MANSFIELD. I visited the schools in the island of Porto Rico, controlled by the Government here, and there I found colored teachers who had been educated by Booker Washington at Tuskegee, Ala., teaching native Porto Ricans and white American children in the public schools.

Mr. TUCKER. I thank my friend for vindicating my judgment that the control of the schools by the Federal Government will result in mixed schools.

Mr. ABERNETHY. Mr. Speaker, will the gentleman yield?

Mr. TUCKER. Yes.

Mr. ABERNETHY. Does not the gentleman think that the same principle would apply to aid in road building—that the Nation should control the roads?

Mr. TUCKER. If the gentleman will excuse me, I will ask him to read my discussion of that. I have no trouble in the world about the road question. The policy of it is one thing, but I am speaking of the constitutionality of the Federal Government building post roads or roads for war purposes.

Mr. BLANTON. Mr. Speaker, will the gentleman yield right there?

Mr. TUCKER. Certainly.

Mr. BLANTON. If the gentleman's speech could be placed in the hands of every woman's club in every State in the Union the propaganda that we are filling our wastebaskets with would probably never have been written or sent out. I hope the gentleman will send his speech to them. Is it not due to the fact that they are in favor of higher education, and that they have heard that this Sterling-Towner bill is in favor of education, and that therefore they recommend it, although they are without information as to its terms? Therefore they are writing to us favoring its enactment.

Mr. TUCKER. That is very true. I have a most powerful statement here from one of the greatest educators in our Southern States, Bishop Candler, of Georgia, which I beg you gentlemen to read, as I will have it published. It is one of the most powerful statements, and most of the educators of the country agree with it; I will not say all, but most of the educators at Harvard, Yale, Princeton, Chicago, and other institutions.

Mr. BOYCE. If Congress is going on, as it has been doing in the last 20 years, appropriating money that may or may very well not be embraced within the taxing clause of the Constitution, and going on appropriating money for agricultural, science, and domestic purposes, and now for education of this character, and the States continue to accept the appropriations, how are you going to get the question, whether it is right or wrong, determined by the courts of the country?

Mr. TUCKER. Of course, the courts of the country would only have to determine the legal questions and not the moral questions. The latter is for Congress.

Mr. MOORE of Virginia. I hope my friend in the course of revising his remarks, if he has the opportunity to do so, will discuss the question as to how the jurisdiction of the Federal courts is going to be invoked and obtained to pass upon the validity of appropriations, when brought in question, such as have been made not only within the last 20 years but within the last 50 years. I have in mind the recent decision of the Supreme Court in the Frothingham case in which, I think, the gentleman was one of the counsel, where the court declined to take jurisdiction to pass on the validity of the maternity act.

Mr. TUCKER. I am sadly mindful of that fact, and I want to ask the attention of the Judiciary Committee this winter to just that very question. I would like to discuss it, but have not the time just now.

Mr. RANKIN. Will the gentleman yield?

Mr. TUCKER. Yes.

Mr. RANKIN. Regarding the question of the gentleman from Delaware [Mr. BOYCE], is it not a fact that the maternity bill passed by the last Congress is now being tested in the courts?

Mr. TUCKER. Yes. That is the case to which my colleague [Mr. MOORE] referred.

Mr. MOORE of Virginia. That is the case to which I referred.

Mr. BOYCE. But dismissed by the Supreme Court.

Mr. TUCKER. For want of jurisdiction.

IV.

VIEWS OF JUDGE STORY AND GEORGE TICKNOR CURTIS ON THE GENERAL-WELFARE CLAUSE.

We come now to the consideration of another view of this clause. Judge Story, who is the chief authority among the commentators upon whom the authors of this bill rely, unequivocally declares that these words in the first clause of section 8, Article I, constitute no substantive grant of power to Congress. (See Story on the Constitution, Vol. I, sec. 924.) But though denied such power, he thinks Congress may appropriate money for any purpose whatsoever deemed by them to be for the general welfare of the United States; that the enumerated powers constitute no limitation upon such right, but since the preamble of the Constitution declares one of the objects of the Constitution to be to promote the general welfare, and this clause specifically declares Congress may lay taxes to pay the debts and provide * * * for the general welfare of the United States, that against these express words no sound argument can be raised to confine the right of Congress within any limits short of what they may conclude to be for the general welfare of the United States.

If Judge Story's contention be correct, we have taken a long stride in constitutional development, and one, I dare venture to assert, that can not be duplicated among the civilized nations of the world, namely, that a government, denied by its constitution the power to legislate for a certain purpose or to create an organism to carry out such purpose, can appropriate money to another government to do the thing denied to it to do. Is it not axiomatic that governments can legislate only to carry out their own powers? Can the doctrine be justified before any enlightened mind that a government intrusted with the power of taxation may exercise that power over its subjects, and take the money derived from it and give it to objects over which it has no authority or control? The very definition of the word "tax" answers such a suggestion. A tax is an enforced contribution by government from its citizens or residents of a part of their property for a *public* purpose. If the taking of that part of the citizens' property by the government by force be not for a public purpose—that is, a purpose in the scope of the government authority—it is not taxation; it is spoliation; it is tyranny; it is despotism, which the Declaration of Independence of our country gives us the right to resist.

But this proposed construction gives to the Federal Government not only the right to develop Federal powers but of appropriating money to execute State powers and functions against the limitations of the Constitution itself. No one will deny that the power of the Federal Government to provide for, to support by appropriations, any class of institutions in a State in its final analysis and result is the same in effect as the power to create and support such instrumentalities. And it is for this reason we are the more sensibly driven to consider whether there is no other construction to this clause which would lead us to a more reasonable and sane conclusion.

The Federal convention, as has been shown in these pages, rejected a proposition to establish a university, and rejected a proposition "to establish seminaries for the promotion of literature and arts and sciences" and others of like character. Congress therefore has no power to legislate in reference to either proposition. Congress can not create either, but it is said it may appropriate money to them because of the words "to provide for the general welfare." Are not the words "general welfare" found in the Constitution to be construed by the limitations which were put upon them in the convention that framed it? And one of those limitations was that the establishment of universities and seminaries was denied to Con-

gress. And how, it may be asked, can money from the Federal Government reach a university or seminaries in a State? Only by legislation. That is the only method that Congress has of providing it. The assertion of power of Congress to appropriate money to an institution which they are powerless to create or control drives the proponents of this proposition to the acceptance of another principle equally as dangerous as the above. The tenth amendment to the Constitution declares "the powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States, respectively, or to the people." It is admitted that education has not been granted to Congress. Then it belongs to the States, and the States alone can control it. The organization, the administration, and the development of the schools of the country rest exclusively in the hands of the States. And by this bill Congress is asked to appropriate money to institutions over which they can constitutionally have no control or direction; with no power to see that the money is properly expended—money which is given for objects from the control of which the Government is absolutely excluded. The officers who control it will be State officers. The administrators of the system will be State officers, over whom the Federal Government has no power whatsoever. It is indeed a novel proposition in these marvelous days of governmental development that a government should have the power to lay and collect taxes and appropriate those taxes for a proposition confessedly not a governmental function but, under the Constitution, belonging to a distinct and independent government to develop. These views lead us the more readily to accept the construction of men like Mr. Madison that these words were merely descriptive of the subsequently enumerated powers.

This bill distinctly disclaims any control over the funds appropriated—this rests with the State officers under the bill—but the Government of the United States is trustee for the people in the use and disposition of their taxes. Can a trustee give his trust funds to one over whom he has no control? Is not such an act a breach of trust as well by a government as by an individual?

This doctrine is upheld by Black (Constitutional Law, 3d ed., p. 287):

> Nor could it (Congress) renounce or surrender any of the powers granted to it by the Constitution, whether to the other branches of the Government, the States, or private parties.
>
> Nor can it delegate the powers confided to it, or authorize their exercise by any other body or any person.

And by Tucker on the Constitution (Vol. I, p. 484):

> But if appropriated without reservation, then Congress would give away its discretion to another to use the money so appropriated for the common defense and general welfare as that other might determine. This would be an unconstitutional abandonment of duty and breach of trust.

Another view in reference to this clause is of interest. Suppose clause 1, section 8, Article I, instead of reading as it now stands in the Constitution, was as follows:

> The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts * * * of the United States.

If the clause stood in this form, what would be the meaning of the words "the United States"? Would it mean "the people of the United States" or "the people of the States composing the United States"? There are no such words as "the people" inserted before "the United States" in the provision in the Constitution, for clearly it was not contemplated to pay the debts of the people of the United States. The words "the United States" would mean the Government of the United States, for the preamble to the Constitution says:

> The people of the United States * * * do ordain and establish this Constitution for the United States of America.

The words "the United States" would, therefore, mean the Government of the United States, under the Constitution. Those were the debts which the convention was anxious to provide for—the debts which this Government, organized under the Constitution, should pay by taxation. Now, suppose the omitted words "and provide for the common defense and general welfare of" are inserted, the conjunctive "and" joining these words to "the debts" would give the same construction to the words "the United States"—that is, the power to lay taxes is to pay the debts of the United States Government, and to provide for the common defense and general welfare of the United States Government. The words "the United States" must have the same meaning with reference to the words "common defense and general welfare" as to the words "to pay the debts," for they are united by the word "and," and therefore "the common defense and general welfare" provided for would be that of "the Government of the United States" and not of the people of the United States.

An examination of the Constitution will show that these words "the United States" are used in two senses as representing either the territory or the Government of the United States. In Article II, section 3 and section 4; Article I, section 1 and section 3; Article IV, section 3, clause 2; Article IV, section 4; and Article VI, clause 1, all show that the words "the United States" mean "the United States Government."

I find a powerful confirmation of this view in an address of Mr. George Ticknor Curtis, a scholarly student of the Constitution, delivered before the Georgetown University Law School in February, 1886, in which he said:

> We hear much nowadays about the so-called "general-welfare clause" of the Constitution. The Constitution uses the words "general welfare" in just two places, and no more. In the preamble the promotion of the general welfare is one of the objects enumerated along with five others for which the people of the United States ordain and establish the Constitution. The wildest and most latitudinarian constructionist would hardly venture to tell an audience of intelligent law students that the preamble of the Constitution contains any grant of power. It simply asserts the grand objects which the people aimed to secure by the Constitution, but as to the means by which they do secure these desirable objects we must look into the body of the Constitution and among its enumerated powers.
>
> Looking into the body of the instrument, we come upon the first clause of the eighth section of Article I of the Constitution, which contains the grant of the taxing power. Here the words "general welfare" are used again; and, strange to say, there are persons who suppose that this clause contains a grant of authority to tax in order to promote the personal welfare of every man, woman, and child in the United States! I shall merely counsel you to analyze the clause and see how strange this notion is. The clause grants to Congress a power to tax the people for three special purposes: First, to pay the debts of the United States; second, to provide for the common defense of the United States; third, to provide for the general welfare of the United States.
>
> In every one of these special purposes for which the taxing power is to be exercised "the United States" means the political corporation known as the United States and not the individual inhabitants of the country. The debts that are to be paid are the debts of the Government; the common defense that is to be provided for is the defense of the Government in all those matters it has duties of defense to discharge for the whole country; the general welfare that is to be provided for is the well-being of the Government in all those matters of which it has special cognizance and in respect to which its efficiency concerns the whole Union. In the very next clause, which contains the grant of power to borrow money on the credit of the United States, the "United States" is used in the same sense, meaning the Government known as the United States. It is on the credit of the Government, not on the credit of individuals or of States, that Congress is authorized to borrow money.
>
> Now look at the stupendous communism that is wrapped up in the taxing power on the supposition that it includes a power to tax for the promotion of the welfare of individuals. There is no limit to the taxing power excepting that duties, imposts, and excises must be uniform throughout the United States. All the property in the country may be taxed without limit for the legitimate objects of taxation. If one of those legitimate objects is the welfare of individuals or masses or classes or of the whole people, the two Houses of Congress and any President acting together can divide up all the property in the country upon the plea that a general division will promote the general welfare. By this process this Government could devour itself, and there would be nothing left for it to subsist upon.

Additional force is added to the above view from a statement by the Encyclopædia Britannica, volume 7, in its reference to Mr. Curtis. It says:

> This history [his Constitutional History of the United States] which had been watched in its earlier progress by Daniel Webster may be said to present the old Federalist or "Webster-Whig" view of the formation and powers of the Constitution.

## V.

### THE EFFECT ON THE MEANING OF THE WORDS "GENERAL WELFARE" BY THEIR LOCATION IN CLAUSE 1, SECTION 8, ARTICLE I.

Now consider these words in their structural relationship to the clause wherein they are found, Article I, section 8. Article I, section 8, contains most of the enumerated powers granted by the Constitution to Congress.

> (1) The Congress shall have power to lay and collect taxes, duties, imposts and excises to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States;
>
> (2) To borrow money;
>
> (3) To regulate commerce—

and so on, enumerating 18 specific grants of power to Congress. The question arises, do these words—

"to pay the debts and provide for the common defense and general welfare of the United States," considering the position in the clause and their relation to the whole section—

grant a substantive power, "or do they declare only the object of the tax power preceding."

To the first branch of the question we give a negative answer; to the second an affirmative answer, for the following reasons:

First. The structure of the sentence requires this interpretation. To "pay the debts and provide for the common defense and general welfare of the United States" if a distinct power from the power to "lay and collect taxes," etc., should not have intervened between the power to lay and collect taxes, etc., and the qualification of that power by the words "but all duties, etc., shall be uniform," etc. The latter branch of the sentence as a qualification of the first should not have been separated by words which grant a distinct and independent power. Such a framing of the sentence so interpreted would be a vice in grammar of which the pen of Gouverneur Morris should not be held guilty where any other construction is open. The grammatical construction is vindicated by holding that the words "to pay the debts," etc., do not create an independent power, but only declare the object of the preceding tax power.

Second. To pay debts can hardly be said to be a political power. To lay and collect taxes is a power, and a proper power, where its object is to pay the debts of the Government; and as these words "to pay the debts" are indissolubly connected with the words to "provide for the common defense," etc., it follows that these latter words must share the fate of the words to "pay the debts" and be taken to declare the object of the preceding power and not the creation of a distinct power. (Tucker on the Constitution, Vol. I, p. 470.)

The argument from the location of these words in the clause as to their proper meaning is most strikingly seen as we have shown by reference to this clause ("to pay the debts and provide for the common defense and general welfare of the United States") in the revised draft of the Constitution submitted to the Federal convention by the committee on style, of which Gouverneur Morris and Mr. Madison were members, on the 12th day of September, three days before the Constitution was finally passed. In that draft Article I, section 8, reads:

The Congress may, by joint ballot, appoint a treasurer. They shall have power to lay and collect taxes, duties, imposts, and excises;

To pay the debts and provide for the common defense and general welfare of the United States;

To borrow money on the credit of the United States;

To regulate commerce.

And so on.

In this draft it is seen the words "To pay the debts and provide for the common defense and general welfare of the United States" is not a part of clause 1, as in the present Constitution, but constitutes clause 2 of section 8, a distinct, specific, substantive grant of power, just as much so as any of the other 18 specific grants. Had these words remained as the second clause of section 8, as here placed, this discussion would be at an end, for it would be useless; but it was too plain to have escaped the eyes of Morris or Madison. The subsequent specific enumeration of powers would have been swallowed up in this one general grant of power; and when the Constitution appeared for its final action, as it was finally adopted, this clause had been taken from its position as the second clause of section 8, transferred to the first clause of section 8, with the semicolon following the word "excises" eliminated, and followed by a limitation as to duties, imposts, and excises granted to Congress in the first part of clause 1, with the words "common defense and general welfare" thus shorn of their sweeping power and transformed into words of generality and description.

VI.

THE STRONG PRESUMPTION AGAINST THE CONSTRUCTION OF THIS CLAUSE ADVANCED BY THE PROPONENTS OF THIS BILL.

The presumption against the construction of these words in their broad latitude as now sought in legislation, such as this educational bill, is found in the intense opposition at the time to the adoption of the Constitution in many of the States in the fear that the Federal powers contained in the Constitution would annihilate the States; and this fear was shown by seven States of the Union on ratifying the Constitution offering 126 amendments to the same to limit Federal power, while not one of them refers to or mentions the "general welfare clause" as one to be curtailed, amended, or stricken out. How can this be explained, except on the theory that the watchful critics of Federal power, as contained in the Constitution, saw no such power in these words as is now claimed, and the men who made them—Madison and others—have testified none such was intended? This is shown in an extract from the letter of Mr. Madison to Mr. Stevenson, heretofore given in full:

No less than seven States, it appears, concurred in adding to their ratifications a series of amendments which they deemed requisite. Of these amendments, 9 were proposed by the convention of Massachusetts, 5 by that of South Carolina, 12 by that of New Hampshire, 20 by that of Virginia, 33 by that of New York, 26 by that of North Carolina, and 21 by that of Rhode Island.

Here are a majority of the States proposing amendments, in one instance 33 by a single State; all of them intended to circumscribe the power granted to the General Government by explanations, restrictions, or prohibitions, without including a single State referring to the terms "common defense and general welfare"; which, if understood to convey the asserted power, could not have failed to be the power most strenuously aimed at, because evidently more alarming in its range, than all the powers objected to put together. And that the terms should have passed altogether unnoticed by the many eyes, which saw danger in terms and phrases employed in some of the most minute and limited of the enumerated powers, must be regarded as a demonstration that it was taken for granted that the terms were harmless, because explained and limited, as in the "Article of Confederation," by the enumerated powers which followed them.

The outstanding fact that when the First Congress of the United States assembled, containing members of the Federal convention which proposed the Constitution, and also containing members of the several State conventions which ratified the Constitution who knew from their service in such conventions the jealousy of the people against Federal powers that would consolidate the Government and make it a centralized Government, no amendment was offered in that Congress referring to the "general welfare" clause, to limit or annul it, showing conclusively that at that date, with the tremendous hostility to the Constitution, they had no fear of this clause, for such construction had never occurred to anyone as possible after Hamilton's attempt in the convention to get an equivalent clause in the Constitution had been so signally defeated.

The First Congress of the United States was composed of 92 Members, Senators and Representatives. Of that number, 51 had been members either of the Federal convention which proposed the Constitution or of the conventions of the several States which ratified it. The character and ability of these men could not be questioned. The members of the Federal convention who were members of this First Congress were:

Connecticut: Oliver Ellsworth, William S. Johnson, and Roger Sherman.

Delaware: Richard Bassett and George Read.

Georgia: William Few and Abraham Baldwin.

Maryland: Daniel Carroll.

Massachusetts: Tristam Dalton, Caleb Strong, and Elbridge Gerry.

New Hampshire: John Langdon and Nicholas Gilman.

Pennsylvania: George Clymer, Robert Morris, and Thomas Fitzsimons.

South Carolina: Pierce Butler.

Virginia: James Madison.

New Jersey: William Paterson.

The Members of the First Congress who were also members of the conventions in their several States that ratified the Constitution were as follows:

Maryland: Charles Carroll of Carrollton; Joshua Seney, William Smith, and Michael Jenifer Stone.

Massachusetts: Tristam Dalton, Caleb Strong, Elbridge Gerry, George Partridge, and Theodore Sedgwick.

New Hampshire: John Langdon and Samuel Livermore.

New York: John Laurance.

North Carolina: John Steele and Timothy Bloodworth.

Pennsylvania: Thomas Hartley, Frederick A. Muhlenberg, and Henry Wynkoop.

Rhode Island: Joseph Stanton, jr., and Benjamin Bourn.

South Carolina: Ralph Izard, Thomas Sumter, Aedamus Burke, and William Smith.

Virginia: William Grayson, James Monroe, Richard Henry Lee, Andrew Moore, Alexander White, James Madison, jr., Theodoric Bland, and Isaac Coles.

Some of these men had been leaders in the Federal convention. Many of them had been leaders in their State conventions. Mr. Madison and a few others were in both the Federal convention and their State conventions. They were all fully aware of the opposition to the Constitution in their several States and the fear of the Federal Government absorbing the

rights and powers of the States. In New York, in Virginia, in North Carolina, in Rhode Island the hostility was most pronounced and the organization against its adoption most serious.

Many of them had come from States which had ratified the Constitution on the condition that amendments were to be made to it to secure, without doubt, their rights in the States. Their minds were keen to the situation, and yet the astounding fact is, with their anxiety to respond to the objectors and to those who had so vigorously registered their fears, that though a number of amendments were offered in that Congress, to be submitted to the States for ratification, not one referred to the general welfare clause. To sum up the argument, the Federal convention in framing the Constitution had before it in concrete form two or more propositions giving exactly the same power to Congress which is now claimed under the general welfare clause. They were rejected. The seven States recited above proposed 126 amendments, but not one referred to the general welfare clause; and the first Congress that met, a majority of whom had been in either the Federal convention or in their State conventions, proposed a number of amendments, not one of which referred to the general welfare clause. Could proof be stronger that, at least so far as the men who framed the Constitution and those who ratified it for the people in the States, never dreamed that such construction could be put upon it? What the Constitution meant when adopted it means to-day. This doctrine has been repeatedly affirmed by the Supreme Court. It is not subject to changing sentiment. It is the same yesterday, to-day, and forever. So that if the men who proposed it, and the people who ratified it, proposed it and ratified it because it meant a certain thing and did not mean a certain other thing, neither disappointed ambition, nor ingenious and specious dissertations, nor humanitarian emotions, nor repeated congressional enactments can change that which is as fixed and immovable as the everlasting hills that are about us.

VII.

THE VIEWS OF COMMENTATORS ON THE CONSTITUTION—JUDGES, PUBLICISTS, ETC., ON THE GENERAL WELFARE CLAUSE.

We will now submit the opinions of commentators, judges, and writers on the Constitution on this question. Mr. Hamilton's view need not be given because it is well understood from his proposed plan of a Constitution for the United States; and in his report on manufactures in 1791 he gave the same broad construction to this clause and claimed that Congress could appropriate money for any purpose which in its judgment pertained to the "common defense and general welfare."

Judge Story is the most conspicuous advocate of that doctrine among the commentators, but it is difficult to see how that distinguished author can arrive at such conclusion after reading the following passages from his great work.

In Story on the Constitution, page 628, section 907:

> Before proceeding to consider the nature and extent of the power conferred by this clause, and the reasons on which it is founded, it seems necessary to settle the grammatical construction of the clause and to ascertain its true reading. Do the words "to lay and collect taxes, duties, imposts, and excises" constitute a distinct, substantial power; and the words "to pay the debts and provide for the common defense and general welfare of the United States" constitute another distinct and substantial power? Or are the latter words connected with the former so as to constitute a qualification upon them? This has been a topic of political controversy and has furnished abundant materials for popular declamation and alarm. If the former be the true interpretation, then it is obvious that under color of the generality of the words to "provide for the common defense and general welfare" the Government of the United States is, in reality, a Government of general and unlimited powers, notwithstanding the subsequent enumeration of specific powers; if the latter be the true construction, then the power of taxation only is given by the clause and it is limited to objects of a national character, "to pay the debts and provide for the common defense and the general welfare." (See also id., sec. 909.)
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> * * * * *
>
> (Id. 910.) * * * For what purpose could the enumeration of particular powers be inserted, if these and all others were meant to be included in the preceding general power? Nothing is more natural or common than first to use a general phrase and then to qualify it by a recital of particulars. But the idea of an enumeration of particulars which neither explain nor qualify the general meaning, and can have no other effect than to confound and mislead, is an absurdity which no one ought to charge on the enlightened authors of the Constitution. It would be to charge them either with premeditated folly or premeditated fraud.

These views of Judge Story show most conclusively that the words "common defense and general welfare," in his opinion, do not constitute a substantive grant of power, but are merely a limitation upon the power of taxation, which must be for "the common defense and general welfare." Up to this point Judge Story and Mr. Madison concur, but from this point they diverge, and Judge Story holds that though Congress has no power under these words to legislate for "the common defense and general welfare," that Congress has the power to appropriate money for objects which may contribute to "the common defense and general welfare," and which are not embraced in the subsequent grants specifically given to Congress. Judge Story says (sec. 909):

> The Constitution was, from its very origin, contemplated to be the frame of a national government, of special and enumerated powers, and not of general and unlimited powers.

Could language be stronger? Could Madison or Jefferson or Cooley have stated it stronger? The judges in all of their decisions use the same language, that the United States Government is one of "enumerated powers." Note the plural. Not one large, sweeping, consuming power that embraces all, but the powers, and those only, enumerated in the Constitution as belonging to Congress and none other. If the Government of the United States is forbidden to legislate except, as Judge Story says, for subjects embraced in the enumerated powers, by what process of reasoning can he arrive at the conclusion that that Government which can not legislate to create an organism for "the general welfare" can allow some other power (the State) that has the right to create it and then by appropriation support and maintain it?

Would such a government be one of "limited powers"? Would it not be a government of unlimited powers, which Judge Story says was never intended to be the scope of our Government? When he holds that these words do not constitute a substantive grant of power, it would seem his whole argument falls, for the power to support by appropriation is just as much a substantive power as if Congress attempted to create originally the organism which it now attempts to support by its appropriations. The doctrine which Judge Story says is accepted as true by all, that the Federal Government is one of "special and enumerated powers," and not of "general and unlimited powers," is a mockery and a delusion, if the words "general welfare" denied by him to constitute a substantive grant of power can be so utilized by metaphysical legerdemain to give the Federal Government the power to do everything which it could have done had those words, in his judgment, constituted a substantive grant of power.

Pomeroy follows Judge Story, and is in accord with his views.

Mr. Madison, in the Federalist, No. 41, discusses this question:

> Some, who have not denied the necessity of the power of taxation, have grounded a very fierce attack against the Constitution on the language in which it is defined. It has been urged and echoed that the power "to lay and to collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States," amounts to an unlimited commission to exercise every power which may be alleged to be necessary for the common defense or general welfare. No stronger proof could be given of the distress under which these writers labor for objections than their stooping to such a misconstruction.
>
> Had no other enumeration or definition of the powers of the Congress been found in the Constitution than the general expressions just cited, the authors of the objection might have had some color for it; though it would have been difficult to find a reason for so awkward a form of describing an authority to legislate in all possible cases. A power to destroy the freedom of the press, the trial by jury, or even to regulate the course of descents, or the forms of conveyances, must be very singularly expressed by the terms "to raise money for the general welfare."
>
> But what color can the objection have when a specification of the objects alluded to by these general terms immediately follows, and is not even separated by a longer pause than a semicolon? If the different parts of the same instrument ought to be so expounded as to give meaning to every part that will bear it, shall one part of the same sentence be excluded altogether from a share in the meaning; and shall the doubtful and indefinite terms be retained in their full extent, and the clear and precise expressions be denied any signification whatsoever? For what purpose could the enumeration of particular powers be inserted if these and all others were meant to be included in the preceding general power? Nothing is more natural and common than first to use a general phrase and then to explain and qualify it by a recital of particulars. But the idea of an enumeration of particulars which neither explain nor qualify the general meaning, and can have no other effect than to confound and mislead, is an absurdity which, as we are reduced to the dilemma of charging either on the authors of the objection or on the authors of the Constitution, we must take the liberty of supposing had not its origin with the latter.

The objection here is the more extraordinary, as it appears that the language used by the convention is a copy from the Articles of Confederation. The objects of the Union among the States, as described in Article III, are "their common defense, security of their liberties, and mutual and general welfare." The terms of Article VIII are still more identical:

"All charges of war, and all other expenses that shall be incurred for the common defense or general welfare, and allowed by the United States in Congress, shall be defrayed out of a common treasury, etc. A similar language again occurs in Article IX. Construe either of these articles by the rules which would justify the construction put on the new Constitution, and they vest in the existing Congress a power to legislate in all cases whatsoever. But what would have been thought of that assembly, if attaching themselves to these general expressions and disregarding the specifications which ascertain and limit their import, they had exercised an unlimited power of providing for the common defense and general welfare? I appeal to the objectors themselves, whether they would in that case have employed the same reasoning in justification of Congress as they now make use of against the convention. How difficult it is for error to escape its own condemnation."

In his veto message of March 3, 1817, Mr. Madison, also discussing this question, used the following language:

To refer the power in question to the clause, "to provide for the common defense and general welfare," would be contrary to the established and consistent rules of interpretation, as rendering the special and careful enumeration of powers which follow the clause nugatory and improper. Such a view of the Constitution would have the effect of giving to Congress a general power of legislation, instead of the defined and limited one, hitherto understood to belong to them, the terms, "the common defense and general welfare," embracing every object and act within the purview of a legislative trust. It would have the effect of subjecting both the Constitution and the laws of the several States, in all cases not specifically exempted, to be superseded by laws of Congress, it being expressly declared "that the Constitution of the United States, and the laws made in pursuance thereof, shall be the supreme law of the land, and the judges of every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding." * * * A restriction of the power "to provide for the common defense and general welfare" to cases which are to be provided for by the expenditure of money will still leave within the legislative power of Congress all the great and most important measures of government, money being the ordinary and necessary means of carrying them into execution.

John Randolph Tucker on the Constitution, Volume I, page 477, says:

The point of divergence is that Madison holds the words "common defense and general welfare" as a general description of the objects of the tax power, limited by and commensurate with the objects of the Constitution as defined in the enumerated powers thereafter specified; and that there can be no "common defense and general welfare" intended by the Constitution beyond what Congress has power to create, regulate, and control by virtue of the enumerated grants. E contra Hamilton holds that the words "common defense and general welfare" include two classes of objects: First, those which are within the scope of the subsequently enumerated grants of power; and, second, all others that Congress may deem to be for the "common defense and general welfare."

And he further says (Vol. I, p. 478):

It would really seem absurd to impute to the framers of the Constitution a purpose to comprehend objects far beyond the powers it conferred upon the Government. It is argued everywhere in the Federalist that power ought to be commensurate with purpose. But this construction, insisted on by Hamilton and his followers, would indicate that the Constitution contemplated the unlimited expenditure of money, to be raised by taxation under governmental power, to carry out objects which were not within the control given or the powers committed to Congress. Power and purpose were not commensurate, except that by this construction Congress had unlimited discretion to raise and expend money by taxation, to aid and accomplish purposes and objects that were beyond the power of Congress to effect, which involves the conclusion that the Constitution trusted Congress to spend money for objects which might be regulated and controlled by other governments, but would not trust Congress to create and regulate these objects of appropriation. In other words, Congress can not make and control a railroad; but it may raise and appropriate money for the benefit of a corporation that is to regulate and control it. Such a construction of the Constitution is anomalous. It gives an unlimited power of raising money to be expended at the discretion of Congress upon any and all schemes which Congress might deem for the "common defense and general welfare," although such schemes Congress is not empowered to project or to carry into execution by any power delegated to it.

If, under the tenth amendment of the Constitution, a specific power to do a particular thing is not delegated to the United States by the Constitution, then it is reserved to the States. Such a thing is in no way within the control and discretion of the United States. If it be within the words "common defense and general welfare," still, as those words grant no power, Congress can not exercise it. And yet, despite this, the construction contended for would give to Congress unlimited power to spend any amount of money to carry out a project or scheme clearly and only within the reserved powers of the States. Is it ligitimate to give to the power of taxation, which is ordinarily but a means for effecting the purposes of power, the larger function of unlimited discretion in selecting objects not within the delegated power as the recipients of the benefactions of revenue? Is it legitimate thus indirectly to carry into effect an ungranted power—a power which, being ungranted and if not prohibited to the States, is reserved to them? Is not this a usurpation by indirection, through taxation, as flagrant as if it were a bald exercise of the ungranted power? Judge Story says that this construction is conformable to the proposition "to legislate in all cases for the general interests of the Union." But that proposition was never adopted and was rejected. Is it legitimate, then, to conform the construction of the words "to provide for the common defense and general welfare" to a purpose which was proposed and rejected? It is true that Mr. Hamilton, in his draft of a Constitution proposed that Congress should have "power to pass all laws whatsoever, subject to the negative hereafter mentioned," and that the President should have power to negative all laws passed in the State by a governor or president, who shall be appointed by the General Government. * * *

And further, on page 480, Mr. Tucker says:

If Congress can thus by appropriation exercise this power, it would indirectly exercise a power not granted and since denied to it. If so, what use would there be for the tenth amendment or for Article I, section 1, of the Constitution? It is an anomaly to hold that any government can raise money except as a means to execute its own power. Taxation is a great power, but in itself it does nothing except as it is a means for doing that which is within the powers to be carried out by a government. That a government should have this great means to execute the powers of other governments reaches the point of absurdity. Why should government be given the means to execute a power which is denied to it and confided to another? Why give it the power to help another to do what is denied to it? If Congress can not be trusted with the grant of a power, why give unlimited discretion to Congress to raise money to enable one not intrusted with the power by Congress to perform it? Can such folly be attributed to the framers of the Constitution? It is obvious that the mass of powers which Congress would thus exercise by means of its revenue powers are powers which are reserved to the States; for the powers not delegated to the United States, unless prohibited to the States, are reserved to them. Thus it would follow that the revenue to be expended by Congress under this construction would be expended for the execution of powers which were reserved to the States. The effect then would be that while Congress is denied the particular power, it could effectually execute the power and invade the domain of State reservation by the expenditure of money; and conditioning the expenditure of money upon the substantial concession of power would, through money, virtually absorb the autonomy of the States and consolidate the whole governmental system into centralism.

Judge Cooley's views on this subject are well expressed in his Constitutional Limitations, page 11, as follows:

The general purpose of the Constitution of the United States is declared by its founders to be "to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity." To accomplish these purposes, the Congress is empowered by the eighth section of Article I:

(1) To lay and collect taxes; etc.
(2) To borrow money; etc.
(3) To regulate commerce; etc.

enumerating the 17 specific grants of power in this article. Judge Cooley thus limits "the general welfare" to the specific enumerated powers.

Judge Cooley may again be quoted:

General expenses of government.—Every government must provide for its general expenses by taxation; and in these are to be included the cost of making provision for those public needs or conveniences for which, by express law or general usage, it devolves upon the particular government to supply. As regards the Federal Government, a general outline of these is to be found in the Federal Constitution. That Government is charged with the common defense of the Union, and for that defense it may raise and support armies, create and maintain a navy, build forts and arsenals, construct military roads, etc. It has a like power over the general subject of post offices and post roads, and over other subjects enumerated in the Federal Constitution and subjected to its authority. It may contract debts, and it must pro-

vide for their payment. For all national purposes it may levy taxes, and its power in so doing to select the subjects of taxation and to determine the rate and the methods is as full and complete as can exist in any sovereignty whatsoever, with the exceptions which are prescribed by the Constitution itself. (Cooley on Taxation, 2d ed., p. 110.)

Judge Miller (Miller on the Constitution, p. 229, note 2) says:

In the transcript of the Constitution as printed in the Revised Statutes, page 19, there is only a comma after the word "excise," which was the end of the clause in the first draft when reported in the convention, a semicolon only appearing after the following word "States." The same is also true of the carefully corrected copy found in Hickey's Constitution. It would appear, therefore, that the proper value to be attached to this clause and its true meaning, as intended by the wise and learned framers of this instrument, are best exemplified by considering the latter part of the clause as a limitation upon the power given by the opening words. Story in his work on the Constitution prints it in the same way, but remarks, section 912, that in the revised draft in the convention there was a semicolon and paragraph as in the other cases; that it so stands now in some copies, and it is said so stands in the official copy, with a semicolon interposed. In the Federalist this punctuation is referred to, and, referring to the complaint that the language amounts to an unlimited commission to exercise every power which may be alleged to be necessary, it is asked "what color can the objection have when the specification of the objects alluded to by these general terms immediately follows, and is not even separate by longer pause than a semicolon?" (Federalist No. 41, Hallowell ed.; 40 Dawson's ed.)

Willoughby, who has published one of the latest and one of the ablest commentaries on the Constitution, says:

Especially by those who desire to magnify the powers of the Federal Government it has been argued that instead of construing section 8 of Article I as simply the grant of authority to raise revenue in order to pay the debts and provide for the common defense and general welfare of the United States, it should be interpreted as conferring upon Congress two distinct powers, namely, (1) the power of taxation and (2) the power to provide for the common defense and general welfare. And, under the latter of these two grants, it has been argued that the Congress has the authority to exercise any power that it may think necessary or expedient for advancing the common defense or the general welfare of the United States. It scarcely needs be said that this interpretation has not been accepted by the courts. Were this view to be accepted the Government of the United States would at once cease to be one of enumerated powers, for it would then be possible to justify the exercise of any authority whatsoever upon the ground that the general welfare would thereby be advanced.

Mr. Jefferson's view is strongly stated in his opinion on the power of Congress to establish the bank of the United States (February 15, 1791):

To lay taxes to provide for the general welfare of the United States, that is to say, "to lay taxes for the purpose of providing for the general welfare." For the laying of taxes is the power, and the general welfare the purpose, for which the power is to be exercised. Congress are not to lay taxes ad libitum for any purpose they please, but only to pay the debts or provide for the welfare of the Union. In like manner they are not to do anything they please to provide for the general welfare, but only to lay taxes for that purpose. To consider the latter phrase, not as describing the purpose of the first, but as giving a distinct and independent power to do any act they please, which might be for the good of the Union, would render all the preceding and subsequent enumerations of power completely useless. It would reduce the whole instrument to a single phrase, that of instituting a Congress with power to do whatever would be for the good of the United States; and, as they would be the sole judges of the good or evil, it would also be a power to do whatever evil they pleased. It is an established rule of construction, where a phrase will bear either of two meanings, to give it that which will allow some meaning to the other parts of the instrument and not that which will render all the others useless. Certainly, no such universal power was meant to be given them. It was intended to lace them up strictly within the enumerated powers, and those without which, as means, these powers could not be carried into effect. It is known that the very power now proposed as a means was rejected as an end by the convention which formed the Constitution.

And Mr. Jefferson again expressed his views on this subject in a letter to Judge Spencer Roane, October 12, 1815 (The Works of Thomas Jefferson, Federal edition, by Paul Leicester Ford, 1905, Vol. XI, p. 489):

I hope our courts will never countenance the sweeping pretensions which have been set up under the words "common defense and general welfare." These words express the motives which induced the convention to give to the ordinary legislature certain specified powers which they enumerate and which they thought might be trusted to the ordinary legislature and not to give them the unspecified also; or why any specifications? They could not be so awkward in language as to mean, as we say, "all and some." And should this construction prevail, all limits to the Federal Government are done away. This opinion, formed on the first rise of the question, I have never seen reason to change, whether in or out of power; but, on the contrary, find it strengthened and confirmed by five and twenty years of additional reflection and experience; and any countenance given to it by any regular organ of the Government I should consider more ominous than anything which has yet occurred.

Hare (American Constitutional Law, Vol. I, pp. 242-243) says:

A government authorized to provide for the common defense and general welfare is virtually absolute, because it must determine what means are requisite for the end in view, and its decision will necessarily be binding on the courts. If such were really the meaning of the clause under consideration, the tenth amendment, that "powers not delegated to the United States by the Constitution nor prohibited to it by the States are reserved to the States, respectively, or to the people," would have no real significance, since when all has been in effect given there can be nothing to withhold; and the concluding words would supersede the first or render them superfluous, because the duty to provide for the common defense and general welfare would imply the right to tax as indispensable to its fulfillment. * * *

The field of controversy is thus narrowed, but there is still room for doubt. Is the clause an authority to raise money, and consequently to appropriate it, for any purpose which Congress may deem conducive to the common defense or general welfare? Or does it merely authorize the laying and collection of taxes for the execution of the enumerated powers? The former is the literal import of the words employed and merely sanctions what would be implied under every form of government but our own; that is the right to expend the public revenue for any purpose that may be deemed conducive to the public good. * * *

This view is nevertheless open to objections as carrying the power of taxation beyond the verge of the Constitution and authorizing the Government to take money from the citizen for uses which it can not accomplish in its sovereign capacity and which are, on the contrary, reserved to the several States. The right of providing for popular education confessedly belongs to them and not to the United States, and yet the latter may, if the Hamiltonian argument is sound, lay taxes with the view of endowing public schools which it can neither establish nor regulate. * * *

It is of special interest to find that Von Holst, one of the strongest advocates of a strong and centralized government, finds himself unable to indorse Judge Story's view of this question. On page 118 of his Constitutional Law of the United States he says:

Further restrictions of the right of taxation result from the fact that Congress can exercise it only for the fulfillment of the objects enumerated. The expression "general welfare" is, indeed, so comprehensive and vague that the discretion of Congress is given the widest play. But however much this expression may be stretched, the mention of the three general purposes makes it certain that for other purposes no Federal taxes can be levied. There are certain bounds, more or less clearly marked, within which the right of taxation unquestionably can not be exercised. Above all, everything which comes exclusively within the jurisdiction of the States must be left alone by Congress. (Gibbons *v.* Ogden, Wheaton. IX, 199.)

Practically every judge on the Supreme Court bench has referred to this Government as one of "enumerated powers." That expression could not have been used if the words "the general welfare" embraced all powers. Why refer to a government of "enumerated" powers when one power among the number contained all others? Judge Marshall, in McCulloch *v.* The State of Maryland (4 Wheat. 314), says:

This Government is acknowledged by all to be one of enumerated powers. The principle that it can exercise only the powers granted to it would seem too apparent to have required to be enforced by all those arguments which its enlightened friends, while it was depending before the people, found it necessary to urge. That principle is now universally admitted.

And Judge Marshall, as a member of the Virginia Convention called to ratify the Constitution of the United States, in speaking of the powers of the States and the General Government over the militia, used this language:

The State governments did not derive their powers from the General Government. But each government derived its powers from the people; and each was to act according to the powers given it. * * * Could any man say that this power was not retained by the States, as they had not given it away? For does not a power remain until it is given away? The State legislatures had power to command and govern their militia before, and have still, undeniably, unless there be something in

this Constitution that takes it away. * * * There are no negative words here. It rests, therefore, with the States. * * * All the restraints intended to be laid on the State governments (besides where an exclusive power is expressly given to Congress) are contained in the tenth section of the first article. * * * The power of governing the militia was not vested in the States by implication, because being possessed of it antecedent to the adoption of the Government and not being divested of it by any grant or restriction in the Constitution, they must necessarily be as fully possessed of it as ever they had been, and it could not be said that the States derived any powers from the system, but retained them, though not acknowledged in any part of it.

Also in Gibbons *v.* Ogden (9 Wheat. 1), speaking of the reserve powers of the States, he said they represented—

that immense mass of legislation which embraces everything within the territory of a State not surrendered to the General Government; all which can be most advantageously exercised by the States themselves. Inspection laws, quarantine laws, health laws of every description, as well as laws for regulating the internal commerce of a State.

The decisions of the courts are full of such expressions, but I shall insert one other, a quotation from the opinion of one of the greatest judges, in my opinion, who ever sat upon the bench, Justice Brewer, who in Kansas *v.* Colorado (206 U. S. 89–91), said:

Appreciating the force of this, counsel for the Government relies upon "the doctrine of foreign and inherent power," adding, "I am aware that in advancing this doctrine I seem to challenge great decisions of the court, and I speak with deference." His argument runs substantially along this line: All legislative power must be vested in either the State or the National Government; no legislative powers belong to a State government, other than those which affect solely the internal affairs of that State; consequently all powers which are national in their scope must be found vested in the Congress of the United States. But the proposition that there are legislative powers affecting the Nation as a whole which belong to, although not expressed in, the grant of powers, is in direct conflict with the doctrine that this is a Government of enumerated powers. That this is such a Government clearly appears from the Constitution, independently of the amendments, for otherwise there would be an instrument granting certain specific things made operative to grant other and distinct things. This natural construction of the original body of the Constitution is made absolutely certain by the tenth amendment. This amendment, which was seemingly adopted with prescience of just such contention as the present, disclosed the widespread fear that the National Government might, under the pressure of a supposed general welfare, attempt to exercise powers which had not been granted. With equal determination the framers intended that no such assumption should ever find justification in the organic act, and that if in the future further powers seemed necessary they should be granted by the people in the manner they had provided for amending that act. It reads: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people." The argument of counsel ignores the principal factor in this article, to wit, "the people." Its principal purpose was not the distribution of power between the United States and the States, but a reservation to the people of all powers not granted. The preamble of the Constitution declares who framed it, "We, the people of the United States," not the people of one State, but the people of all the States, and Article X reserved to the people of all of the States the powers not delegated to the United States. The powers affecting the internal affairs of the States not granted to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, and all powers of a national character which are not delegated to the National Government by the Constitution are reserved to the people of the United States. The people who adopted the Constitution knew that in the nature of things they could not foresee all of the questions which might arise in the future, all the circumstances which might call for the exercise of further national powers than those granted to the United States, and after making provision for an amendment to the Constitution under which any needed additional powers would be granted, they reserved to themselves all powers not so delegated. This Article X is not to be shorn of its meaning by any narrow or technical construction, but is to be considered fairly and liberally so as to give effect to its scope and meaning.

If Judge Story's construction of the words "the general welfare" be correct, is it not of more than passing interest that in the history of the Supreme Court, covering more than 130 years, no case can be produced in which the court rests its judgment upon the power of Congress to appropriate money for any object which they might deem for the general welfare of the people?

The citations above given show on the one hand that the American commentators, Judge Story and Pomeroy, sustain Mr. Hamilton's view, and Mr. Monroe's name has been added to this number, although he certainly did not go as far as Judge Story, that Congress has the right to appropriate money for any purpose, State or National, which they might deem for the general welfare; he clearly states his view as follows (Internal Improvements, May 4, 1822):

If, then, the right to raise and appropriate the public money is not restricted to the expenditures under the other specific grants according to a strict construction of their powers, respectively, is there no limitation to it? Have Congress a right to raise and appropriate to any and to every purpose according to their will and pleasure? They certainly have not. The Government of the United States is a limited government, instituted for great national purposes, and for those only. Other interests are committed to the States, whose duty it is to provide for them. Each government should look to the great and essential purposes for which it was instituted and confine itself to those purposes.

After this statement, could anyone think that Mr. Monroe was of opinion that Congress could legislate to affect or control matters which were exclusively in the control of the States, and grant appropriations to them?

On the other hand, Mr. Madison, Mr. Jefferson, Willoughby, Von Holst, Cooley, Hare, Judge Miller, Chief Justice Marshall, Curtis, James Wilson, Duer, Grover Cleveland, and Tucker hold to the contrary. Judge Marshall may, with confidence, be placed among the latter number from the following extract from his opinion in Gibbons *v.* Ogden (9 Wheat. 1, 198–199), where he is discussing the power of taxation by Congress and the States:

Congress is authorized to lay and collect taxes, etc., to pay the debts, and provide for the common defense and general welfare of the United States. This does not interfere with the power of the States to tax for the support of their own governments; nor is the exercise of that power by the States an exercise of any portion of the power that is granted to the United States. In imposing taxes for State purposes they are not doing what Congress is empowered to do. *Congress is not empowered to tax for those purposes which are within the exclusive province of the States.* When, then, each government exercises the power of taxation, neither is exercising the power of the other.

If Congress can not tax for State purposes, who among us will hold that it may appropriate money for State purposes? Congress is not obliged in levying a tax to state the objects for which such tax shall be used, for it is presumed they are levied for national objects; so if Congress appropriates money raised for national objects for State purposes, it is a clear breach of trust.

William A. Duer, of Columbia College, in his Constitutional Jurisprudence, second edition, page 211, indorses Madison's view, as follows:

Congress is accordingly invested with power "to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defense and general welfare"; and it has also a distinct power "to borrow money on the credit of the United States."

It was originally urged as an objection to the Constitution, and it is still occasionally contended that the latter branch of the form of these clauses amounts, in terms, to an authority to exercise every power which may be alleged to be necessary for the "general welfare." But this construction was promptly refuted by the authors of the Federalist. "Had no other enumeration or definition of the powers of Congress," say they, "been found in the Constitution there might have been some color for this interpretation, though it would have been difficult to have found a reason for so awkward a form of describing an authority to legislate in all possible cases." It is evident that the expressions in question must be taken in connection with the preceding branch of the clause, and were intended merely as a specification of the objects for which taxes are to be laid, and not to convey a distinct and independent power to provide for "the general welfare."

I add the view of President Grover Cleveland, one of the bravest and most courageous men who ever sat in the presidential chair, as set forth in a message to the House of Representatives vetoing "An act to enable the Commissioner of Agriculture to make a special distribution of seeds in the drought-stricken counties of Texas, and making an appropriation therefor." He says:

Though there has been some difference in statements concerning the extent of the people's needs in the localities thus affected, there seems to be no doubt that there has existed a condition calling for relief * * *.

And yet I feel obliged to withhold my approval of the plan, as proposed by this bill, to indulge a benevolent and charitable sentiment through the appropriation of public funds for that purpose.

I can find no warrant for such an appropriation in the Constitution, and I do not believe that the power and duty of the General Government ought to be extended to the relief of individual suffering which

is in no manner properly related to the public service or benefit. A prevalent tendency to disregard the limited mission of this power and duty should, I think, be steadfastly resisted to the end that the lesson should be constantly enforced that though the people support the Government the Government should not support the people.

In a lecture on "The National and State Constitutions—the Legislative Department," by James Wilson (Wilson's Works, Andrews, Vol. II, pp. 56–59), we find a striking confirmation by that eminent judge of the views of judges and commentators that we have just cited:

VI. I come now to the last head, * * * to consider the powers vested in Congress by the Constitution of the United States.

On this subject we discover a striking difference between the Constitution of the United States and that of Pennsylvania. By the latter each house of the general assembly is vested with every power necessary for a branch of the legislature of a free State. In the former no clause of such an extensive and unqualified import is to be found. The reason is plain. The latter institutes a legislature with general, the former with enumerated powers. Those enumerated powers are now the subject of our consideration.

One great end (Constitution United States, preamble) of the National Government is to "provide for the common defense."

He then refers to all of the enumerated powers in the Constitution which are related to this provision "provide for the common defense," such as to declare war, raise an army, establish a navy, and so forth. He then quotes the other provisions of the preamble: "To insure domestic tranquillity," "to establish justice," "to form a more perfect Union," and recounts the enumerated powers of the Constitution which are intended to carry out these declarations, and finally (p. 58) he says:

Once more, at this time: The National Government was intended to "promote the general welfare." For this reason Congress has power to regulate commerce with the Indians and with foreign nations and to promote the progress of science and of useful arts by securing for a time to authors and inventors an exclusive right to their compositions and discoveries.

An exclusive property in places fit for forts, magazines, arsenals, dock yards, and other needful buildings, and an exclusive legislation over these places, and also, for a convenient distance, over such district as may become the seat of the National Government—such exclusive property and such exclusive legislation will be of great public utility, perhaps of evident public necessity. They are therefore vested in Congress by the Constitution of the United States.

For the exercise of the foregoing powers and for the accomplishment of the foregoing purposes, a revenue is unquestionably indispensable. That Congress may be enabled to exercise and accomplish them, it has power to lay and collect taxes, duties, imposts, and excises.

The powers of Congress are, indeed, enumerated; but it was intended that those powers thus enumerated should be effectual and not nugatory. In conformity to this consistent mode of thinking and acting Congress has power to make all laws which shall be necessary and proper for carrying into execution every power vested by the Constitution in the Government of the United States or in any of its officers or departments.

The learned judge gives no hint in this statement that the "general welfare" was anything more than descriptive of those powers which were subsequently stated and enumerated in the Constitution. There is not an intimation in his statement that Congress has any other power than those which are enumerated, and that the words "to provide for the general welfare" are merely a general description of that welfare, which is to be accomplished by carrying out certain enumerated powers.

I will close this collection of the views of statesmen and commentators on this subject by inserting Mr. Madison's supplement to his letter to Mr. Andrew Stevenson, which, to my mind, is among the ablest of American State papers, from the reasoning of which any man who will fairly read it will say there is no escape (Writings of James Madison, edited by Gaillard Hunt, Vol. IX, p. 424):

It is not to be forgotten that a distinction has been introduced between a power merely to appropriate money to the common defense and general welfare, and a power to employ all the means of giving full effect to objects embraced by the terms.

1. The first observation to be made is, that an express power to appropriate money authorized to be raised, to objects authorized to be provided for, could not, as seems to have been supposed, be at all necessary; and that the assertion of the power "to pay the debts," etc., is not to be referred to that cause. It has been seen that the particular expression of the power originated in a cautious regard to the debts of the United States antecedent to the radical change in the Federal Government; and that, but for that consideration, no particular expression of an appropriating power would probably have been thought of. An express power to raise money, and an express power (for example) to raise an army, would surely imply a power to use the money for that purpose. And if a doubt could possibly arise as to the implication, it would be completely removed by the express power to pass all laws necessary and proper in such cases.

2. But admitting the distinction as alleged, the appropriating power to all objects of "common defense and general welfare" is itself of sufficient magnitude to render the preceding views of the subject applicable to it. Is it credible that such a power would have been unnoticed and unopposed in the Federal convention, in the State conventions, which contended for and proposed restrictive and explanatory amendments, and in the Congress of 1789, which recommended so many of these amendments? A power to impose unlimited taxes for unlimited purposes could never have escaped the sagacity and jealousy which were awakened to the many inferior and minute powers which were criticized and combated in those public bodies.

3. A power to appropriate money without a power to apply it in execution of the object of appropriation could have no effect but to lock it up from public use altogether, and if the appropriating power carries with it the power of application and execution the distinction vanishes. The power therefore means nothing, or what is worse than nothing, or it is the same thing with the sweeping power "to provide for the common defense and general welfare."

4. To avoid this dilemma the consent of the States is introduced as justifying the exercise of the power in the full extent within their respective limits. But it would be a new doctrine that an extraconstitutional consent of the parties to a constitution could amplify the jurisdiction of the constituted government. And if this could not be done by the concurring consents of all the States, what is to be said of the doctrine that the consent of an individual State could authorize the application of money belonging to all the States to its individual purposes? Whatever be the presumption that the government of the whole would not abuse such an authority by a partiality in expending the public treasure, it is not the less necessary to prove the existence of the power. The Constitution is a limited one possessing no power not actually given, and carrying on the face of it a distrust of power beyond the distrust indicated by the ordinary forms of free government.

* * * * *

But it would seem that a resort to the consent of the State legislatures as a sanction to the appropriating power is so far from being admissible in this case that it is precluded by the fact that the Constitution has expressly provided for the cases where that consent was to sanction and extend the power of the National Legislature. How can it be imagined that the Constitution when pointing out the cases where such an effect was to be produced should have deemed it necessary to be positive and precise with respect to such minute spots as forts, etc., and have left the general effect ascribed to such consent of an argumentative or, rather, to an arbitrary construction? And here again an appeal may be made to the incredibility that such a mode of enlarging the sphere of Federal legislation should have been unnoticed in the ordeals through which the Constitution passed by those who were alarmed at many of its powers bearing no comparison with that source of power in point of importance.

5. Put the case that money is appropriated to a canal to be cut within a particular State. How and by whom, it may be asked, is the money to be applied to the work to be executed? By agents under the authority of the General Government? Then the power is no longer a mere appropriating power. By agents under the authority of the States? Then the State becomes either a branch or a functionary of the Executive authority of the United States; an incongruity that speaks for itself.

6. The distinction between a pecuniary power only and a plenary power "to provide for the common defense and general welfare" is frustrated by another reply to which it is liable. For if the clause be not a mere introduction to the enumerated powers and restricted to them, the power to provide for the common defense and general welfare stands as a distinct substantive power, the first on the list of legislative powers, and not only involving all the powers incident to its execution but coming within the purview of the clause concluding the list, which expressly declares that Congress may make all laws necessary and proper to carry into execution the foregoing powers vested in Congress.

The result of this investigation is that the terms "common defense and general welfare" owe their induction into the text of the Constitution to their connection in the Articles of Confederation, from which they were copied, with the debts contracted by the old Congress and to be provided for by the new Congress, and are used in one instrument as in the other, as general terms, limited and explained by the particular clauses subjoined to the clause containing them; that in this light they were viewed throughout the recorded proceedings of the convention which framed the Constitution; that the same was the light in which they were viewed by the State conventions which ratified the Constitution, as is shown by the records of their proceedings; and that such was the case also in the First Congress under the Constitution, according to the evidence of their journals, when digesting the amendments afterwards made to the Constitution. It equally appears that the alleged power to appropriate money to the

"common defense and general welfare" is either a dead letter or swells into an unlimited power to provide for unlimited purposes by all the means necessary and proper for those purposes. And it results finally that if the Constitution does not give to Congress the unqualified power to provide for the common defense and general welfare, the defect can not be supplied by the consent of the States, unless given in the form prescribed by the Constitution itself for its own amendment.

As the people of the United States enjoy the great merit of having established a system of government on the basis of human rights, and of giving to it a form without example which, as they believe, unites the greatest national strength with the best security for public order and individual liberty, they owe to themselves, to their posterity, and to the world a preservation of the system in its purity, its symmetry, and its authenticity. This can only be done by a steady attention and sacred regard to the charter boundaries between the portion of the power vested in the Government over the whole and the portion undivested from the several governments over the parts composing the whole; and by a like attention and regard to the boundaries between the several departments—legislative, executive, and judicial—into which the aggregate power is divided. Without a steady eye to the landmarks between these departments the danger is always to be apprehended, either of mutual encroachments and alternate ascendancies incompatible with the tranquil enjoyment of private rights or of a concentration of all the departments of power into a single one, universally acknowledged to be fatal to public liberty.

And without an equal watchfulness over the great landmarks between the General Government and the particular governments the danger is certainly not less, of either a gradual relaxation of the band which holds the latter together, leading to an entire separation, or of a gradual assumption of their powers by the former, leading to a consolidation of all the governments into a single one.

The two vital characteristics of the political system of the United States are, first, that the Government holds its powers by a charter granted to it by the people; second, that the powers of government are formed into two grand divisions—one vested in a government over the whole community, the other in a number of independent governments over its component parts. Hitherto charters have been written grants of privileges by governments to the people. Here they are written grants of power by the people to their governments.

Hitherto, again, all the powers of government have been, in effect, consolidated into one government, tending to faction and a foreign yoke among the people within narrow limits, and to arbitrary rule among a people spread over an extensive region. Here the established system aspires to such a division and organization of power as will provide at once for its harmonious exercise on the true principles of liberty over the parts and over the whole, notwithstanding the great extent of the whole; the system forming an innovation and an epoch in the science of government no less honorable to the people to whom it owed its birth than auspicious to the political welfare of all others who may imitate or adopt it.

As the most arduous and delicate task in this great work lay in the untried demarcation of the line which divides the general and the particular governments by an enumeration and definition of the power of the former, more especially the legislative powers, and as the success of this new scheme of polity essentially depends on the faithful observance of this partition of powers, the friends of the scheme, or, rather, the friends of liberty and of man, can not be too often earnestly exhorted to be watchful in marking and controlling encroachments by either of the governments on the domain of the other.

VIII.

VIEWS OF EDUCATORS, SOCIETIES, AND ORGANIZATIONS ON THE STERLING-TOWNER BILL.

I here submit the views of prominent educators and public men and those of certain organizations and societies in the United States on the subject of Federal aid to education and the Sterling-Towner bill.

Among those who have expressed themselves most forcibly against the Federal Government giving aid to education in the States may be mentioned ex-President Charles Eliot, of Harvard; President Nicholas Murray Butler, of Columbia; President McKinley, of the University of Illinois; President Lowell and Dean Briggs, of Harvard University; Mr. Inglis, director Harvard Graduate School of Education; President Hibben and Dean West, of Princeton; President Goodnow, of John Hopkins; ex-President Hadley, of Yale; President Sills, of Bowdoin; President Jessup, of the University of Iowa; and Dean Sutton, of the University of Texas.

I offer also a resolution passed by the Evangelical Lutheran Synod of Missouri, Ohio, and other States during the past year on this subject:

Whereas public education has thriven splendidly under our present system of State control and, on account of the differences between the States, might suffer grievously if it were supervised and regulated by a Federal bureau;

Whereas a Federal bureau of education must inevitably result in a limitation on State rights, a contraction of individual liberty, and an additional financial burden on the taxpayers;

Whereas the definition of the term "Americanization" and the perpetuation of religious liberty are of vital concern to us all and might be materially affected by a Federal bureau of education under political and denominational influences;

Whereas the Sterling-Towner bill now pending in Congress embodies the probabilities and possibilities just mentioned: Now therefore be it

*Resolved by the Evangelical Lutheran Synod of Missouri, Ohio, and other States, assembled in the national convention at Fort Wayne, Ind., from June 20 to 30, 1923, and representing more than a million members throughout the United States,* That we are opposed to said bill.

I also offer the views of one of the most distinguished and able churchmen in the South, Bishop Candler, of Georgia, on this subject:

[Bishop Warren A. Candler, in the Western Recorder, May 10, 1923.]

Another case in point is that of the Towner-Sterling educational bill, which is an utterly unwise and indefensible measure.

This measure seeks to establish an executive department of education, similar to that of the Department of the Interior or the Department of Justice, with a secretary in the President's Cabinet to administer it. It would receive large annual appropriations for distribution among the States, and the secretary by disbursing these large sums upon certain conditions could, and would, color and control the education of the youth of the Nation.

It is far worse in all its features than the vicious "Blair bill," which the people opposed vigorously and defeated overwhelmingly about 30 years ago. It proposes for the United States a thoroughly Prussianized system of education. The creation of a department of religion with a secretary in the President's Cabinet would be scarcely more injurious or more un-American.

But some good people clamor for its adoption because they wish to extirpate ignorance and promote education in the land. Certain educational associations, in which a group of officials propose all sorts of resolutions and secure their adoption by a body of unthinking delegates, have indorsed this dangerous bill. They claim the teachers of America are favorable to it. *As a matter of fact an overwhelming majority of the teachers of the United States have never given it a thought. If they had, they would oppose it as an unwarranted and hurtful interference by the Federal Government with the work of their noble profession. All the people will unite against it as they did against the "Blair bill" about 30 years ago, once they understand it.*

But at present the people of the country are asleep on the subject, and they need to be aroused. They do not perceive the purpose of the bill nor apprehend the wretched consequences of the measure if it were adopted.

* * * * * *

The people will render a verdict similar to that given by the overwhelming majority of the members of the chamber of commerce once they are informed and aroused on the subject, and they can not be awakened too soon.

This mischievous measure will be introduced in the next Congress, and the dextrous propagandists who have supported it heretofore will be working vigorously for it again. Indeed, the people should know that a number of lobbying bureaus and boards have headquarters at the National Capital and that by postal propagandism with the citizens of the country and personal appeals to Members of Congress they are constantly seeking to secure the passage of all sorts of paternalistic schemes that rob the Federal Treasury, prostrate the States to impotent provinces, and increase the burdens of Federal taxation. In cooperation with other unworthy agencies they are reducing the Federal Government to a most extravagant and wasteful cooperative society which disguises its extraction of millions of dollars annually from the pockets of the taxpayers by sending back a few paltry appropriations to local enterprises and selfish schemes of spurious reformers.

They not only levy and collect taxes through Federal legislation which ought not to be levied, but by the most insidious methods they denature the Government itself, displacing the freedom of a constitutional republic with the tyranny of an unscrupulous bureaucracy. The Constitution, designed for the defense of the liberties of the people, is rapidly becoming an object of contempt upon the part of these demagogical bureaucrats.

All the people may as well understand that there is no money but their own in the Federal Treasury. * * *

The people themselves will be forced to furnish the money for all the schemes of the bureaucrats, notwithstanding the pretenses of these propagandists that they are getting something out of the Government for "the dear people."

In 1921 the Chamber of Commerce of the United States of America appointed a committee "to examine the question of the Federal Government's participation in education." The committee was composed of eight members, and filed a majority

and minority report. The majority report, consisting of five members, opposed the creation of a Federal department of education with a secretary in the President's Cabinet; second, the enlarging the present Federal Bureau of Education; and third, Federal aid to education in the States on the 50-50 basis. A minority of two took the other position, favoring those three propositions, while one member of the committee favored only one of the propositions practically, namely, that of enlarging the Bureau of Education. Their reports were submitted by referendum to all of their subsidiary organizations throughout the States, which was closed February 9, 1923, with reports from 594 organizations on the subject. The propositions submitted and the results on the balloting on each proposition were as follows:

I. Do you favor the creation of a Federal department of education with a secretary in the President's Cabinet?

| | |
|---|---|
| Votes in favor | 461½ |
| Votes opposed | 1,319½ |

II. Do you favor enlarging the present Federal Bureau of Education?

| | |
|---|---|
| Votes in favor | 623 |
| Votes opposed | 1,074 |

III. Do you favor the principle of Federal aid to education in the States on the basis of the States appropriating sums equal to those given by the Federal Government?

| | |
|---|---|
| Votes in favor | 527 |
| Votes opposed | 1,200 |

Under the by-laws the chamber is committed on a proposition submitted to referendum by a two-thirds vote representing at least 20 States, provided at least one-third of the voting strength of the chamber has been polled.

The result of the final count is that the chamber is committed in opposition to Propositions I and III. It is not committed either for or against Proposition II. (See Special Bulletin, March 9, 1923, Chamber of Commerce of the United States of America, Mills Building, Washington, D. C.)

In examining this report, excluding the States from which only one organization reported, and there were several of these, 41 States through more than one organization made reports. Of the 41 States, 22 voted against all three propositions. Nine States voted for all three propositions. The latter States were North and South Dakota, Utah, Nebraska, Montana, Mississippi, Florida, California, and Arizona. Ten States reported for some and against others. These States were as follows: Colorado, Kansas, Louisiana, Maine, Missouri, Oklahoma, Oregon, Rhode Island, South Carolina, and Washington. Of these latter 10 States, 7 reported against I and III, so that of the 41 States, 12 voted for I and III, and 29 against I and III.

IX.

IMPERFECTIONS OF THE BILL IN ITS PROVISIONS, NATIONALIZATION OF EDUCATION, ETC.

If this bill could fairly escape the criticism of its unconstitutionality, and the appropriation by the Federal Government of money to the schools of the States was without legal objection, the bill itself is open to the most serious objections.

The first of these is evidenced in the Keith and Bagley book and by publications of various societies in the country showing a purpose on the part of its advocates to *nationalize*, *federalize*, and *standardize* education in the United States. Such a scheme, without regard to its constitutionality, is unscientific, un-American, and must result in dissatisfaction and confusion.

What is meant by the terms "nationalized," "federalized," and "standardized" education in the United States? These are all suggested in the literature which has been produced advocating this bill, although the bill itself declares that the control of education under this bill is to be left entirely with the several States. If the Federal Government is excluded from all control of the schools in the States, how can any one of these three be accomplished? There are two provisions in the bill which show how it is done. The Federal Government is given power to appropriate money to the schools and, second, to lay down conditions upon which the money can be received by the States. Those conditions will bring about the standardization or nationalization of education into one uniform, inflexible system common to all the States, while the bill on its face gives the complete control of the schools to the States.

The very words themselves, *federalize*, *nationalize*, and *standardize*, import a control which is confessedly denied under the Constitution to the Federal Government. Federalized arithmetic and nationalized geography and standardized psychology all denote most plainly the elimination of State control of those subjects. We want no uniform standard of education in the United States. It would be as fatal and as absurd as for the Federal Government to standardize or nationalize agriculture and apply the same methods to the pine-clad hills of Maine as to the orange groves of Florida. If the States have the right to control education, the right to control the standard, the methods, the books, the teachers, the whole system must remain with the States.

Even Keith and Bagley seem to seriously doubt whether this right to nationalize or standardize education is within the power of the Federal Government, for on page 154 they say:

> There is another reason for not attempting to prescribe by Federal legislation the methods of procedure by the States. Constitutionally the right to organize, supervise, and administer education within a State is clearly the function of the State itself. If a State accepts a law with procedure specifically defined in it, it substantially enters into a contract with the Federal Government. It is an open and undetermined question whether such a contract is not itself unconstitutional. In other words, can a State by contract surrender to the Federal Government a function which the Constitution has reserved to the State?

And yet their whole book is filled with arguments to show how this bill will federalize and will standardize education.

To standardize or nationalize the school system of America is merely another word for transferring the system bodily from the control of the State to the control of the Federal Government. Having the power to impose conditions, that power will be exercised, and after the system gets into operation in future bills we will find new conditions imposed by the Federal Government which will culminate in Federal control and the extinguishment of the control of the States.

The word *nationalization* carries with it the obliteration of State control and the adoption of national control. It carries with it the idea of one controlling central power at Washington to supervise the 48 systems of the States. One head to control 48 different systems, which by this bill are declared to be free from such control. Or, if not, it means the obliteration of the 48 systems, merged into 1 system, the same for each of the 48 States. This doctrine of standardization of education has been well treated in a pamphlet issued by the American Council on Education at Washington in connection with the proposed Smith-Towner bill, as follows:

> The power to establish standards would unquestionably be the most influential prerogative of a department of education. Under the Smith-Towner bill the department is implicitly given this power. Through its ability to withhold appropriations unless State plans meet with its approval the department can establish minimum standards in some of the principal fields of educational effort. It is this implied power to coerce through shutting off supplies that constitutes in the minds of critics of the bill one of its principal dangers. Standards formulated in the serene seclusion of Washington may be imposed without debate or appeal upon institutions in all parts of the United States. Nothing is more likely to foster bureaucratic tendencies.

No stronger statement on this subject has been made than the following:

> That all education should be in the hands of a centralized authority, whether composed of clergy or of philosophers, and be consequently all framed on the same model and directed to the perpetuation of the same type, is a state of things which, instead of becoming more acceptable, will assuredly be more repugnant to mankind with every step of their progress in the unfettered exercise of their highest faculties. (John Stuart Mill. The Positive Philosophy of Auguste Comte, p. 92.)

The Hon. Franklin K. Lane, ex-Secretary of the Interior, in his report to the President of February 28, 1920, says:

> Federal control of schools would be a curse because the inevitable effect of Federal control is to standardize.

Second. The bill provides for the establishment of a Secretary of Education, as a Cabinet officer, with power to unify and expand all of the supposed educational activities of the Federal Government. Exactly why an office of this character should be created it is difficult to see; confessedly the Federal Government has no control over the educational activities of the States, and yet it is here proposed to create an officer with nothing that he can do constitutionally. An officer not to *execute* the law, but to *break* it. It would be as sensible on the part of the Government to abolish the Army of the United States and yet continue to appoint officers of the Army with nothing for them to command. Is it not enough that the people should be taxed to pay the salaries of officers who are carrying out the legitimate powers of the Government, and not be required to pay additional taxes to create thousands of new offices that can not constitutionally function?

But the fatal objection to such an establishment, which must be evident to all, is that the creation of such a department

would bring the schools of the country into politics and make them the "football" of political parties in the wild appeals which would be made to the people in the political campaigns of the country. The vitality, the force, and efficiency of the schools depend on their absolute freedom from any political influence, and this security can not be had when the controlling power of the schools would be a political appointee. Millions upon millions of dollars in taxation would be needed to supply salaries for tens of thousands of new offices to be created under the bill.

The theory that the Secretary of Education would be above political bias is simply absurd and can not be believed by any intelligent man who has an adequate conception of our form of government. His idealism and standardization would last for four years when a new appointee would come into office and of course he would regard it as his duty to inflict his ideals and his standards upon the country. It is difficult to contemplate the political power which such an office would create in the Government, with 48 superintendents of schools in the different States—all men of influence and power—with the superintendents of schools of the counties and cities of each State under them; with the teachers of each county and city of the States under these State superintendents, to the number of 600,000 in the United States, this army could and would be marshaled as a solid phalanx to carry a political election. And think of such an army of lobbyists. The hundred million dollars carried by this bill would soon be increased to billions. Consolidation and destruction of the Government would be inevitable. The history of Germany need only be referred to as an example of such a system.

Third. Should this bill become a law it would doubtlessly result either in the impairment or the destruction of the school systems of many of the States rather than the upbuilding of the same, which, of course, is the object of its proponents. It is inevitable that the power to couple appropriations with conditions can not exist without the school systems taking on the color and character of those who have the power to make the conditions. This being the case, the schools will, of course, assume that character which a majority of the States desire them to have, for the Congress can prescribe standards of education indefinitely as a condition of their appropriation of money to the States. One of them in this bill is a "local school term of at least 24 weeks" for each State that accepts this appropriation.

Now, suppose Virginia to have a school term of 20 weeks; by accepting this appropriation Virginia would agree with the Federal Government to make the term 24 weeks. Are not the four additional weeks agreed to by Virginia a control by the Federal Government of the school system of Virginia to that extent at least? So that, if the Constitution puts the control of the schools in the hands of the States, can the State, by consenting to that control being lodged in the hands of the Federal Government, change the Constitution? Article V of the Constitution, which provides for amending it, prescribes no such method. This is a new invention in constitutional development; and when it is remembered that this power in the Federal Government, it is claimed, may extend to *any conditions*, or any number of conditions, is it not seen that each additional condition imposed will be additional control of the systems by the Federal Government? The advocates of this bill deny any desire to give the Federal Government control of the schools in the States, and yet they openly claim the power to make conditions which will give that control to the Federal Government. Things that are equal to the same thing are equal to each other. What this proposition in the bill really means when analyzed is this, that all that is left of the school systems of the States after all has been taken from them by conditions imposed by the Federal Government is to be left to State control. But the control given to the States of the school systems by the Constitution embraces the entire organization, administration, and execution of the systems, and by just so much as that broad and inclusive control is depleted and diminished by conditions imposed by the Federal Government, by just that much is that control unconstitutional and void. If a condition imposed by the Federal Government is complied with by the State, that part of the school system represented in the condition is as completely under the control of the Federal Government as if such power were originally granted it in the Constitution itself. Then multiply these conditions as the years go by and see where the State control is left.

The Secretary of Education is to be a member of the Cabinet. Our Government is a political government. One of the most prominent politicians of his day in Virginia declared—

> that the position of superintendent of schools of the State was the most valued asset of any political party that could secure it.

With 600,000 school-teachers in the United States, with 48 State school superintendents, with thousands upon thousands of county superintendents, with the council of education provided for in this bill, all revolving in the same orbit, constituting an army "more terrible than an army with banners," to carry out the political program of the political secretary of education, what would be the result? Would the systems be improved? Such a result means the annihilation of the school systems of the country by politics. In the literature promulgated on the subject we find it argued that there would be much benefit to the country through the school system if teachers from other States could be brought into each State so as to give the points of view of those brought up and educated in other surroundings, that teachers of Virginia should be sent to Utah and North Dakota, and that teachers of Utah and North Dakota should be sent to Virginia, and it would not be surprising to find that the secretary of education might believe that the most enlightened writers of schoolbooks for children could be found alone in his or her own State or section.

The power claimed to make conditions is a power to control the school system. To deny it is useless, and the practical effect of such principle is already seen in the bill for Federal aid to roads and the Federal Board for Vocational Education, which were at first as modest and considerate as are the authors of this bill; but after the operation of a few years, in the case of roads, it is seen that not a mile of road is built under the Federal-aid system except as approved first by the Federal Government; and in the case of vocational education the board controlling that system now disburses Federal money, "laying down regulations, controlling, inspecting, and dictating the manner in which vocational education shall be carried on by the States, the cities, and towns and other local educational units."

The issue is clear; the passage of the first bill that starts this iniquitous system must be fought—*obsta principiis*. Giving control to the States in this bill fools nobody. The next bill may take it all from the States by imposing conditions. "Surely in vain the net is spread in the sight of any bird."

This bill contains a condition that each State must have a compulsory system of education.

Gen. James A. Garfield, in the House of Representatives, June 8, 1866, on the bill to establish a bureau of education, said:

> The genius of our Government does not allow us to establish *a compulsory* system of education, as is done in some of the countries of Europe. There are States in this Union, however, which have adopted a compulsory system; and perhaps that is well. *It is for each State to determine.*

If, as General Garfield says, the question of a compulsory system of education is for each State to determine, how can Congress in this bill propose a compulsory system in each State as one of the conditions upon which each State shall receive this appropriation? Garfield was an earnest friend of education, but he could not indorse such violation of the Constitution as this.

Fourth. This bill gives to Congress the power to appropriate money to the States for school purposes, and with such grant *relinquishes any control whatsoever of the money granted* and places that control in the hands of another government. This is a plain surrender of a plain trust duty residing in Congress to control the expenditure of all money appropriated by it.

The duties confided to Congress are trust duties. The great powers to lay and collect taxes and to appropriate money are the highest trust duties; to use the power to gather money from the people by taxation, and then by appropriation give that money to a State without let or hindrance by Congress is an abandonment of a trust duty which no court will sustain. Even if the money is appropriated to the State to carry out a purpose within the control of Congress, it is clearly an unauthorized abandonment of their trust duty to control the people's money, and if the money be appropriated to a State—another government—to carry out a purpose denied to Congress, their guilt is only enhanced. If the Federal Government retains partial control, this is equally unconstitutional, for "Congress can not delegate the powers confided to it" at all. How can the United States Government surrender control of its own funds into the hands of another government and keep faith with the people as their chosen trustee? The people, in making our Constitution, never intended that the taxes wrung from them should be used and administered by another distinct government. No trustee, charged with a duty, and accepted by him, can escape his responsibility under the trust who abandons his trust by surrendering it to another.

Fifth. As a corollary of the last doctrine asserted, it follows that no law of Congress would be valid that takes away a duty devolving upon Congress and seeks to place it in the hands of another power or government.

Black on Constitutional Law, third edition, page 287, says:

It is clear in the first place that Congress can not pass any law altering the form or frame of the Government, curtailing the autonomy of the United States, or subjecting the Government to the influence or ascendency of any foreign power.

This principle is so clear that it hardly needs affirmation or discussion. A minute examination of this bill shows it to be clearly subject to this objection. Such examination will show its revolutionary character and will show with equal clearness the attempted grant of power to the one or the other which is denied to it in the Constitution, or the exclusion of the one or the other from the exercise of a power granted to it. Neither can be admitted.

Finally: Why should we by this bill *increase* the debt of the Government $100,000,000, or more likely by $500,000,000, in five years when every patriot in the country is striving to *reduce* it? Are we willing to pay such a price for the chance of mixed schools? For imported teachers, not of our own choice? Or for books selected by the secretary of education for the children of the schools? This bill also represents a large spoke in the large wheel of consolidation, which unless checked will finally place all of the interests of the people of the United States, national and local, in a consolidated empire at Washington. Time would fail me to record even a partial list of the bills that have become laws and those that are pressing for consideration involving appropriations to the States. Each is a spoke in this great wheel of consolidation. Most of them rely upon money drawn from the States by taxation and brought to Washington to be sent back to the States for the discharge of State functions. Business methods would suggest that this money should be left in the States for the discharge of State functions and not be subjected to the losses incident to its transfer to Washington and its retransfer to the States by the employment of thousands of extra employees to do this work. No business corporation would ever stand for such a system. This bill attempts to appropriate $100,000,000. In five years, should this bill go through, we may expect the appropriation to be $500,000,000.

The maternity law passed two years ago that carried an insignificant appropriation, in the budget for this year has largely increased that amount. If it should ever be uniformly adopted by the States, in a few years it will require millions of dollars annually. How can this tax-ridden people stand such burdens? This policy seems to be invoked in every description of legislation, but for fear some State power might have been omitted in its transfer to the Federal Government, we find pressing for consideration a bill to create a "General Welfare Department" to complete the concentration of all powers of the States in the Federal Government. Bureaus and commissions of every kind and description, moving in independent orbits, drain the public Treasury of taxes drawn from the people and add to the congestion of powers in Washington.

With a national debt of $22,000,000,000; with an annual interest charge of about $1,000,000,000; with the people crying for relief from the burdens of war taxation; with this bill offering to give the States $100,000,000, an additional burden to the people, may not the question seriously be asked of the States, in Biblical language, "*Is it* a time to receive money, and to receive garments, and olive yards, and vineyards, and sheep, and oxen?"

What matters it that the Treasury Department can pay off $300,000,000 of the debt if we stand here prepared to add 10 times that amount by the bills that are pressing? The first duty of a legislator is to reduce this debt and thereby reduce taxation, and if this bill is passed the debt of the Government and the taxation of the people will both be largely increased. Not only that, but the bill represents a vicious principle seen in so many bills now before Congress of attempting, by indirection, to transfer powers to the Federal Government which, under the Constitution, belong to the States, until the concentration of power at Washington in this the greatest republic of modern times will soon rival the condition which existed in Germany at the outbreak of the late war, when all power had been taken from the people in their localities and concentrated in Berlin; and this bill, and others of like character, are not only increasing the debt of the country and thereby increasing taxation, but they are concentrating in the city of Washington powers which should remain in the States.

Germany to-day is suffering from this very principle, and is a sad example of it. In the forests of Germany the Anglo-Saxon principle of local self-government was first developed. That principle was brought to England by the Saxons and nurtured in the congenial atmosphere of the mother country. Our fathers brought it to this country and first planted it on the banks of the "Noble James" at Jamestown, Va. Note the difference in the development of the two civilizations. We took the principle from the Saxon commonwealth and have faithfully developed it in this country until recent years. Local self-government has been the shibboleth of those who believe in the highest development of the individual man. It teaches the principle that where the Government touches him closest, in his home, that there his power as a citizen should be greatest to defend and protect that home; and what, I ask, comes closer to the home than schools? And, therefore, when we are brought face to face here in Congress with the bold attempt asserted in these bills to destroy that principle of home rule and substitute in its place a consolidated Government embracing not only national but the local powers of the people at home, I find myself, in duty bound to the noble people I represent, to resist such bills to the uttermost.

I beg any man to look at the history of Germany and see how year by year and century by century the local powers which originally belonged to the people had become concentrated in Berlin in one iron hand, and its results! Concentration of power results in irritation, congestion, and inflammation in the body politic and the destruction of liberty; and, like the human body suffering with inflammation, needs a counter-irritant to draw out such inflammation. A mustard plaster in the latter case will usually relieve the patient, and in the former the return of the local powers of which the people in their States, counties, and districts have been stripped will bring the desired relief. The experiment of free government in this American Republic is at stake. The fight is on.

I invoke the aid of patriotic men of every creed and party to put their armor on and resolve never to take it off until the victory is won for the integrity of our own Constitution, the only hope of this American Republic.

PERMISSION TO ADDRESS THE HOUSE.

Mr. HILL of Maryland. In view of the fact that the customary time for the adjournment of the House has come, I ask unanimous consent to address the House for three-quarters of an hour on Monday instead of to-day.

The SPEAKER. The gentleman from Maryland [Mr. HILL] asks unanimous consent to address the House for three-quarters of an hour on Monday next. Is there objection?

There was no objection.

Mr. BLANTON. Mr. Speaker, I have no objection to the request of the gentleman from Maryland [Mr. HILL], but I ask in that connection that following the gentleman from Maryland I may have two minutes.

The SPEAKER. The gentleman from Texas [Mr. BLANTON] asks unanimous consent that on Monday next, following the address of the gentleman from Maryland [Mr. HILL], he may address the House for two minutes. Is there objection?

There was no objection.

Mr. McKEOWN. Mr. Speaker, I ask unanimous consent to address the House for 15 minutes following the addresses by the gentlemen who have already been allotted time on Monday.

The SPEAKER. The gentleman from Oklahoma [Mr. McKEOWN] asks unanimous consent to address the House for 15 minutes on Monday next following the gentlemen who have already been allotted time. Is there objection? [After a pause.] The Chair hears none.

EXTENSION OF REMARKS.

Mr. TILSON. Mr. Speaker, I ask unanimous consent to extend in the RECORD an article written by Mr. Mondell, formerly floor leader of this House, on the general subject of Congress and its work. I asked permission to extend this article in the RECORD just before the holidays. On first presentation it was objected to by a Member or two, but those Members, after an examination of the article, withdrew their objection, but too late for me to get permission before the House adjourned for the holidays. I now ask permission to extend this article in the RECORD.

The SPEAKER. The gentleman from Connecticut [Mr. TILSON] asks unanimous consent to extend in the RECORD an article written by Mr. Mondell on the general subject of Congress. Is there objection?

There was no objection.

Mr. TILSON. Mr. Speaker, under the leave granted to me to extend my remarks I include the following:

WHAT'S THE MATTER WITH CONGRESS?

(By Hon. Frank Wheeler Mondell, floor leader in the last two Congresses.)

In propounding the inquiry which forms the title of this article, with a view to suggesting some possible answers thereto, it may not be amiss to acquaint the reader with the fact that when on March 4 last the Sixty-seventh Congress closed its sessions 28 years had elapsed since I

first took my seat as a Member of the House of Representatives. With the exception of two years of involuntary retirement following the campaign of 1896, when a free-silver candidate occupied the seat, I had served continuously in the House as the lone representative of the Commonwealth of Wyoming and the last four years as floor leader of the Republican majority.

Twenty-eight years is a brief period in the tides of time, but it is a long span in the life of a man and a very considerable one in that of a nation when important history is in the making. The period of my service covered all or a part of the administrations of six Presidents—Cleveland, McKinley, Roosevelt, Taft, Wilson, and Harding—and of five Speakers—Reed, Henderson, Cannon, Clark, and Gillett—and witnessed all the stirring and important legislative battles and accomplishments which this list of illustrious names calls to mind.

During this time we fought two foreign wars, extended our boundaries and our jurisdiction from the continent of America to the islands of the eastern and western seas, planted our flag in the fartherest Orient, and united the two great oceans at Panama. Speaking now from the viewpoint of the balance of the world, the Republic in this period passed from the condition of an isolated and comparatively unimportant western nation to a position of acknowledged world supremacy in power and moral influence. Measuring our activities by expenditures, we progressed from an annual outlay of half a billion dollars to the expenditure, during the World War, of $33,000,000,000 in a twelve-month and to the present budget of nearly $4,000,000,000.

CHANGE IN ATTITUDE TOWARD GOVERNMENT.

The period has been one of profound change of opinion and viewpoint on the part of a majority of our people with regard to tremendously important policies and even principles of government. As a result we have embarked upon many enterprises of government new to the earlier view, touching the limitation of Federal authority and the safe and proper field of public activity. This change of view has not been wholly confined to the people of any particular class or party; in fact, it has been most noticeable, in some important instances, among those whose historic faith strongly inclined them to a narrow and restricted view of the proper field of government activity.

CONGRESS ACTS IN RESPONSE TO PUBLIC DEMAND.

Whether all of our new ventures and undertakings of government have been wise, whether all of our new departures in legislation and in administration shall prove to be sound and workable, only the acid test of experience can demonstrate. It is beyond controversy, however, that these things have come to pass by reason of widespread and very active and insistent public demand. Perhaps the most curious feature of it all is the fact that we have so expanded and extended the jurisdiction and activities of the Federal Government with so few changes in our organic law. In this connection one is reminded of Mr. Dooley's observation to Mr. Hennessey to the effect that, whether or not the Constitution follows the flag, the Supreme Court follows the election returns.

In carrying out the tremendous program of extension and expansion of Federal jurisdiction and activity, both within and without the purview of new constitutional amendments, the Congress has held the laboring oar, has been the instrument through which the supposedly popular will has been crystallized into statute law. It is possible, of course, that a Congress may misunderstand or misinterpret the public and the national will and purpose. It may neglect or refuse to carry into effect a fairly definite national mandate, but none of these conditions can, under our form of government, long continue. Beyond question, in the long run the laws enacted by the Congress fairly reflect the majority sentiment, and those things within its jurisdiction which it fails or declines to do may safely be assumed to lack the continuous, at least the persistent, support of a majority of the people. To deny this would be to confess the failure of our system of legislation.

THE TENDENCY TO BELITTLE CONGRESS.

The Congress being the instrument for carrying out the popular will in legislation, reflecting as it does, in the main and in the long run—approximately, at least—the view and purpose of a majority of the people, it might naturally be expected that it would be a highly esteemed and popular institution. I doubt if even the best friend of the Congress would be justified in asserting that this is entirely and continuously true. Individual Members of both House and Senate are very generally highly esteemed and respected, particularly by those who know them best—which is the highest proof of quality—and the fact that men of the highest culture and position frequently put forth great efforts to secure seats in one body or the other is conclusive proof of the public appraisal of senatorial and congressional service. Notwithstanding all this, it must be admitted that the Congress as a body is far oftener subjected to hostile criticism than it is made the recipient of approval and that it rivals even mothers-in-law and the "flivver" as the butt and subject of the jokesmith.

As a student of congressional affairs and of the attitude of the press and public toward the Congress, I am inclined to the opinion that there is nothing particularly anomalous nor necessarily alarming in the attitude of criticism to which I have referred. In fact, it is not novel; and taking into consideration the increasing number of vital issues that Congress is called upon to meet and the growth in the number and diversity of organs for the expression of public opinion, it is by comparison neither as general nor as violent as it was formerly. On the other hand, in the very nature of the case, there is bound to be an increase in the variety and volume of criticism of legislation, and therefore of legislative bodies, if we continue, as it seems likely we shall, to enlarge the field and widen the character of Federal activities, and particularly as we more and more lay a restraining or a directing hand on the individual and augment his burdens and responsibilities.

CRITICISM TO BE EXPECTED.

No fortunate possessor of a large income can be expected to be happy in the payment of a considerable income tax, but this fact does not restrain the criticism on the part of him who, being less fortunate in his income, berates the Congress because it has not placed a greater burden on the rich. There is no thirsty "wet" but who will criticize a statute even reasonably enforcing the eighteenth amendment; but there are a multitude of "drys" who will always doubt if the law has sufficient "teeth" or is properly enforced. A considerable number of people view with alarm any plan of ship subsidy; but many, including some of the aforesaid, complain bitterly because Congress appropriates for Federal operation of the fleet. Some rail at Congress because of legislation proposed in the interest of the farmers, but a lot of the folks from the home region of the "farm bloc" insist that Congress has not done enough for the farmer. Whatever may be the attitude of Congress on these and countless other matters, there is certain to be a flood of criticism, and the wider the field and the greater the variety of the interests affected the louder the chorus of disapproval.

THE "GRIST" OF CONGRESS.

The active legislator frequently notes curiously contradictory criticism from the same source. For instance, a certain astute political manager, realizing the advertising value of slogans, dubbed the Sixty-seventh Congress in its first session "The do-nothing Congress." The epithet sounded well, and it went far afield. In the meantime the Congress proceeded to consider and dispose of a very considerable number of exceedingly important problems and to transact in the aggregate an enormous volume of business, and at its close it became my duty as majority floor leader to set forth in some detail its accomplishments. In performing this duty, after calling attention to the important character and complex nature of many of the problems considered, I made some reference to the vast volume of business transacted, referring to the fact that 931 laws had been placed upon the statute books. This announcement was a veritable red rag to the "Do-nothing Congress" journals, and they quite exhausted their vocabulary in the denunciation of a Congress that had seen fit to grind out so large a legislative grist.

In view of the fact that, whatever may be its faults and shortcomings, the Congress does place upon the statute books many measures having back of them a tremendous force and volume of favorable public sentiment, it might be expected that it would receive a considerable amount of warm and spontaneous public approval. But that is not our national habit.

Every important legislative proposal has its more or less important divisions of plan and detail with regard to which it is inevitable there should be honest differences of opinion. Out of these differences spirited contests frequently arise, and the outcome may be a measure generally approved in principle and generously "damned" in detail. Principles and policies may ordinarily be stated in brief and simple terms, and, so stated, receive general approval; but their application to problems and conditions frequently subjects the legislative body attempting them to the criticism of both friend and foe. Out of such conditions any considerable amount of unqualified approval is scarcely to be expected.

HOUSE PROCEDURE: SPEAKERS REED, CANNON, CLARK, AND GILLETT.

It is quite natural, perhaps, that there should be, from time to time, severe criticism of methods of congressional procedure; in fact, a certain amount of criticism of this character is likely to be chronic. Whatever may be one's legislative slant or interest, unless things are going more smoothly than can be ordinarily expected or more rapidly than they should consistent with the best results, the disappointed or impatient one is likely to lay the blame to faulty organization. I began my service under "Czar" Reed. I was comparatively young, as congressional ages go, and neither then nor at any time during my service did I have the advantage of the influence that frequently attaches to membership in a large State delegation or from a State and region having commanding or pivotal importance. Nevertheless I fared well, and without especial pleading, in committee assignments important to my section; and I enjoyed a similar experience under Speakers Henderson and Cannon.

In those earlier years the outcry against Reed's "czarism" and the Reed rules was in the main partisan, but it had some vogue for a considerable period of time. Hepburn, of Iowa, maintained a persistent opposition to some features of the rules, particularly the

rule with regard to recognition for debate, but the country did not take the matter seriously and that particular rule was never modified. Then came the hue and cry against Cannon and "Cannonism," resulting eventually in the revolutionary action through which the Speaker was shorn of a large share of his powers. It was inevitable that with the growth of sentiment in the country favorable to the extension and enlargement of Federal activities and to a more liberal and nation-wide view of existing problems there should come a broadening of responsibility in the organization of the House. The concentration of control in the Speaker and the Committee on Rules, while it undoubtedly tended to efficiency, hampered and prevented the development and expression of the broader and more advanced viewpoint. The grievances forming the excuse for the spectacular attack which a favorable political situation rendered successful had little merit, but conditions were ripening for a plan of organization more in harmony with the political view and spirit of the times.

Following the modification of the rules under Speaker Cannon came the further changes under Speaker Champ Clark; but the present system of organization and management in the House was not effected until four years ago, as the outcome of the contest in which, while Mr. GILLETT won the Speakership, the Mann adherents secured control of the organization. Having been selected as majority floor leader under the new plan of organization and having served in that capacity until my voluntary retirement from the House, I shall not attempt to pass judgment on that plan. That it renders the work of House management much more difficult and trying to those charged with responsibility than did the old scheme of centralized authority there can be no doubt. That it necessitates more general, generous, and continuous consideration by the organization of the sometimes widely varying views of the majority there can be no question.

The retention of the confidence and respect of the House was always essential to successful leadership and management; but in addition the new plan necessitates free and full and continuous consultation and acquaintance with and a reasonable consideration of every shade of opinion among the responsible majority, as well as reasonable consideration of the views of the minority. If the majority, realizing its responsibility, will give proper support to the organization which it may choose, and the management is wise in its recognition of the varying opinions that may exist among the members of its supporting majority, the new plan, with or without modification, ought to, and I have no doubt will, prove successful in reflecting in its labors the best judgment of the House.

THE DEMAND FOR A STRONGER LEADERSHIP.

Of late it has been popular in certain quarters to complain of the alleged lack of leadership in the Congress. Curiously enough, much of this criticism comes from the same general sources that at one time denounced "Czar" Reed and at another launched philippics against Cannon and "Cannonism." One thing is quite certain, unless we shall return to a control of the House of Representatives by a triumvirate there can be no such thing as a powerful leader in the sense of one who can command and compel the carrying out of his will and wishes. In fact, that could not always be accomplished even under the old order.

I well remember the time when President Roosevelt made his famous compact with Messrs. Cannon, Payne, and Dalzell, under which he was not to insist upon an immediate revision of the tariff, provided certain specified legislation passed the House. There were quite a number of Republican Members who would, as loyal party men, have been seriously embarrassed had they in the first instance been informed of the terms of that agreement and requested to adhere to it. Fortunately we were not so informed until we were well started on the road of insurgency and quite "off the reservation," and there was no honorable way of turning back. While the powerful House organization, aided by the President, and in one case by the minority, did carry out the agreement to the letter as far as the House was concerned, sufficient stir was made to raise friends in the Senate and in the country for our contentions and eventually they were sustained.

A SMALLER HOUSE WOULD BE MORE EFFICIENT.

Unquestionably the House of Representatives would do better work if the body were smaller. Possibly, in expressing that opinion, I should apologize for the fact that in the first session of the Sixty-seventh Congress I approved a plan which contemplated an increase. I took that position because, having failed to secure legislation for the reapportionment of Representatives contemplated, if not commanded, by the Constitution after the taking of each decennial census, I felt it my duty to assist in passing a reapportionment bill under the new census on the only terms that seemed obtainable. I am glad now that the effort failed. Since it is generally admitted that the House would function more satisfactorily if reduced from its present membership of 435 to 300 or 350, it will no doubt be suggested that the Congress is derelict in its duty in not making the reduction. Assuming for the sake of argument that the Members of Congress are sufficiently disinterested and self-sacrificing to agree to legislate themselves out of districts—for a reduction would place the seats of the great majority in jeopardy—the folks at home who manage such things and who take pride in having large delegations would probably veto the plan. In view of these conditions, any considerable reduction in the size of the House can be brought about only by an overwhelming public sentiment operating to that end, and it is to be hoped that sufficient public interest may be aroused to overcome the selfish and local interests which now demand an increase.

GREAT GAINS FROM BUDGET SYSTEM.

Few realize the triumph effected for the cause of efficiency and economy in government by the adoption of the budget system and by placing the authority to originate appropriations in the House of Representatives in the hands of a single committee. The adoption of the budget system and the modification of the rules which accompanied it undoubtedly greatly strengthened the position of the House in the control of appropriations; but the surrender of authority by the members of the various powerful committees that formerly reported appropriation bills constitutes one of the finest examples in legislative history of the voluntary relinquishment of power and jurisdiction.

It is true that not all Members of the House are entirely reconciled to the new plan of a single appropriating committee, but the change is so clearly in the public interest that I do not anticipate any serious effort to return to the old system. There is need, however, of a modification of the Rules of the House with a view to giving important committees—like those having to do with military, naval, and foreign affairs, agriculture, and interstate and foreign commerce—a secure and privileged status for the presentation of their more important legislation. It would be well, indeed, if in consideration of such a change in rules the committees that formerly reported appropriation bills which carried a considerable portion of the legislation coming within their jurisdiction would adopt the policy of consolidating their legislation in the form of omnibus bills. Such a policy has been successfully effected by the Committee on Indian Affairs and, to a certain extent, by several other committees. These changes would tend to eliminate at least one legitimate ground for complaint of delay on the part of the Congress.

THE SENATE'S PART IN CAUSING DELAY.

The Constitution provides that "All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other bills;" and the Senate has interpreted the latter clause of this provision as giving it authority and jurisdiction over revenue measures equal to that of the House. As a result, it has become the fashion of the Senate to scrutinize carefully and consider thoroughly revenue, and particularly tariff, measures. In fact, in the last Congress the Senate spent almost 13 months in consideration of the Fordney-McCumber tariff bill, and amended it so vitally that nearly a month was required in the conference to adjust the differences between the two Houses. This delay of the tariff bill, at a time when the country was expecting and demanding tariff legislation, was undoubtedly largely responsible for the vogue which the "Do-nothing Congress" slogan acquired.

It seems to be no part of the people's business to discriminate critically between the two bodies of Congress, the Senate and the House. Perhaps this is entirely as it should be, so far as it relates to approval or disapproval of legislative enactments; but it is not so evident that such an attitude is either fair or reasonable when the criticism is occasioned by delay or failure to act, and that delay or failure may be chargeable to but one branch of Congress.

Of late years the time of the Senate has been occupied to a greater extent than formerly with the consideration of foreign affairs, over which it has exclusive jurisdiction. In all likelihood the consideration of questions of this nature will in the future consume an increasing proportion of the time of the Senate. These duties can be performed without any overburdening of the Senate, as compared with the House, owing to the fact that the House must give much time and attention to the consideration of all the details of appropriation bills, since it originates them, whereas the Senate, except in cases of wide differences of opinion in matters of policy, frequently considers on the floor of the Senate only proposed Senate amendments and the more important items in controversy. The Senate committees do give considerable time and attention to appropriation bills, but the Senate itself can and generally does dispose of them very speedily.

THE SHIP SUBSIDY BILL—LACK OF CLOTURE.

Reference to the delay in the Senate of the Fordney-McCumber tariff bill and the criticism that grew out of it brings to mind the long-drawn-out contest in that body over the shipping bill. This measure passed the House November 29, 1922, at the special session; went to the Senate at once, and remained there, the subject of a continuous and persistent filibuster, until the gavel fell on the 4th of March, 1923.

The Senate has no cloture; that is, it has no effective rule under which a majority can bring debate to an end. This fact has led unkindly critics to refer to the Senate as a "debating society." But that is hardly fair to debating societies, because they do eventually decide who wins, while a successful filibuster in the Senate prevents any decision being reached. The Senate, so far as the writer is now informed,

is the only legislative body in the world that has not some rule under which the majority may, when ready to do so, bring a pending question to a vote and final decision.

There was a time when the fact that the Senate had no cloture was of little importance. Originally it had but 26 Members, and there was so little for it to do that time hung heavily on the hands of the Senators and there was no reason for hurrying anything. In those days and for a long time thereafter no one thought of conducting a filibuster or talking a bill to death. As no one thought of doing it, why have a rule to prevent it? But times and conditions and the Senate have changed. August and dignified representatives of sovereign States, chosen by carefully selected legislatures, have made way for Senators the products of primaries and of universal suffrage. The Senate grew to a membership of 96 when all of our contiguous continental territory came to Statehood.

In the meantime problems grew and multiplied. Both the volume and importance of legislation increased prodigiously; and if the affairs of the country are now to be thoroughly considered, even in the long congressional sessions which have become and are likely to continue to be the rule, there is no time for endless discussion of questions unrelated to the matter in hand; for long speeches delivered largely for the purpose of wearing away the time of the session.

AN INTOLERABLE SITUATION.

The most direct, and therefore the most apparent, ill effect of a successful Senate filibuster is the defeat of the measure against which it was directed. Thus, the filibuster of last winter prevented a decision by the Congress of the momentous question of what is to be done with serviceable units of the great fleet which cost the Nation nearly $3,000,000,000 to build and on a portion of which the Shipping Board was at one time expending annually from fifty to sixty million dollars of the people's money for expense of operation in excess of income, while the remainder lay rotting at anchor.

The present administration, while improving the service, has succeeded in reducing the cost of operation over income by more than half; but this improvement and economy leaves the primary issue unsettled. The country and the administration are entitled to a decision on this tremendously important question. The House passed the so-called ship subsidy bill by a substantial majority. The Senate had an entire session of Congress in which to make up its mind and record its judgment in the matter; but after endless, fruitless, and aimless debate the Congress came to an end with the question quite as far from settlement as it was at the beginning.

Do the American people, as represented in the Congress, desire to maintain or to attempt to maintain a merchant fleet through the medium of a subsidy as proposed in the House bill? Do they desire the Government to continue to operate merchant ships as it is now doing? Or, on the other hand, is it the will of the people that the ships owned by the Government, from the mighty *Leviathan* to the most unserviceable wooden hull, be disposed of on the best terms obtainable? No one can answer these questions definitely, because a minority in the Senate prevented the Congress from registering its opinion. Consequently the administration, denied a decision in the matter, is doing the best it can to handle a situation which never should have been allowed to develop.

It occurs to me that no argument is necessary to demonstrate the fact that a situation like this is intolerable. It is legislative anarchy. There may be, and no doubt is, a wide diversity of opinion in the country as to what disposition should have been made of the fleet; but there can be no difference in opinion as to the duty of Congress to discharge its responsibility and settle the matter one way or the other.

A FILIBUSTER MAY HOLD UP AN ENTIRE LEGISLATIVE PROGRAM.

While the failure of the legislative measure, against which a filibuster is directed, is the most apparent of the unfortunate effects of the lack of a vote-enforcing rule in the Senate, it is by no means the most regrettable or menacing. The indirect effects on the legislative program in general are much more harmful. Unfortunate as it is to have the settlement of a question involving vast expenditures and a Government policy of primary importance delayed indefinitely, there are infinitely greater possibilities of harm in having the entire legislative program of the country subjected for an indefinite period to the whims and caprices of the managers of a chronic filibuster.

The entire appropriation and legislative program of the recent session of Congress was considered in the Senate under a flag of truce in the intervals in which the managers of the Senate filibuster were pleased to make way for measures other than the shipping bill. No argument is needed to convince anyone at all familiar with legislative procedure that legislation can not be properly and fairly considered under such circumstances. What compromises in legislative plans and provisions were necessary from time to time to secure the temporary muzzling of the filibustering batteries, no one, except those who arranged the details of the legislative truces, can know. That the conditions were favorable to the presentation and acceptance of legislative compromises and conditions, no one can deny.

During this period the Senate passed on one occasion more than 100 bills in about the same number of minutes. There was not time to read even the titles in full, if they were long. It is true that some of these measures were comparatively unimportant, but quite a number of them treated of matters of moment and involved heavy expenditures. Appropriation bills containing thousands of items were passed with the reading of only a few Senate amendments. Under the circumstances, this procedure could not be avoided; otherwise appropriation bills would have failed and an extra session would have been inevitable. But the flag of truce was never utilized for the consideration of any measure to which there was serious objection on the part of the minority; and thus the filibuster directed against one measure operated to render impossible the proper consideration of all, and eventually prevented any action on a number of measures of importance in addition to the shipping bill.

This lack of a cloture in the Senate and the legislative throttling which it renders possible have a profound and unfortunate effect upon all legislation and legislative procedure not only in the Senate, but also, unfortunately and unhappily, in the House. No legislative program can be carried out in the most satisfactory fashion without consultation and cooperation between the responsible managers of the two bodies of Congress with regard to the plan of legislative procedure and the time and sequence in which measures are to be considered. Manifestly such agreements and understandings are difficult, if not impossible, in the face of a situation where the legislative managers in one body can form no definite or intelligent opinion as to how long a legislative hold-up may continue or as to when it may be temporarily suspended.

The existence of a state of filibuster affords the finest possible opportunity for the presentation of demands for amendment or modification of any or all of the measures considered. In fact, I have been surprised at times at the moderation displayed in this regard, in view of the extraordinary opportunity. Nevertheless, these legislative hold-ups occur often.

I know there are defenders of the Senate rule of unlimited debate. As I have already pointed out, there was a time when that rule was not objectionable, because it was not abused. The lack of a cloture rule unquestionably magnifies the importance of the individual Senator, but just as certainly reduces the stature of the Senate as a body. No one has the right under our form of government to be the potential possessor of a practically unlimited legislative veto, and that is what the lack of a cloture in the Senate amounts to. The President may exercise the veto only in the open, taking full responsibility, but even then, by a two-thirds vote, the Congress may override him; but the situation existing in the Senate with its lack of a vote-enforcing rule is one in which, particularly when a filibuster is in progress, every Senator carries a potential veto of legislation great and small, important and unimportant.

In recent years the business of the Congress has increased manyfold in volume and vastly in the importance of many of the problems presented. If this business is to have proper consideration, the rules of both Houses of Congress must, while affording reasonable and even liberal opportunity for the expression of opinion and the presentation of views, contain provisions under which, when the matter in hand has been considered, it may be put to a vote.

Some critics of the Congress have been inclined to the view that the rules of the House governing debate are not sufficiently liberal. Ordinarily there is no disposition unduly to limit discussion of the question at issue when it is proceeding in good faith, and the rules are none too drastic when the minority under competent leadership starts a filibuster. The Senate with its small membership may never adopt, and perhaps should not adopt, rules under which debate may be limited to the extent possible under the House rules; but careful students of American legislation must admit that the present situation in the Senate with regard to debate is intolerable. In the consideration of treaties and other matters having to do with foreign relations, in which the jurisdiction of the Senate is exclusive, it may be wise and proper to continue the present rule of procedure in the Senate, though even that may be somewhat doubtful. The important matter, however, is the limitation of debate on legislative questions.

PRESIDENT AND CONGRESS.

The relations between the Executive and the Congress and the proper attitude of one toward the other have been matters of endless discussion, developing wide differences of opinion, since the beginning of our history. When things are not going to suit it, one section or another of the press bewails the lack of a "strong and forceful" Chief Executive who would tell the Congress what to do and insist upon its doing it. On the other hand, we have at certain periods in our history heard much of the alleged subserviency of the Congress to the Executive. Just how a President would get along in these days who might attempt to "boss" the Congress and make a business of telling it just what should and should not be done I am not entirely certain. Under peace conditions no President in our time has attempted it, and therefore we have no actual experience on which to base an opinion.

It is said that President Wilson exercised a dominating influence over the Congress and compelled action according to his way of thinking. It is entirely true that during the period of the war and imme-

diately thereafter, when we were living amid war-born conditions, Congress did accept in a large measure, though frequently with material amendment, the program of the executive branch of the Government; but Congress was not responding to President Wilson's demands, nor to those of the members of his Cabinet, but to the overwhelming national patriotic impulse under which it gave the benefit of the doubt to anything and everything urged by those in administrative authority as essential to the accomplishment of the great enterprise in which we were engaged. In cases where the majority halted or hesitated, the minority forced the issue.

The heart and soul of America was set on doing in splendid fashion our share of the job on hand; and that was the influence, rather than any mandates from the White House or the departments, which persuaded the Congress, frequently with much doubt and misgiving—which was fully justified—to act promptly and generally favorably on the recommendation of the administration.

THE WILSON ADMINISTRATION.

As floor leader of the majority I had an interesting experience touching the attitude of the Wilson administration toward the House of Representatives. Immediately upon the completion of the organization of the Sixty-sixth Congress, in the middle of President Wilson's second term, I sought an interview with ex-Speaker Champ Clark, then minority leader, and on behalf of the majority said to him that while we expected, of course, to take responsibility for what was done, we were anxious, particularly in view of the abnormal conditions following the war, to cooperate so far as reasonably possible with the administration, and to that end we would be glad, in addition to those recommendations and suggestions that might come to us in the usual official way, to be confidentially advised from time to time as to their views. It is not necessary to quote the exact language of the Missouri statesman's reply. It was emphatic and somewhat lurid, and to the effect that if we desired to know what the administration wanted, except as it came officially, it would be necessary to go elsewhere, "For," said he, "they never confer with me." A similar suggestion made to Mr. Kitchin, chairman of the Committee on Ways and Means, brought a smiling and sarcastic answer of the same tenor and to the same effect.

The very creditable volume of important legislation enacted by Congress during the first term of President Wilson did not in any considerable degree originate with the White House nor reach enactment through White House influence or pressure. As a matter of fact, the administration of President Wilson had the good fortune to assume control of affairs at a time when long-continued discussion had practically crystallized public sentiment on a variety of important problems. The Federal reserve system is perhaps the most striking example of this fact. Legislation improving the Postal Service and providing for farm credits are further examples of this condition.

ROOSEVELT AND HARDING.

Those who hanker for an Executive who shall wield a "big stick" over the Congress frequently refer approvingly to President Roosevelt in this connection; and yet the fact is that few Presidents in our time or in any time of our history conferred more frequently with Members and Senators or kept better informed as to their opinions and views than did President Roosevelt. Roosevelt had a very effective way of influencing Congress by appealing to the country, but his attitude toward the Congress itself was in the main perfectly frank and generally friendly and one of consultation and cooperation. He did not expect that Congress would accept his views unless he gave reasonable consideration to its views, as evidenced by the incident referred to earlier in this article.

President Harding has maintained an attitude of frequent and friendly consultation and of a "give and take" cooperation with the Congress. Congress has not always agreed with the President or carried out his views, but the only important instances of divergence were controlled by conditions altogether out of the ordinary. Under the powerful influence of a pride in and patriotic appreciation of the services of our soldiers in the World War, a widespread sentiment was developed favorable to the granting of a bonus. While this sentiment prevailed, a large majority of Members and Senators pledged themselves or were pledged by their party locally to bonus legislation. The sentiment of the country changed somewhat, but the pledge of the legislator remained. He was compelled to fulfill that pledge, while the President felt justified in vetoing the measure on the ground that it made no provision for meeting the obligations incurred.

The failure to dispose of the shipping bill in the Senate could not have been avoided by Executive pressure, no matter how powerful, so long as the Senate maintains rules under which a small minority can paralyze the operations of the Government. In my opinion the policy of frequent and friendly consultation with Congress that has been followed by President Harding and the attitude of cooperation which has been maintained quite continuously between the President and Congress constitute the logical and reasonable relation, and will, in the long run, produce the best results. There are bound to be times when the majority in the Congress will find it difficult to agree wholly with a President, no matter how reasonable he may be, and there are certain to be periods when the Congress may appear to the Executive to be quite unreasonable, but such situations are not to be avoided or improved either by an overbearing attitude on the part of the Chief Executive or one of hostility or indifference on the part of Congress.

Service in the Congress of the United States has never been a particularly easy or a care-free enterprise, and the requirements of such service have very greatly increased in recent years. The extraordinary growth of the country in wealth and population, the tremendous broadening of the field of Federal jurisdiction and activity have all served to swell the importance, to enlarge the number, and to increase the complexity of the problems which the legislator must meet. The Member or Senator must also recognize and adjust himself to a new attitude on the part of his constituents differing widely from the usual attitude of other times. In former days he came to Washington and during the sessions heard comparatively little from his constituents. He was left quite undisturbed to meet the comparatively few and simple problems of the time.

TO-DAY'S DEMANDS ON REPRESENTATIVES AND SENATORS.

To-day, with a vastly improved mail service and a disposition to use it, universal telegraph and telephone systems, the Representative or Senator is within easy reach of all who may desire to communicate with him. This is the day of organization and organized propaganda, and the legislator is fairly submerged with suggestions, requests, appeals, and demands for or against a perfectly bewildering variety of legislative proposals. Time was when many constituencies seemed to take pride in an independent spirit on the part of their Representatives, but in these days of easy communication, cheap printing, and flowing oratory the Member or Senator who feels called upon to take a decided stand in opposition to any of the plans and purposes of these organized minorities finds himself confronted with a serious situation when he returns home. Modern militant minorities have no patience with or toleration of those who do not agree with their most extreme demands.

I am glad to bear testimony to the honesty, the patriotism, the sincerity, and the devotion to the public interest of the overwhelming majority of those with whom I have served in Congress for over a quarter of a century. These are essential qualifications for public service, and the Congress possesses them in abundant measure.

Such good judges of congressional requirements as the late Champ Clark and "Uncle Joe" Cannon have declared that the most essential qualification for a modern legislator is moral courage. These veterans voiced the general opinion among men experienced in legislative affairs. It does require moral courage of the finest quality to discharge in full measure, to the best interest of all the people, the responsibilities now laid upon a Member of the Congress.

The Congress is seldom called upon to take action that is clearly and unquestionably, on its face, not in the public interest. Such appeals, if made, would be easily denied, because no one would dare publicly to defend them. The proposals and demands against which the legislator must be most on his guard are those that have a specious and appealing form, and are urged by perfectly well-meaning people who believe, or claim to believe, that they are just and reasonable, wise, and sound. They are quite generally persuasively presented in the name of progress, advance, and reform and with claim or appearance of wide popular support.

Those who in these days urge upon the Congress plans and proposals of legislation of the character I have referred to no longer follow the more or less casual method of other days. They organize thoroughly and present their plan and purpose in its most appealing and alluring form. They select their officers with care and their legislative representatives with an eye single to securing results.

Quite frequently such representative, who must justify his employment, makes demands not essential to the plan or purpose which he is expected to serve; but woe be to the legislator who fails to respond, for the tale that is carried back to the constituency is likely to picture him as hopelessly hidebound and reactionary. I have in mind a case in which a Member of Congress holding a responsible committee position felt called upon very frankly and quite earnestly to oppose a legislative proposal that had the support of a small but most active body of entirely worthy persons who would be benefited by it and from whose personal and interested viewpoint the matter, no doubt, seemed just and proper. In the campaign that followed the people in this particular Member's district who were directly interested in the matter and who could not have numbered over a baker's dozen organized for his defeat, and by an adroit argument, which few people seem to have taken the trouble to analyze, accomplished their purpose, and a very active and very useful Member of Congress went out of public life.

Imagine the situation of a Member or Senator who feels called upon to oppose the extreme demands of several of these militant minorities capable of organizing quickly and widely in these days of easy publicity. Nothing short of a miracle could, in the case of a close election, prevent the defeat of one so offending. If there be time and oppor-

tunity to place before a constituency the actual character and the probable effects of what is proposed, the response is likely to be favorable, but in the midst of a political campaign, involving all sorts of questions and problems, the opportunity to effectively present the candidate's side is very rarely offered.

In view of this situation, is it to be wondered that those of unquestioned integrity, tried judgment, and long experience in legislative life hold that moral courage has come to be—whether or not it has always been—one of the essentials, if not the prime qualification, of a legislator?

Many men in Congress possess this quality; but political conditions neither encourage nor promote it, because the average voter is much inclined to take the word of every plausible pleader for governmental activity, aid, or favor rather than the word or judgment of the man he or she helped to elect to Congress.

THE VOTER'S RESPONSIBILITY.

We need a revival of the old-time spirit and attitude toward government—the attitude of service and support rather than one of appeal and pleading on behalf of groups, interests, or causes. We need a revival of the spirit which rewarded fidelity, duty, unwavering courage, and reasonable independence of view and action.

While we shall never have a Congress free from criticism so long as men's opinions differ, we may have one that more nearly meets the public's reasonable expectations when the great body of the people, who have no special axes to grind, no special interest to serve, shall take the time to inform themselves and, being informed, give their support to those who have the courage of their convictions and who do not hesitate to oppose questionable plans, purposes, and proposals, however appealing and popular.

The average constituent may have some difficulty in judging between the secial pleader and the Representative or Senator, but he is generally safe in deciding for the latter if, in addition to the virtues of honesty and sincerity of purpose, he has earned a deserved reputation for courage—not the courage of the zealot, the radical, or the obstructionist, but the courage that holds men steadfast to principle and sound policy when local, temporary, and popular appeals tempt him to grant special favor or embark on dangerous experiments.

MESSAGES FROM THE PRESIDENT OF THE UNITED STATES.

Sundry messages in writing from the President of the United States were communicated to the House of Representatives by Mr. Latta, one of his secretaries.

MESSAGE FROM THE PRESIDENT—LAWS OF THE PHILIPPINE LEGISLATURE.

*To the Congress of the United States:*

As required by section 19 of the act of Congress approved August 29, 1916, entitled "An act to declare the purpose of the people of the United States as to the future political status of the people of the Philippine Islands, and to provide a more autonomous government for those islands," I transmit herewith a set of laws and resolutions passed by the Sixth Philippine Legislature during its first session, from October 27, 1922, to February 8, 1923, inclusive, and its special session, from February 14, 1923, to February 24, 1923, inclusive.

There is transmitted also a copy of Act No. 3059, which was passed by the Fifth Philippine Legislature at its third session, and which became effective on September 16, 1923.

These acts and resolutions have not previously been transmitted to Congress, and it is therefore recommended that they be printed as public documents as heretofore.

CALVIN COOLIDGE.

THE WHITE HOUSE, *January 3, 1924.*

The SPEAKER. Referred to the Committee on Insular Affairs.

MESSAGE FROM THE PRESIDENT—SEVENTY-FOURTH ANNUAL REPORT OF THE BOARD OF DIRECTORS OF THE PANAMA RAILROAD CO.

*To the Congress of the United States:*

I transmit herewith, for the information of the Congress, the seventy-fourth annual report of the board of directors of the Panama Railroad Co. for the fiscal year ended June 30, 1923.

CALVIN COOLIDGE.

THE WHITE HOUSE, *January 3, 1924.*

The SPEAKER. Referred to the Committee on Interstate and Foreign Commerce.

MESSAGE FROM THE PRESIDENT—CLAIM PRESENTED BY THE GOVERNMENT OF FRANCE.

*To the Senate and House of Representatives:*

I transmit herewith a report from the Secretary of State in relation to a claim presented by the Government of France against this Government on account of losses sustained by a French citizen in connection with the search for the body of Admiral John Paul Jones, which was undertaken by Gen. Horace Porter, formerly American ambassador to France, and I recommend that an appropriation be made to effect a settlement of this claim in accordance with the recommendation of the Secretary of State.

I may state that the claim was brought to the attention of Congress in messages from the President dated June 4, 1918, July 21, 1919, and July 11, 1921, which are printed respectively in Senate Document No. 231, Sixty-fifth Congress, second session; in House Document No. 156, Sixty-sixth Congress, first session; and in House Document No. 101, Sixty-seventh Congress, first session.

CALVIN COOLIDGE.

THE WHITE HOUSE, *January 3, 1924.*

The SPEAKER. Referred to the Committee on Foreign Affairs.

MESSAGE FROM THE PRESIDENT—CLAIM PRESENTED BY THE GOVERNMENT OF SWEDEN.

*To the Senate and House of Representatives:*

I transmit herewith a report from the Secretary of State in relation to a claim presented by the Government of Sweden against the Government of the United States on account of the sinking of the Swedish fishing boat *Lilly* by the United States Army transport *Antigone* off the coast of Denmark on March 23, 1920, and I recommend that an appropriation be made to effect a settlement of this claim in accordance with the recommendation of the Secretary of State.

CALVIN COOLIDGE.

THE WHITE HOUSE, *January 3, 1924.*

The SPEAKER. Referred to the Committee on Foreign Affairs.

CONTESTED-ELECTION CASE OF GORMAN *v.* BUCKLEY.

The SPEAKER. The Chair lays before the House a communication from the Clerk of the House of Representatives, transmitting the contested-election case of John J. Gorman versus James R. Buckley, from the sixth district, State of Illinois, which the Clerk will report.

The Clerk read as follows:

HOUSE OF REPRESENTATIVES,
CLERK'S OFFICE,
*Washington, D. C., December 28, 1923.*

The SPEAKER,
*House of Representatives, Washington, D. C.*

SIR: I have the honor to lay before the House of Representatives the contest for a seat in the House of Representatives for the Sixty-eighth Congress of the United States for the sixth district, State of Illinois, John J. Gorman *v.* James R. Buckley, notice of which has been filed in the office of the Clerk of the House, and also transmit herewith original testimony, papers, and documents relating thereto.

In compliance with the act approved March 2, 1887, entitled "An act relating to contested-election cases," the Clerk has opened and printed the testimony in the above case, and such portions of the testimony as the parties in interest agreed upon or as seemed proper to the Clerk, after giving the requisite notices, have been printed and indexed, together with the notices of contest, and the answers thereto, and original papers and exhibits have been sealed up and are ready to be laid before the Committee on Elections.

Two copies of the printed testimony in the aforesaid case have been mailed to the contestant and the same number to the contestee. The briefs when prepared will be laid before the Committee on Elections to which the case shall be referred.

Very respectfully,

WM. TYLER PAGE,
*Clerk of the House of Representatives.*

The SPEAKER. Referred to the Committee on Elections No. 3.

LEAVE OF ABSENCE.

Leave of absence was granted as follows:

To Mr. McSWAIN, for four days, on account of sickness in family.

To Mr. McSWEENEY, for six days, on account of important business at home.

To Mr. JACOBSTEIN, for two days, on account of death in family.

To Mr. BANKHEAD, for three days, on account of illness in family.

PRESIDENT'S MESSAGE—LAWS OF THE PHILIPPINE LEGISLATURE.

Mr. GARRETT of Tennessee. Mr. Speaker, was the message touching the Philippine question referred?

The SPEAKER. Yes; to the Committee on Insular Affairs.

THE LATE HON. CLAUDE KITCHIN.

Mr. KERR. Mr. Speaker, I offer the following order, which I ask unanimous consent to have immediately considered and passed.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina? [After a pause.] The Chair hears none.

The Clerk read as follows:

*Ordered*, That Wednesday, the 9th day of January, 1924, at 12 o'clock noon, be set apart for addresses on the life, character, and public services of Hon. CLAUDE KITCHIN, late a Representative from the State of North Carolina.

The SPEAKER. Is there objection to the adoption of the order? [After a pause.] The Chair hears none.

ADJOURNMENT.

Mr. LONGWORTH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 6 minutes p. m.) the House, in accordance with the order previously made, adjourned until Monday, January 7, 1924, at 12 o'clock noon.

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## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

216. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on preliminary examination of Flushing Bay, N. Y.; to the Committee on Rivers and Harbors.

217. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, reports on preliminary examination and survey of Flushing Bay and Creek, N. Y. (H. Doc. No. 124); to the Committee on Rivers and Harbors and ordered to be printed.

218. A letter from the Secretary of the Navy, transmitting a list of disbursing officers of the Navy who have been relieved of losses under a provision of the naval act, approved July 11, 1919, to and including November 20, 1923; to the Committee on Naval Affairs.

219. A letter from the Secretary of War, transmitting a draft of legislation granting the Panama Canal special authority in the matter of making open-market purchases; to the Committee on Interstate and Foreign Commerce.

220. A letter from the Secretaries of the Treasury, War, Navy, and Commerce, transmitting a draft of proposed legislation to amend the act entitled "An act to readjust the pay and allowances of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service," approved June 10, 1922; to the Committee on Military Affairs.

221. A letter from the Secretary of the Interior, transmitting a statement showing the receipts from rentals, extension of Capitol grounds, for the period from December 1, 1922, to and including November 30, 1923, aggregating $6,182.50; to the Committee on Public Buildings and Grounds.

222. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on preliminary examination of Mattox Creek, Va.; to the Committee on Rivers and Harbors.

223. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on preliminary examination and survey of Washougal Slough, Wash.; to the Committee on Rivers and Harbors.

224. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on preliminary examination of Christiana River, Del., from Newport to Christiana; to the Committee on Rivers and Harbors.

225. A letter from the Postmaster General, transmitting a draft of proposed legislation, "An act to amend the act entitled 'An act for the relief of Hubert Reynolds'"; to the Committee on Claims.

226. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation "For the relief of Grace Buxton"; to the Committee on Claims.

227. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation "To provide for the equalization of promotion of officers of the Staff Corps of the Navy with officers of the line"; to the Committee on Naval Affairs.

228. A letter from the chairman of the United States Bureau of Efficiency, transmitting a report showing the publications issued by the bureau during the fiscal year 1922, the cost of preparation, printing and paper, and the total number distributed; to the Committee on Printing.

229. A letter from the chairman of the United States Shipping Board, transmitting a report of arbitration awards or settlements of claims agreed to since the previous session of Congress by the United States Shipping Board and the United States Shipping Board Emergency Fleet Corporation; to the Committee on the Judiciary.

230. A letter from the chairman of the national legislative committee of the American Legion, transmitting the complete annual report of the American Legion; to the Committee on the Judiciary.

231. A letter from the Secretary of War, transmitting a draft of proposed legislation, "The Comptroller General of the United States is authorized to settle and adjust claims for armory drill pay and for pay of State property and disbursing officers for service during the fiscal years 1917, 1918, and 1919, or any portion thereof, and from time to time to certify the same to Congress"; to the Committee on Military Affairs.

232. A letter from the Director of the United States Veterans' Bureau, transmitting a report of typewriter and other labor-saving machines purchased in exchange during the fiscal year ended June 30, 1923, from the appropriations "Medical and hospital services," "Salaries and expenses," and "Vocational rehabilitation"; to the Committee on Appropriations.

233. A letter from the president of the Chesapeake & Potomac Telephone Co., transmitting annual report of the Chesapeake & Potomac Telephone Co. for the year 1923 (December estimated); to the Committee on the District of Columbia.

234. A letter from the Secretary of War, transmitting report of expenditures on account of appropriation "Contingent expenses, War Department," during the fiscal year ending June 30, 1923; to the Committee on Expenditures in the War Department.

235. A letter from the Secretary of War, transmitting a report supplementing report transmitted December 13, 1923, covering publications issued by the War Department during the fiscal year ended June 30, 1923; to the Committee on Printing.

236. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, reports on preliminary examination and survey of Goose Creek, Tex.; to the Committee on Rivers and Harbors.

237. A letter from the Comptroller General, transmitting report of the General Accounting Office of January 2, 1924, relative to augmenting the reclamation fund by crediting thereto repayments by water users, etc. (H. Doc. No. 125); to the Committee on Irrigation of Arid Lands and ordered to be printed.

238. A letter from the chairman of the Personnel Classification Board, transmitting records and documents of the Personnel Classification Board in response to House Resolution No. 78, passed December 20, 1923; to the Committee on Reform in the Civil Service.

239. A letter from the Secretary of the Treasury, transmitting a draft of legislation changing the phraseology of the item "Pay of other employees, Public Health Service," appearing on page 699 of the Estimates of Appropriations for 1925, to read as follows, "Pay of other employees, Public Health Service: For pay of all other employees (attendants, etc), $840,000: *Provided*, Hereafter appointments or promotions in the Public Health Service shall be effective as of the date of oath or entrance upon duty of the employee, subject to subsequent approval by the Secretary of the Treasury"; to the Committee on Interstate and Foreign Commerce.

240. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, reports on preliminary examination and survey of Columbia River between the mouth of the Willamette River and the city of Vancouver, Wash., with a view to determine whether the United States should maintain the channel if it is deepened to 25 feet by the Port Commission of Vancouver, Wash. (H. Doc. No. 126); to the Committee on Rivers and Harbors and ordered to be printed.

241. A communication from the President of the United States, transmitting a communication from the Assistant Secretary of Commerce submitting a claim for damages to privately owned property in the sum of $294.25, which claim he has adjusted under the provisions of the Forty-second Statutes, 1066, and which requires an appropriation for its payment (H. Doc. No. 127); to the Committee on Appropriations and ordered to be printed.

242. A communication from the President of the United States, transmitting a communication from the Acting Secretary of Commerce submitting a claim for damages to privately owned property in the sum of $20, which claim has been ad-

justed by the Director of the Coast and Geodetic Survey, and which requires an appropriation for its payment (H. Doc. No. 128); to the Committee on Appropriations and ordered to be printed.

243. A communication from the President of the United States, transmitting a communication from the Acting Secretary of Commerce submitting claims for damages to privately owned property in the sum of $262.09, which claims have been adjusted by the Commissioner of Lighthouses, and which require an appropriation for their payment (H. Doc. No. 129); to the Committee on Appropriations and ordered to be printed.

244. A communication from the President of the United States, transmitting schedules of claims amounting to $1,458,297.09 allowed by the various divisions of the General Accounting Office which require appropriations for their payment (H. Doc. No. 130); to the Committee on Appropriations and ordered to be printed.

245. A letter from the chairman of the Joint Committee to Readjust the Salaries of Officers and Employees of Congress, transmitting the report of the Joint Committee for the Readjustment of Salaries of the Officers and Employees of Congress as required by section 10 of the act approved March 4, 1923 (H. Doc. No. 131); to the Special Committee on Readjustment of Salaries of Officers and Employees of Congress and ordered to be printed.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. CURRY: Committee on the Territories. H. R. 4121. A bill to extend the provisions of certain laws to the Territory of Hawaii; without amendment (Rept. No. 19). Referred to the Committee of the Whole House of the state of the Union.

Mr. HICKEY: Committee on the Judiciary. H. R. 62. A bill to create two judicial districts within the State of Indiana, the establishment of judicial divisions therein, and for other purposes; without amendment (Rept. No. 20). Referred to the Committee of the Whole House on the state of the Union.

## CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 1641) granting a pension to Emma W. Mitchell; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 2358) granting a pension to Esther A. Deyo; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 2560) granting a pension to Parthine Curtis; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 3048) granting a pension to Clara V. Watson; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 3069) granting retirement pay to Christ Roesch; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 3497) granting a pension to Esther T. Church; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 3625) granting a pension to Susan Clark; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

## PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. McLEOD: A bill (H. R. 4436) to repeal section 800, Title VIII, of the revenue act of 1921; to the Committee on Ways and Means.

By Mr. HILL of Alabama: A bill (H. R. 4437) to quiet title to land in the municipality of Flomaton, State of Alabama; to the Committee on the Public Lands.

By Mr. MAPES: A bill (H. R. 4438) to amend section 300 of the war risk insurance act; to the Committee on Interstate and Foreign Commerce.

By Mr. PARKS of Arkansas: A bill (H. R. 4439) to amend section 71 of the Judicial Code, as amended; to the Committee on the Judiciary.

By Mr. CRISP: A bill (H. R. 4440) to reimburse taxpayers their reasonable costs in prosecuting appeals from the action of the Commissioner of Internal Revenue in assessing additional taxes against them when, upon review, it shall be determined that the taxpayers' original returns were fair, honest, and correct; to the Committee on Ways and Means.

By Mr. SPROUL of Illinois: A bill (H. R. 4441) to provide for quarterly instead of monthly money-order accounts to be rendered by district postmasters of the third and fourth class post offices; to the Committee on the Post Office and Post Roads.

Also, a bill (H. R. 4442) to extend the insurance and collect-on-delivery service to third-class mail, and for other purposes; to the Committee on the Post Office and Post Roads.

By Mr. BACHARACH: A bill (H. R. 4443) for the protection and control of anadromous and shore fishes and other aquatic forms of any State or Territory, and authorizing the Department of Commerce to define the seasons and regulate the manner and conditions under which they may be taken or destroyed; to the Committee on the Merchant Marine and Fisheries.

By Mr. ANDREW: A bill (H. R. 4444) to provide for the equalization of promotion of officers of the Staff Corps of the Navy with officers of the line; to the Committee on Naval Affairs.

By Mr. WINTER: A bill (H. R. 4445) to amend section 115 of the act of March 3, 1911, entitled "An act to codify, revise, and amend the laws relating to the judiciary"; to the Committee on the Judiciary.

By Mr. MILLER of Washington: A bill (H. R. 4446) to regulate the shipment of firearms by interstate carriers; to the Committee on Interstate and Foreign Commerce.

By Mr. GRIEST: A bill (H. R. 4447) to fix the compensation of employees in post offices for overtime services performed in excess of eight hours daily; to the Committee on the Post Office and Post Roads.

Also, a bill (H. R. 4448) authorizing establishment of rural routes of from 36 to 75 miles in length; to the Committee on the Post Office and Post Roads.

Also, a bill (H. R. 4449) granting allowances for rent, fuel, light, and equipment to postmasters of the fourth class, and for other purposes; to the Committee on the Post Office and Post Roads.

Also, a bill (H. R. 4450) to provide a 1-cent postage rate on local letters and expedite the handling of that class of mail matter; to the Committee on the Post Office and Post Roads.

Also, a bill (H. R. 4451) to provide for the appointment of postmasters of the third class by the Postmaster General; to the Committee on the Post Office and Post Roads.

By Mr. LEATHERWOOD: A bill (H. R. 4452) to grant certain lands to Brigham Young University for educational purposes; to the Committee on the Public Lands.

By Mr. BLAND: A bill (H. R. 4453) to amend subsection (b) of section 800 of an act entitled "An act to reduce and equalize taxation, to provide revenue, and for other purposes," approved November 23, 1921; to the Committee on Ways and Means.

Also, a bill (H. R. 4454) to amend paragraph 11 of section 1001 of an act entitled "An act to reduce and equalize taxation, to provide revenue, and for other purposes," approved November 23, 1921; to the Committee on Ways and Means.

By Mr. ZIHLMAN: A bill (H. R. 4455) to make an investigation of the needs of the Nation for public works to be carried on by Federal, State, and municipal agencies in periods of business depression and unemployment; to the Committee on Labor.

By Mr. TILLMAN: A bill (H. R. 4456) granting a pension to the regularly commissioned United States deputy marshals of the United States District Court for the Western District of Arkansas, including the Indian Territory, now the State of Oklahoma, and to their widows and children under 16 years of age; to the Committee on the Judiciary.

By Mr. HASTINGS: A bill (H. R. 4457) conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and enter judgment in any claims which the Cherokee Indians may have against the United States, and for other purposes; to the Committee on Indian Affairs.

By Mr. ROUSE: A bill (H. R. 4458) providing for board of appeals to hear appeals in cases of removal or reduction in rank, grade, or salary of classified employees of the United States Government; to the Committee on Reform in the Civil Service.

By Mr. KNUTSON: A bill (H. R. 4459) to aid and extend the commissary privileges to the widows of officers or enlisted men of the Navy and Marine Corps; to the Committee on Naval Affairs.

Also, a bill (H. R. 4460) authorizing payment to certain Red Lake Indians, out of the Chippewa Indian funds, for garden

plats surrendered for school-farm use; to the Committee on Indian Affairs.

Also, a bill (H. R. 4461) to provide for the payment of certain claims against the Chippewa Indians of Minnesota; to the Committee on Indian Affairs.

By Mr. CARTER: A bill (H. R. 4462) to amend an act entitled "An act authorizing the payment of the Choctaw and Chickasaw town-site fund, and for other purposes;" to the Committee on Indian Affairs.

By Mr. KETCHAM: A bill (H. R. 4463) giving civilian clerks, Signal Service at large, the same military status as Army field clerks; to the Committee on Military Affairs.

By Mr. HUDSON: A bill (H. R. 4464) exempting local association of employees of a designated firm, business house, or corporation in a particular municipality from the payment of income tax; to the Committee on Ways and Means.

By Mr. VESTAL: A bill (H. R. 4465) to regulate and control the manufacture, sale, and use of weights and measures, and weighing and measuring devices for use or used in trade or commerce, and for other purposes; to the Committee on Coinage, Weights, and Measures.

By Mr. ROMJUE: A bill (H. R. 4466) to prohibit and suspend immigration to the United States of America until January 1, 1930; to the Committee on Immigration and Naturalization.

By Mr. COLLINS: A bill (H. R. 4467) to provide for allowance for maintenance for all rural carriers in the Postal Service operating either horse-drawn or motor-driven vehicles; to the Committee on the Post Office and Post Roads.

Also, a bill (H. R. 4468) to amend section 721 of the Judicial Code so as to secure uniformity of decision between the Federal and State courts in all cases arising under the laws of the several States of the Union; to the Committee on the Judiciary.

By Mr. WOLFF: A bill (H. R. 4469) adjusting the pay of students of officers' training camps; to the Committee on Military Affairs.

Also, a bill (H. R. 4470) for building and repairing levees, protecting life and property, and the control of flood waters of the Mississippi River between Kimmswick, Mo., and Wittenberg, Mo.; to the Committee on Flood Control.

By Mr. RAKER: A bill (H. R. 4471) to amend the act of June 29, 1906 (34 Stat. L., pt. 1, p. 596), as amended in sections 16, 17, and 19 by the act of Congress approved March 4, 1909 (35 Stat. L., pt. 1, p. 1102); in section 13 by the act of Congress approved June 25, 1910 (36 Stat. L., pt. 1, p. 830); by the act of Congress approved March 4, 1913 (37 Stat. L., pt. 1, p. 736), creating the Department of Labor; by the act of Congress approved May 9, 1918 (Public, No. 144, 65th Cong., 2d sess.); and by the act of Congress approved September 22, 1922 (U. S. Stat., pt. 1, ch. 411, p. 1021, 67th Cong., 2d sess.); to the Committee on Immigration and Naturalization.

By Mr. HUDSPETH: A bill (H. R. 4472) for the purchase of land adjoining Fort Bliss, Tex.; to the Committee on Military Affairs.

By Mr. KAHN: A bill (H. R. 4473) fixing the rank of the officer of the United States Army in charge of public buildings and grounds; to the Committee on Military Affairs.

Also, a bill (H. R. 4474) authorizing and directing the Secretary of War to transfer to the Treasury Department a portion of the Fort Clinch Military Reservation; to the Committee on Military Affairs.

Also, a bill (H. R. 4475) providing for sundry matters affecting the Military Establishment; to the Committee on Military Affairs.

By Mr. REED of West Virginia: A bill (H. R. 4476) to amend an act of Congress approved June 18, 1898, entitled "An act to regulate plumbing and gas fitting in the District of Columbia"; to the Committee on the District of Columbia.

Also, a bill (H. R. 4477) to authorize the opening of a minor street from Georgia Avenue to Ninth Street NW. through squares 2875 and 2877, and for other purposes; to the Committee on the District of Columbia.

Also, a bill (H. R. 4478) to authorize the widening of Georgia Avenue between Fairmont Street and Gresham Place NW.; to the Committee on the District of Columbia.

Also, a bill (H. R. 4479) to regulate the practice of osteopathy in the District of Columbia; to the Committee on the District of Columbia.

Also, a bill (H. R. 4480) to amend an act approved February 28, 1899, entitled "An act relative to the payment of claims for material and labor furnished for District of Columbia buildings"; to the Committee on the District of Columbia.

By Mr. SCOTT: A bill (H. R. 4481) authorizing the Secretary of Commerce to exchange land formerly used as a site for the Point of Woods Range Lights, Mich., for other lands in the vicinity; to the Committee on the Public Lands.

Also, a bill (H. R. 4482) providing for the disposal of certain lands on Crooked and Pickerel Lakes, Mich., and for other purposes; to the Committee on the Public Lands.

By Mr. BOYLAN: A bill (H. R. 4483) for the relief of certain retired officers of the Marine Corps; to the Committee on Naval Affairs.

By Mr. SPROUL of Illinois: A bill (H. R. 4484) authorizing the Postmaster General to prescribe fees for the issuance of domestic money orders; to the Committee on the Post Office and Post Roads.

By Mr. REED of West Virginia: A bill (H. R. 4485) to require the furnishing of heat in living quarters in the District of Columbia; to the Committee on the District of Columbia.

Also, a bill (H. R. 4486) to fix the salaries of officers and members of the Metropolitan police force and the fire department of the District of Columbia; to the Committee on the District of Columbia.

Also, a bill (H. R. 4487) to authorize the Commissioners of the District of Columbia to close certain streets, roads, or highways in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

Also, a bill (H. R. 4488) to regulate the practice of the science of chiropractic in the District of Columbia; to the Committee on the District of Columbia.

Also, a bill (H. R. 4489) to prevent fraud respecting securities offered for sale within the District of Columbia, to provide a summary proceeding therefor, to register persons selling securities in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

Also, a bill (H. R. 4490) to make the necessary survey and to prepare a plan of a proposed parkway to connect the old Civil War forts in the District of Columbia; to the Committee on the District of Columbia.

Also, a bill (H. R. 4491) to provide for an investigation and report upon the condition of the Chain Bridge, across the Potomac River, and the preparation of plans for a bridge to take the place thereof should it be deemed necessary; to the Committee on the District of Columbia.

Also, a bill (H. R. 4492) to authorize the widening of Fourth Street south of Cedar Street NW., in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. SINCLAIR: A bill (H. R. 4493) defining the crop failure in the production of wheat, rye, barley, oats, and flax by those to whom the Government of the United States loaned money, under the act of March 3, 1921, for the purchase of wheat, rye, barley, oats, or flax for seed and from the President's emergency fund in the years 1918 and 1919, and for other purposes; to the Committee on Agriculture.

Also, a bill (H. R. 4494) authorizing extensions of time for the payment of purchase money due under certain homestead entries and Government land purchases within the Fort Berthold Indian Reservation, N. Dak.; to the Committee on the Public Lands.

Also, a bill (H. R. 4495) to provide for the establishment of a dairying and livestock experiment station at Mandan, N. Dak.; to the Committee on Agriculture.

By Mr. MORROW: A bill (H. R. 4496) granting to the State of New Mexico 250,000 acres of land in the said State for the use and benefit of educational purposes; to the Committee on the Public Lands.

Also, a bill (H. R. 4497) granting to the State of New Mexico 2,000,000 acres of land in said State for the use and benefit of reclamation, irrigation, and drainage; to the Committee on the Public Lands.

By Mr. FULLER: A bill (H. R. 4498) to authorize the State of Illinois to construct, maintain, and operate two bridges, and approaches thereto, across the Fox River, in the county of Kendall and the State of Illinois; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 4499) granting the consent of Congress to the State of Illinois, department of public works and buildings, division of highways, to construct, maintain, and operate a bridge and approaches thereto across the Rock River, in the county of Winnebago, State of Illinois, in section 24, T. 46 N., R. 1 E. of the third principal meridian; to the Committee on Interstate and Foreign Commerce.

By Mr. HAWLEY: A bill (H. R. 4500) to authorize the purchase by the city of Coquille, Oreg., of certain lands formerly embraced in the grant to the Coos Bay Military Wagon Road Co., and revested in the United States by the act approved June 9, 1916; to the Committee on the Public Lands.

By Mr. DICKSTEIN: A bill (H. R. 4501) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, known as the bankruptcy act of 1898; to the Committee on the Judiciary.

Also, a bill (H. R. 4502) to amend the act entitled "An act regulating immigration of aliens to and residence of aliens in the United States," approved February 5, 1917; to the Committee on Immigration and Naturalization.

Also, a bill (H. R. 4503) to amend an act entitled "An act requiring common carriers engaged in interstate and foreign commerce to make full reports of all accidents to the Interstate Commerce Commission and authorizing investigations thereof by such commission," approved May 6, 1910; to the Committee on Interstate and Foreign Commerce.

By Mr. RANKIN: A bill (H. R. 4504) to refund to lawful claimants the cotton tax collected for the years 1863, 1864, 1865, 1866, 1867, and 1868; to the Committee on War Claims.

By Mr. CABLE: A bill (H. R. 4505) to authorize the appropriation of additional sums for Federal aid in the construction of post roads; to the Committee on Roads.

By Mr. LANGLEY: A bill (H. R. 4506) to authorize an appropriation to enable the Director of the United States Veterans' Bureau to provide for the construction of additional hospital facilities and to provide medical, surgical, and hospital services and supplies for persons who served in the World War, the Spanish-American War, the Philippine insurrection, and the Boxer rebellion, and are patients of the United States Veterans' Bureau; to the Committee on Public Buildings and Grounds.

By Mr. GRAHAM of Pennsylvania: A bill (H. R. 4507) to amend an act for the appointment of an additional circuit court judge for the fourth judicial circuit, for the appointment of additional district judges for certain districts, providing for an annual conference of certain judges, and for other purposes, approved September 14, 1922; to the Committee on the Judiciary.

By Mr. DYER: A bill (H. R. 4508) to amend section 129 of the Judicial Code, allowing an appeal in a patent suit from a decree which is final except for the ordering of an accounting; to the Committee on the Judiciary.

By Mr. OLDFIELD: A bill (H. R. 4509) to amend the practice and procedure in Federal courts, and for other purposes; to the Committee on the Judiciary.

By Mr. WURZBACH: A bill (H. R. 4510) to detach the Waco division of the western judicial district of the State of Texas from the said western judicial district, and to attach the same to the northern judicial district of said State, and to fix the time and places of holding courts in said districts, and for other purposes; to the Committee on the Judiciary.

By Mr. REED of West Virginia: A bill (H. R. 4511) to amend the law relating to taxation in the District of Columbia; to the Committee on the District of Columbia.

By Mr. BECK: A bill (H. R. 4512) to reimburse the Governor of the State of Wisconsin for expenses incurred by him in aiding the United States to raise, organize, and supply and equip armed forces of the United States in the late war with Germany and its allies, and to protect citizens of the United States in Mexico and on the Mexican border; to the Committee on War Claims.

By Mr. MOORE of Virginia: A bill (H. R. 4513) to authorize the Arlington County (Va.) sanitary district to connect its sewerage system with the sewerage system of the District of Columbia, in the discretion of the Commissioners of the District of Columbia; to the Committee on the District of Columbia.

By Mr. LEA of California: A bill (H. R. 4514) to amend section 5 of the act entitled "An act supplemental to the national prohibition act," approved November 23, 1921; to the Committee on the Judiciary.

Also, a bill (H. R. 4515) authorizing the Coast and Geodetic Survey to make seismological investigations, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. LEATHERWOOD: A bill (H. R. 4516) to authorize reservations of mineral rights in lands exchanged in the Manti National Forest, Utah; to the Committee on the Public Lands.

By Mr. WINSLOW: A bill (H. R. 4517) to establish in the Bureau of Foreign and Domestic Commerce of the Department of Commerce a foreign commerce service of the United States, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. SMITH: A bill (H. R. 4518) authorizing the purchase of Indian lands on the Fort Hall Indian Reservation in Idaho for reservoir purposes in connection with the Minidoka irrigation project; to the Committee on Indian Affairs.

By Mr. SPROUL of Illinois: A bill (H. R. 4519) relating to reports to Congress on claims of postmasters; to the Committee on the Post Office and Post Roads.

By Mr. WINTER: A bill (H. R. 4520) authorizing the addition of certain lands to the Medicine Bow National Forest, Wyo., and for other purposes; to the Committee on the Public Lands.

By Mr. SCHALL: A bill (H. R. 4521) to provide for the appointment of a court reporter by each judge of the United States district court, fixing their salaries and fees, defining their duties, and repealing all laws and parts of laws inconsistent herewith; to the Committee on the Judiciary.

By Mr. TEMPLE: A bill (H. R. 4522) to provide for the completion of the topographical survey of the United States; to the Committee on Interstate and Foreign Commerce.

By Mr. NEWTON of Minnesota: A bill (H. R. 4523) to amend Schedule A, stamp tax of the revenue act of 1921; to the Committee on Ways and Means.

By Mr. FREAR: A bill (H. R. 4524) to tax the net income on municipal and State securities; to the Committee on Ways and Means.

By Mr. THOMAS of Oklahoma: A bill (H. R. 4525) making an appropriation for the completion of the improvement of a section of roadway on the Fort Sill Military Reservation; to the Committee on Appropriations.

By Mr. SCHALL: A bill (H. R. 4526) to incorporate the United States Blind Veterans of the World War; to the Committee on the Judiciary.

By Mr. HICKEY: A bill (H. R. 4527) to create two judicial districts within the State of Indiana, the establishment of judicial divisions therein, and for other purposes; to the Committee on the Judiciary.

By Mr. SHERWOOD: A bill (H. R. 4528) to authorize condemnation proceedings of patents necessary to the manufacture of tungsten and nitrogen lamps; to the Committee on the Judiciary.

By Mr. FITZGERALD: A bill (H. R. 4529) to carry out the provisions of Article I of the Constitution; to the Committee on the Census.

By Mr. VINSON of Georgia: A bill (H. R. 4530) to increase the efficiency of the Coast and Geodetic Survey, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. REED of West Virginia: A bill (H. R. 4531) to vacate certain streets and alleys within the area known as the Walter Reed General Hospital, District of Columbia, and to authorize the extension and widening of Fourteenth Street from Montague Street to its southern terminus south of Dahlia Street, Nicholson Street from Thirteenth Street to Sixteenth Street, Colorado Avenue from Montague Street to Thirteenth Street, Concord Avenue from Sixteenth Street to its western terminus west of Eighth Street west, Thirteenth Street from Nicholson Street to Piney Branch Road, and Piney Branch Road from Thirteenth Street to Blair Road, and for other purposes; to the Committee on the District of Columbia.

By Mr. COLTON: A bill (H. R. 4532) to add certain lands to the Uinta National Forest, and for other purposes; to the Committee on the Public Lands.

By Mr. BRAND of Ohio: A bill (H. R. 4533) to establish standard weights for loaves of bread, and for other purposes; to the Committee on Agriculture.

By Mr. RANKIN: A bill (H. R. 4534) for the improvement of the Federal building at Aberdeen, Miss.; to the Committee on Public Buildings and Grounds.

By Mr. SHALLENBERGER: A bill (H. R. 4535) for the purchase of a site and the erection of a public building at Clay Center, Nebr.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 4536) providing for the extension and enlargement of the post office and court building at Grand Island, Nebr.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 4537) for the purchase of a site and the erection of a public building at Red Cloud, Nebr.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 4538) for the purcase of a site and the erection of a public building at Minden, Nebr.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 4539) providing for the extension and enlargement of the post-office and court building at Hastings, Nebr.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 4540) for the purchase of a site and the erection of a public building at Franklin, Nebr.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 4541) for the purchase of a site and the erection of a public building at Alma, Nebr.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 4542) for the purchase of a site and the erection of a public building at Superior, Nebr.; to the Committee on Public Buildings and Grounds.

By Mr. RANKIN: A bill (H. R. 4543) for the erection of a public building at Starkville, Oktibbeha County, Miss.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 4544) for the erection of a public building at Amory, Monroe County, Miss.; to the Committee on Public Buildings and Grounds.

By Mr. HUDSPETH: A bill (H. R. 4545) for the erection of a post-office building at Pecos, Tex., and appropriating money therefor; to the Committee on Public Buildings and Grounds.

By Mr. LANGLEY: A bill (H. R. 4546) authorizing the construction by the Secretary of Commerce of a power-plant building on the present site of the Bureau of Standards in the District of Columbia; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 4547) authorizing the purchase by the Secretary of Commerce of a site and the construction and equipment of a building thereon for use as a master track scale and test car depot, and for other purposes; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 4548) authorizing the Secretary of Commerce to acquire, by condemnation or otherwise, a certain tract of land in the District of Columbia for the enlargement of the present site of the Bureau of Standards; to the Committee on Public Buildings and Grounds

By Mr. RAKER: A bill (H. R. 4549) making appropriation to complete the public building at Red Bluff, Tehama County, Calif.; to the Committee on Appropriations.

Also, a bill (H. R. 4550) increasing the limit of cost of a public building and site at Red Bluff, Tehema County, Calif.; to the Committee on Public Buildings and Grounds.

By Mr. STEVENSON: A bill (H. R. 4551) providing for the erection of a monument at Cowpens battle ground, Cherokee County, S. C., commemorative of Gen. Daniel Morgan and those who participated in the Battle of Cowpens on the 17th day of January, 1781; to the Committee on the Library.

By Mr. EVANS of Iowa: A bill (H. R. 4552) for the purchase of a site for and the erection of a post-office building at Hamburg, Iowa; to the Committee on Public Buildings and Grounds.

By Mr. PARKS of Arkansas: A bill (H. R. 4553) for the purchase of a site and the erection thereon of a public building at Magnolia, Ark.; to the Committee on Public Buildings and Grounds.

By Mr. BYRNS of Tennessee: A bill (H. R. 4554) to authorize the Secretary of the Treasury to acquire a suitable site and erect thereon a suitable building for a railway post-office terminal at Nashville, Tenn.; to the Committee on Public Buildings and Grounds.

By Mr. KETCHAM: A bill (H. R. 4555) to provide for the erection of a public building in the city of Benton Harbor, in the State of Michigan; to the Committee on Public Buildings and Grounds.

By Mr. GRIEST: A bill (H. R. 4556) to provide for the purchase of a site for a public building at Columbia, Pa.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 4557) providing for the erection of a public building at the city of Lancaster, Pa.; to the Committee on Public Buildings and Grounds.

By Mr. EVANS of Montana: A bill (H. R. 4558) for the enlargement of the Federal building at Butte, Mont.; to the Committee on Public Buildings and Grounds.

By Mr. MILLIGAN: A bill (H. R. 4559) for the purchase of a site and the erection thereon of a public building at Cameron, Mo.; to the Committee on Public Buildings and Grounds.

By Mr. WILSON of Indiana: A bill (H. R. 4560) authorizing the erection of a Federal building at Mount Vernon, Ind.; to the Committee on Public Buildings and Grounds.

By Mr. FULBRIGHT: A bill (H. R. 4561) to provide for the erection of a public building on ground already acquired at West Plains, in the State of Missouri; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 4562) to provide for the erection of a public building on ground already acquired at Caruthersville, in the State of Missouri; to the Committee on Public Buildings and Grounds.

By Mr. STEVENSON: A bill (H. R. 4563) to increase the limit of cost of the United States post-office building at Lancaster, S. C.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 4564) to authorize the acquisition of a site and the erection of a Federal building at York, S. C.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 4565) to authorize the acquisition of a site and the erection of a Federal building at Rock Hill, S. C., and to sell the present site; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 4566) to authorize the acquisition of a site and the erection of a Federal building at Cheraw, S. C.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 4567) to authorize the acquisition of a site and the erection of a Federal building at Winnsboro, S. C.; to the Committee on Public Buildings and Grounds.

By Mr. ROBINSON of Iowa: A bill (H. R. 4568) to authorize the acquisition of a site and the erection thereon of a Federal building at Hampton, Iowa; to the Committee on Public Buildings and Grounds.

By Mr. WINGO: A bill (H. R. 4569) to provide for the erection of a public building at Booneville, Ark.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 4570) to provide for the erection of a public building at Paris, Ark.; to the Committee on Public Buildings and Grounds.

By Mr. HUDSPETH: A bill (H. R. 4571) for the erection of a post-office building at Kerrville, Tex., and appropriating money therefor; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 4572) for the erection of a post-office building at Big Spring, Tex., and appropriating money therefor; to the Committee on Public Buildings and Grounds.

By Mr. MORROW: A bill (H. R. 4573) to provide for the acquisition of a site and the erection of a public building thereon at Gallup, N. Mex.; to the Committee on Public Buildings and Grounds.

By Mr. WAINWRIGHT: A bill (H. R. 4574) authorizing the purchase of a site and to provide for the erection of a public building in the city of White Plains, N. Y.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 4575) to provide for the erection of a public building in the village of Nyack, N. Y.; to the Committee on Public Buildings and Grounds.

By Mr. ZIHLMAN: A bill (H. R. 4576) to acquire additional land for the Government Printing Office; to the Committee on Public Buildings and Grounds.

By the SPEAKER: Joint resolution (H. J. Res. 114) proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. KAHN: Joint resolution (H. J. Res. 115) approving the action of the Secretary of War in directing the issuance of quartermaster stores for the relief of sufferers from the cyclone at La Grange and at West Point, Ga., and vicinity, March, 1920; to the Committee on Military Affairs.

By Mr. BLANTON: Joint resolution (H. J. Res. 116) constituting it cause for impeachment and removal from office, and dishonorable discharge from the service, and discharge from Government employment, respectively, for any executive officer, member of the judiciary, Senator, Representative in Congress, officer or enlisted man in the Army, Navy, and Marine Corps, or any employee of the Government of the United States, to purchase intoxicating liquors from a "bootlegger" (as that term is commonly understood), or to manufacture, sell, or transport intoxicating liquors within, or to import the same into, the United States, for beverage purposes, or to conspire with any person to violate the eighteenth amendment to the Constitution of the United States and laws passed in enforcement thereof; to the Committee on the Judiciary.

By Mr. FITZGERALD: Joint resolution (H. J. Res. 117) proposing an amendment to the Constitution of the United States; to the Committee on the Census.

Also, joint resolution (H. J. Res. 118) proposing an amendment to the Constitution of the United States; to the Committee on the Census.

By Mr. BLANTON: Joint resolution (H. J. Res. 119) authorizing and directing the President to use and employ the Army and Navy, the militia of the several States, and the resources of the Government in suppressing all smuggling into the United States of intoxicating liquors, narcotics, and aliens, and to suppress the insubordinate rebellion now being waged by those in authority in several States and large cities of the United States against the fundamental laws of the Republic, to the end that the President may obey the Constitution of the United States by faithfully executing the laws; to the Committee on the Judiciary.

Also, joint resolution (H. J. Res. 120) prohibiting officials of the United States from issuing permits to any diplomatic repre-

sentative, secretary of embassy or legation, counselor of embassy or legation, military attaché, naval attaché, commercial attaché, consul, agent, commissioner, or special envoy of any foreign country accredited to and residing in the United States that would authorize any of them, or any member of their official family, to import into, transport within, possess, or dispense in the United States any intoxicating liquors for beverage purposes, in violation of the eighteenth amendment, and for other purposes; to the Committee on Foreign Affairs.

By Mr. FAIRCHILD: Joint resolution (H. J. Res. 121) declaring it to be the policy of the United States not to sell war material to any foreign government, and prohibiting any such sale; to the Committee on Foreign Affairs.

By Mr. CELLER: Joint resolution (H. J. Res. 122) providing an immigration commission; to the Committee on Immigration and Naturalization.

By Mr. WINTER: Joint resolution (H. J. Res. 123) authorizing the erection of a monument to the memory of Sacajawea or bird woman; to the Committee on the Library.

By Mr. BLANTON: Resolution (H. Res. 113) calling for an investigation of the alleged bootlegging organizations in Washington, D. C.; to the Committee on Rules.

By Mr. FAIRFIELD: Resolution (H. Res. 114) authorizing the printing of the report of the Governor General of the Philippine Islands; to the Committee on Printing.

Also, resolution (H. Res. 115) authorizing the printing of the twenty-third annual report of the Governor of Porto Rico; to the Committee on Printing.

By Mr. KELLY: Resolution (H. Res. 116) amending Rule XXVII of the Rules of the House of Representatives; to the Committee on Rules.

By Mr. COOK: Resolution (H. Res. 117) to amend section 4 of Rule XXVII of the House of Representatives; to the Committee on Rules.

By Mr. MACGREGOR: Resolution (H. Res. 118) providing for an additional clerk to the Committee on Immigration and Naturalization; to the Committee on Accounts.

By Mr. FAIRCHILD: Resolution (H. Res. 119) requesting certain information from the Secretary of State regarding Mexico; to the Committee on Foreign Affairs.

By Mr. HUDSON: Memorial of the Legislature of the State of Michigan, favoring the enactment of legislation for the national defense; to the Committee on Military Affairs.

## PRIVATE BILLS AND RESOLUTIONS.

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

By Mr. ABERNETHY: A bill (H. R. 4577) for the examination and survey of Mill Cut and Clubfoot Creek, N. C.; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 4578) to provide for an examination and survey of Beaufort Harbor and Beaufort Inlet and entrance thereto, North Carolina; to the Committee on Rivers and Harbors.

By Mr. ASWELL: A bill (H. R. 4579) authorizing the Secretary of War to donate to the town of Winnfield, State of Louisiana, one German cannon or fieldpiece; to the Committee on Military Affairs.

Also, a bill (H. R. 4580) authorizing the Secretary of War to donate to the town of Many, State of Louisiana, one German cannon or fieldpiece; to the Committee on Military Affairs.

Also, a bill (H. R. 4581) authorizing the Secretary of War to donate to the town of Jena, State of Louisiana, one German cannon or fieldpiece; to the Committee on Military Affairs.

Also, a bill (H. R. 4582) authorizing the Secretary of War to donate to the town of Marksville, State of Louisiana, one German cannon or fieldpiece; to the Committee on Military Affairs.

Also, a bill (H. R. 4583) authorizing the Secretary of War to donate to the town of Colfax, State of Louisiana, one German cannon or fieldpiece; to the Committee on Military Affairs.

Also, a bill (H. R. 4584) authorizing the Secretary of War to donate to the city of Natchitoches, State of Louisiana, one German cannon or fieldpiece; to the Committee on Military Affairs.

Also, a bill (H. R. 4585) authorizing the Secretary of War to donate to the city of Alexandria, State of Louisiana, one German cannon or fieldpiece; to the Committee on Military Affairs.

Also, a bill (H. R. 4586) authorizing the Secretary of War to donate to the town of Leesville, State of Louisiana, one German cannon or fieldpiece; to the Committee on Military Affairs.

By Mr. BEEDY: A bill (H. R. 4587) granting a pension to Phoebe A. Chadsey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4588) granting a pension to Clara J. Foss; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4589) granting a pension to Cora E. Farrar; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4590) to extend the benefits of the United States employees' compensation act of September 7, 1916, to Charles C. Sawyer; to the Committee on Claims.

By Mr. BEERS: A bill (H. R. 4591) granting a pension to Franklin M. Magee; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4592) granting a pension to Susan A. Kuhn; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4593) granting a pension to Mary Roland; to the Committee on Invalid Pensions.

By Mr. BEGG: A bill (H. R. 4594) granting a pension to Nancy M. Burroughs; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4595) granting an increase of pension to Maria A. Carpenter; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4596) granting an increase of pension to Mark Hebblethwaite; to the Committee on Invalid Pensions.

By Mr. BLAND: A bill (H. R. 4597) granting an increase of pension to Charles V. Harris; to the Committee on Pensions.

Also, a bill (H. R. 4598) granting a pension to Zilpha V. Dore; to the Committee on Pensions.

By Mr. BOYCE: A bill (H. R. 4599) granting an increase of pension to James H. Joseph; to the Committee on Invalid Pensions.

By Mr. BOYLAN: A bill (H. R. 4600) granting a pension to Fannie Fleischmann; to the Committee on Pensions.

By Mr. BRAND of Ohio: A bill (H. R. 4601) granting a pension to Edmond L. Smith; to the Committee on Pensions.

Also, a bill (H. R. 4602) granting a pension to George Hurtt; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4603) granting a pension to John Scott; to the Committee on Invalid Pensions.

By Mr. BRITTEN: A bill (H. R. 4604) for the relief of Katherine Simon; to the Committee on Claims.

By Mr. BROWNE of Wisconsin: A bill (H. R. 4605) granting a pension to Anna Withers; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4606) granting a pension to Mary C. Thorp; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4607) granting a pension to Spencer E. Graves; to the Committee on Invalid Pensions.

By Mr. BURDICK: A bill (H. R. 4608) granting an increase of pension to Isabella Burk; to the Committee on Invalid Pensions.

By Mr. BUTLER: A bill (H. R. 4609) for the relief of Paymaster Charles R. O'Leary, United States Navy; to the Committee on Naval Affairs.

By Mr. BYRNES of South Carolina: A bill (H. R. 4610) for the relief of the estate of Filer McCloud; to the Committee on War Claims.

By Mr. CABLE: A bill (H. R. 4611) granting an increase of pension to Ella Williamson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4612) granting a pension to Lavenia A. Collett; to the Committee on Invalid Pensions.

By Mr. CARTER: A bill (H. R. 4613) to remove the charge of desertion from the name of E. D. Macready; to the Committee on Military Affairs.

Also, a bill (H. R. 4614) granting a pension to E. D. Macready; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4615) for the relief of the heirs of Israel Folsom, deceased; to the Committee on Indian Affairs.

By Mr. CLEARY: A bill (H. R. 4616) for the relief of the Union Ferry Co. of New York and Brooklyn, owners of the ferryboat *Montauk;* to the Committee on Claims.

By Mr. COLE of Ohio: A bill (H. R. 4617) granting a franking privilege to Florence Kling Harding; to the Committee on the Post Office and Post Roads.

By Mr. COLLINS: A bill (H. R. 4618) for the relief of H. W. Doss; to the Committee on Claims.

By Mr. COOK: A bill (H. R. 4619) authorizing the President of the United States to appoint Samuel Woodfill to the position and rank of captain in the Army of the United States and immediately retire him with the rank and pay of a captain; to the Committee on Military Affairs.

By Mr. COOPER of Wisconsin: A bill (H. R. 4620) granting a pension to Anna Ballard, widow of George A. Ballard, late of Company B, First Regiment Wisconsin Volunteer Heavy Artillery, Civil War; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4621) granting a pension to Arlina De Laplain, widow of Henry Randall De Laplain, late of Company C, Third Regiment Iowa Volunteer Cavalry, Civil War; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4622) granting a pension to Angelina Shaw, widow of Menzo Shaw, Company H, Fourth Regiment Wisconsin Volunteer Cavalry, Civil War; to the Committee on Invalid Pensions.

By Mr. CROLL: A bill (H. R. 4623) for the relief of John Purdy; to the Committee on Military Affairs.

Also, a bill (H. R. 4624) granting an increase of pension to George W. Rathman; to the Committee on Pensions.

By Mr. CURRY: A bill (H. R. 4625) granting a pension to Mary J. Miller; to the Committee on Invalid Pensions.

By Mr. DARROW: A bill (H. R. 4626) for the relief of the heirs of R. M. Bryson; to the Committee on Claims.

By Mr. DEMPSEY: A bill (H. R. 4627) granting an increase of pension to John A. Rafter; to the Committee on Invalid Pensions.

By Mr. DICKINSON of Iowa: A bill (H. R. 4628) to carry out the findings of the Court of Claims in the case of Henry F. Leib; to the Committee on War Claims.

By Mr. DICKINSON of Missouri: A bill (H. R. 4629) granting a pension to Mary A. Mallory; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4630) granting a pension to Perina Abigail Morrison; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4631) granting an increase of pension to Sarah F. Barber; to the Committee on Invalid Pensions.

By Mr. DUPRÉ: A bill (H. R. 4632) for the relief of Richard E. A. Thiele; to the Committee on Naval Affairs.

By Mr. DYER: A bill (H. R. 4633) for the relief of the Reliance Realty & Investment Co., a corporation, owners of the Republic Building at the southwest corner of Seventh and Olive Streets, city of St. Louis, State of Missouri; to the Committee on Claims.

By Mr. ELLIOTT: A bill (H. R. 4634) granting an increase of pension to Mary E. Kerr; to the Committee on Pensions.

By Mr. FAIRCHILD: A bill (H. R. 4635) to grant an honorable discharge to Charles W. Johnson; to the Committee on Military Affairs.

By Mr. FAUST: A bill (H. R. 4636) granting a pension to Bert Sabins; to the Committee on Pensions.

By Mr. FITZGERALD: A bill (H. R. 4637) granting a pension to Mary Flannery; to the Committee on Pensions.

Also, a bill (H. R. 4638) granting a pension to Frederick Kreiselmeier; to the Committee on Pensions.

By Mr. FROTHINGHAM: A bill (H. R. 4639) granting a pension to Jennie G. Bourne; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4640) for the relief of Philip T. Post; to the Committee on Claims.

By Mr. FULBRIGHT: A bill (H. R. 4641) for the relief of U. S. Davis; to the Committee on Claims.

By Mr. GARNER of Texas: A bill (H. R. 4642) for the relief of Hal L. Brennan; to the Committee on Claims.

By Mr. GRAHAM of Pennsylvania: A bill (H. R. 4643) granting a pension to Henry Lawton Hicks; to the Committee on Pensions.

By Mr. GRIEST: A bill (H. R. 4644) to carry into effect the findings of the Court of Claims in the matter of the claim of the First Columbia National Bank, of Columbia, Pa.; to the Committee on War Claims.

By Mr. HAWLEY: A bill (H. R. 4645) for the relief of Lincoln County, Oreg.; to the Committee on Claims.

Also, a bill (H. R. 4646) granting a pension to Esther Hill Morgan; to the Committee on Pensions.

By Mr. HAYDEN: A bill (H. R. 4647) for the relief of the Underwood Typewriter Co. and Frank P. Trott; to the Committee on Claims.

By Mr. HOWARD of Nebraska: A bill (H. R. 4648) granting a pension to Mary D. Surber; to the Committee on Invalid Pensions.

By Mr. HUDDLESTON: A bill (H. R. 4649) granting a pension to Jesse A. Baggett; to the Committee on Pensions.

Also, a bill (H. R. 4650) granting an increase of pension to John W. Hartley; to the Committee on Invalid Pensions.

By Mr. HUDSPETH: A bill (H. R. 4651) granting a pension to Louis Anderson; to the Committee on Pensions.

Also, a bill (H. R. 4652) for the relief of Alfred E. Means; to the Committee on Claims.

Also, a bill (H. R. 4653) for the relief of Albert F. Gholson; to the Committee on Claims.

Also, a bill (H. R. 4654) for the relief of Milam H. Wright; to the Committee on Claims.

Also, a bill (H. R. 4655) for the relief of John McIntyre; to the Committee on Claims.

Also, a bill (H. R. 4656) granting a pension to Peter C. Jackson; to the Committee on Pensions.

Also, a bill (H. R. 4657) for the relief of A. C. Russell; to the Committee on Claims.

Also, a bill (H. R. 4658) for the relief of Sabino Apodaca; to the Committee on Claims.

Also, a bill (H. R. 4659) granting an increase of pension to Lizzie Johnson; to the Committee on Pensions.

Also, a bill (H. R. 4660) for the relief of A. R. Gold; to the Committee on the Post Office and Post Roads.

Also, a bill (H. R. 4661) granting a pension to Jasper H. B. Norfleet; to the Committee on Pensions.

Also, a bill (H. R. 4662) granting a pension to Ferdinand Heinen; to the Committee on Pensions.

Also, a bill (H. R. 4663) granting a pension to Mark Y. Judd; to the Committee on Pensions.

Also, a bill (H. R. 4664), granting a pension to Sarah Curry; to the Committee on Pensions.

Also, a bill (H. R. 4665) for the relief of L. L. Kyle; to the Committee on Claims.

By Mr. KELLER: A bill (H. R. 4666) for the relief of W. J. Benfield; to the Committee on Claims.

By Mr. KELLY: A bill (H. R. 4667) granting a pension to Lena M. Persell; to the Committee on Pensions.

Also, a bill (H. R. 4668) to correct the record of John Stoddard; to the Committee on Military Affairs.

By Mr. KETCHAM: A bill (H. R. 4669) granting an increase of pension to Malinda Seameans; to the Committee on Invalid Pensions.

By Mr. KINCHELOE: A bill (H. R. 4670) granting an increase of pension to John P. Prowse; to the Committee on Pensions.

Also, a bill (H. R. 4671) granting a pension to John Clarence Giles; to the Committee on Pensions.

By Mr. LEA of California: A bill (H. R. 4672) granting an increase of pension to Alice Quitzow; to the Committee on Invalid Pensions.

By Mr. LEAVITT: A bill (H. R. 4673) for the relief of William F. Brockschmidt; to the Committee on the Public Lands.

Also, a bill (H. R. 4674) granting a pension to James Duffy; to the Committee on Invalid Pensions.

By Mr. LINEBERGER: A bill (H. R. 4675) for the relief of William C. Corning; to the Committee on Naval Affairs.

By Mr. MACGREGOR: A bill (H. R. 4676) granting a pension to Sarah J. Benjamin; to the Committee on Invalid Pensions.

By Mr. MACLAFFERTY: A bill (H. R. 4677) providing for the restoration of Maj. James S. Greene to the active list of the Army; to the Committee on Military Affairs.

Also, a bill (H. R. 4678) for the relief of John R. Scupham; to the Committee on Claims.

Also, a bill (H. R. 4679) for the relief of George Barrett; to the Committee on Military Affairs.

Also, a bill (H. R. 4680) granting a pension to Alice Maud Gay; to the Committee on Pensions.

By Mr. MAJOR of Missouri: A bill (H. R. 4681) granting a pension to Irena Goodwin; to the Committee on Invalid Pensions.

By Mr. MANLOVE: A bill (H. R. 4682) granting an increase of pension to Samuel D. Lee; to the Committee on Pensions.

Also, a bill (H. R. 4683) granting a pension to John H. Mooney; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4684) granting a pension to Mary A. Hatton; to the Committee on Invalid Pensions.

By Mr. MAPES: A bill (H. R. 4685) granting a pension to Mamie A. Moore; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4686) granting a pension to Ada Thorp; to the Committee on Invalid Pensions.

By Mr. MILLIGAN: A bill (H. R. 4687) authorizing the Secretary of War to donate to the town of Bethany, State of Missouri, one German cannon or fieldpiece; to the Committee on Military Affairs.

Also, a bill (H. R. 4688) authorizing the Secretary of War to donate to the town of Gallatin, State of Missouri, one German cannon or fieldpiece; to the Committee on Military Affairs.

Also, a bill (H. R. 4689) authorizing the Secretary of War to donate to the town of Kingston, State of Missouri, one German cannon or fieldpiece; to the Committee on Military Affairs.

Also, a bill (H. R. 4690) authorizing the Secretary of War to donate to the town of Richmond, State of Missouri, one German cannon or fieldpiece; to the Committee on Military Affairs.

Also, a bill (H. R. 4691) authorizing the Secretary of War to donate to the town of Liberty, State of Missouri, one German cannon or fieldpiece; to the Committee on Military Affairs.

Also, a bill (H. R. 4692) authorizing the Secretary of War to donate to the town of Plattsburg, State of Missouri, one German cannon or fieldpiece; to the Committee on Military Affairs.

Also, a bill (H. R. 4693) authorizing the Secretary of War to donate to the town of Maysville, State of Missouri, one German cannon or fieldpiece; to the Committee on Military Affairs.

Also, a bill (H. R. 4694) authorizing the Secretary of War to donate to the town of Albany, State of Missouri, one German cannon or fieldpiece; to the Committee on Military Affairs.

Also, a bill (H. R. 4695) authorizing the Secretary of War to donate to the town of Grant City, State of Missouri, one German cannon or fieldpiece; to the Committee on Military Affairs.

Also, a bill (H. R. 4696) authorizing the Secretary of War to donate to the town of Excelsior Springs, State of Missouri, one German cannon or fieldpiece; to the Committee on Military Affairs.

Also, a bill (H. R. 4697) authorizing the Secretary of War to donate to the town of Cameron, State of Missouri, one German cannon or fieldpiece; to the Committee on Military Affairs.

Also, a bill (H. R. 4698) authorizing the Secretary of War to donate to the town of Stanberry, State of Missouri, one German cannon or fieldpiece; to the Committee on Military Affairs.

Also, a bill (H. R. 4699) authorizing the Secretary of War to donate to the town of King City, State of Missouri, one German cannon or fieldpiece; to the Committee on Military Affairs.

Also, a bill (H. R. 4700) granting a pension to Mary A. Brooks; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4701) granting a pension to Reese Tunks; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4702) granting a pension to Lany M. Breisford; to the Committee on Pensions.

Also, a bill (H. R. 4703) granting a pension to John T. Burriss; to the Committee on Pensions.

Also, a bill (H. R. 4704) authorizing the Secretary of War to donate to the town of Princeton, Mo., one German cannon or fieldpiece; to the Committee on Military Affairs.

By Mr. NELSON of Wisconsin: A bill (H. R. 4705) granting an increase of pension to David S. Hills; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4706) for the relief of Frank B. Lawton; to the Committee on Claims.

By Mr. NEWTON of Minnesota: A bill (H. R. 4707) granting an increase of pension to Walter Scott Lafans; to the Committee on Pensions.

By Mr. NEWTON of Missouri: A bill (H. R. 4708) for the relief of J. H. Teasdale Commission Co.; to the Committee on Claims.

By Mr. OLDFIELD: A bill (H. R. 4709) granting a pension to Kate McGehey; to the Committee on Pensions.

Also, a bill (H. R. 4710) granting an increase of pension to Martha A. Howard; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4711) granting a pension to Joycy Waits; to the Committee on Invalid Pensions.

By Mr. PAIGE: A bill (H. R. 4712) granting a pension to Albert Goldthwaite; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4713) for the relief of Sherman Miles; to the Committee on Military Affairs.

By Mr. PARKS of Arkansas: A bill (H. R. 4714) for the relief of Mary C. Nutt; to the Committee on Pensions.

By Mr. PURNELL: A bill (H. R. 4715) for the relief of James A. Ashba; to the Committee on War Claims.

Also, a bill (H. R. 4716) granting a pension to Lora M. Brewer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4717) granting an increase of pension to Joseph Walter Brown; to the Committee on Pensions.

By Mr. RANKIN: A bill (H. R. 4718) authorizing the Secretary of War to donate to the city of Macon, State of Mississippi, one German cannon or fieldpiece; to the Committee on Military Affairs.

Also, a bill (H. R. 4719) authorizing the Secretary of War to donate to the city of Columbus, State of Mississippi, one German cannon or fieldpiece; to the Committee on Military Affairs.

Also, a bill (H. R. 4720) authorizing the Secretary of War to donate to the city of Corinth, Miss., one German cannon or fieldpiece; to the Committee on Military Affairs.

By Mr. RATHBONE: A bill (H. R. 4721) for the relief of Clayton H. Adams; to the Committee on Military Affairs.

By Mr. ROBSION of Kentucky: A bill (H. R. 4722) granting an increase of pension to Tabitha S. Bennett; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4723) granting a pension to Levi Barrett; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4724) granting a pension to Newton Gambrel; to the Committee on Pensions.

Also, a bill (H. R. 4725) granting a pension to Laura Hendrickson; to the Committee on Pensions.

Also, a bill (H. R. 4726) granting a pension to Joe H. Ross; to the Committee on Pensions.

Also, a bill (H. R. 4727) granting a pension to Esther Meece; to the Committee on Pensions.

By Mr. ROMJUE: A bill (H. R. 4728) granting a pension to Belle Kelley; to the Committee on Pensions.

By Mr. RUBEY: A bill (H. R. 4729) granting an increase of pension to William A. Holmes; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4730) granting an increase of pension to George Tuttle; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4731) to amend the record of Company G, Sixteenth Regiment Missouri Cavalry, by including the name of Morgan L. Atchley therein, with the date of his enlistment and the date of his discharge, etc.; to the Committee on Military Affairs.

By Mr. SCOTT: A bill (H. R. 4732) to correct the naval record of Garnet A. Sylvester; to the Committee on Naval Affairs.

By Mr. SHERWOOD: A bill (H. R. 4733) granting a pension to Royal O. Tylor; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4734) granting a pension to Sarah Emma Gillespie; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4735) granting a pension to Charles E. Bowser; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4736) granting a pension to Clifton E. Lime; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4737) granting a pension to Frances D. Stewart; to the Committee on Invalid Pensions.

By Mr. SIMMONS: A bill (H. R. 4738) to entitle Edward C. Scovel and Mary C. Scovel to receive the benefits of the act entitled "An act for the retirement of employees in the classified civil service, and for other purposes," approved May 22, 1920; to the Committee on Indian Affairs.

By Mr. SMITH: A bill (H. R. 4739) authorizing the appointment of John T. Henderson as captain of Field Artillery; to the Committee on Military Affairs.

Also, a bill (H. R. 4740) granting an increase of pension to Adam Roth; to the Committee on Pensions.

Also, a bill (H. R. 4741) granting an increase of pension to Evaline Harris; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4742) granting a pension to Alice Weiser; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4743) granting a pension to Barney Shriver; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4744) granting an increase of pension to Benjamin Williams; to the Committee on Invalid Pensions.

By Mr. SNELL: A bill (H. R. 4745) granting a pension to Dennis B. Lucey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4746) granting a pension to Addie Gratton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4747) granting an increase of pension to Sarah E. Coleman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4748) granting a pension to Frances Laport; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4749) granting an increase of pension to Sarah E. Coleman; to the Committee on Invalid Pensions.

By Mr. STEVENSON: A bill (H. R. 4750) for the relief of James F. Jenkins; to the Committee on Claims.

By Mr. STRONG of Pennsylvania: A bill (H. R. 4751) granting an increase of pension to Ella C. Reynolds; to the Committee on Invalid Pensions.

By Mr. SWING: A bill (H. R. 4752) for the relief of Emma Zembsch; to the Committee on Claims.

Also, a bill (H. R. 4753) for the relief of Cresner Manufacturing Co.; to the Committee on Claims.

By Mr. THOMAS of Kentucky: A bill (H. R. 4754) granting a pension to John W. Thompson; to the Committee on Pensions.

Also, a bill (H. R. 4755) granting a pension to Willie E. Vaughan; to the Committee on Pensions.

Also, a bill (H. R. 4756) granting a pension to Henry T. Bishop; to the Committee on Pensions.

Also, a bill (H. R. 4757) to remove the charge of desertion from the military record of Albert A. Bragg; to the Committee on Military Affairs.

Also, a bill (H. R. 4758) granting a pension to Isadora Amos; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4759) for the relief of Sherman P. Browning; to the Committee on Claims.

Also, a bill (H. R. 4760) for the relief of the estate of C. M. Cole, of Butler County, Ky.; to the Committee on Claims.

By Mr. THOMAS of Oklahoma: A bill (H. R. 4761) providing for an increase of pension to John L. Marshall; to the Committee on Pensions.

Also, a bill (H. R. 4762) granting an increase of pension to Columbia A. Seaman; to the Committee on Pensions.

Also, a bill (H. R. 4763) granting an increase of pension to Edmond Willis; to the Committee on Pensions.

Also, a bill (H. R. 4764) granting a pension to Alexander Seals; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4765) granting a pension to Kate Chitwood; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4766) granting a pension to Alice C. Rea; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4767) to enroll certain persons with the Choctaw Tribe of Indians; to the Committee on Indian Affairs.

Also, a bill (H. R. 4768) for the relief of Mary Wells; to the Committee on Claims.

Also, a bill (H. R. 4769) granting an increase of pension to Peter F. Weasel; to the Committee on Pensions.

Also, a bill (H. R. 4770) providing for the payment of a pension to John P. Eubanks; to the Committee on Pensions.

By Mr. THOMPSON: A bill (H. R. 4771) granting a pension to Louise F. Buchanan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4772) granting a pension to Catherine E. Whetstone; to the Committee on Invalid Pensions.

By Mr. TILSON: A bill (H. R. 4773) granting a pension to Jennie M. Bond; to the Committee on Invalid Pensions.

By Mr. TINCHER: A bill (H. R. 4774) granting a pension to William B. Kimbrel; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4775) authorizing the Secretary of War to donate to the city of Protection, State of Kansas, one German cannon or fieldpiece; to the Committee on Military Affairs.

By Mr. VESTAL: A bill (H. R. 4776) granting an increase of pension to Jacob Hess; to the Committee on Pensions.

Also, a bill (H. R. 4777) granting an increase of pension to Nora Lee Turner; to the Committee on Pensions.

By Mr. VINSON of Georgia: A bill (H. R. 4778) granting an increase of pension to Charles Carl; to the Committee on Pensions.

By Mr. WELLER: A bill (H. R. 4779) for the relief of Benjamin Stern, and Melville A. Stern and Benjamin Stern, as executors under the last will and testament of Louis Stern, deceased, and Arthur H. Hahlo, as executor under the last will and testament of Isaac Stern, deceased, all of New York City, N. Y., for compensation and in settlement of their damages and loss sustained by virtue of a lease, in writing, dated September 12, 1919, between the said parties and the United States of America, by Daniel C. Roper, Commissioner of Internal Revenue; to the Committee on Claims.

By Mr. WILLIAMS of Illinois: A bill (H. R. 4780) granting an increase of pension to Hanna M. Batt; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4781) granting a pension to Newt Ford; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4782) granting a pension to Emily C. Wilkey; to the Committee on Invalid Pensions.

By Mr. WILLIAMS of Michigan: A bill (H. R. 4783) granting a pension to Mary L. Cornell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4784) granting a pension to Catherine Foster; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4785) granting a pension to Orilla S. Spicer; to the Committee on Invalid Pensions.

By Mr. WILLIAMS of Texas: A bill (H. R. 4786) granting a pension to Thomas M. Brisco; to the Committee on Pensions.

By Mr. WILSON of Indiana: A bill (H. R. 4787) for the relief of Louis Bender; to the Committee on Claims.

Also, a bill (H. R. 4788) granting a pension to Thomas J. French; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4789) granting an increase of pension to Cynthia Carter; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4790) granting a pension to Emily J. Kelley; to the Committee on Invalid Pensions.

By Mr. WINGO: A bill (H. R. 4791) granting a pension to Eliza Peters; to the Committee on Invalid Pensions.

By Mr. WINTER: A bill (H. R. 4792) for the relief of George Stoll and the heirs of Charles P. Regan, Marshall Turley, Edward Lannigan, James Manley, and John Hunter; to the Committee on Claims.

By Mr. WOLFF: A bill (H. R. 4793) for the relief of Samuel Richeson; to the Committee on Claims.

Also, a bill (H. R. 4794) granting a pension to Annie Eliza Harmon; to the Committee on Invalid Pensions.

By Mr. WOOD: A bill (H. R. 4795) granting a pension to Ida Rains; to the Committee on Invalid Pensions.

By Mr. DEAL: Joint resolution (H. J. Res. 124) for the relief of citizens of Cradock, Va.; to the Committee on Public Buildings and Grounds.

## PETITIONS, ETC.

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

327. By the SPEAKER (by request): Petition of the Life Underwriters' Association of New York, indorsing the Mellon plan of tax reduction; to the Committee on Ways and Means.

328. Also (by request), petition of Willis A. Dibble, jr., and other citizens of the State of New York, favoring reduction of taxes; to the Committee on Ways and Means.

329. Also (by request), petition of board of directors and executive committee of the National Retail Coal Merchants' Association, indorsing the proposed plan of the Secretary of the Treasury for the reduction of Federal taxes; to the Committee on Ways and Means.

330. Also (by request), petition of the Brockton Shoe Manufacturers' Association, indorsing the proposed plan for the reduction of Federal taxes; to the Committee on Ways and Means.

331. Also (by request), petition of the Martindale Mercantile Agency, approving Secretary Mellon's tax-reduction program; to the Committee on Ways and Means.

332. Also (by request), petition of the Employers' Association of Eastern Massachusetts, objecting to the tendency to restrict and hamper the railways in the administration of their legitimate and economic activities; to the Committee on Interstate and Foreign Commerce.

333. Also (by request), petition of A. H. Kline, Chicago, Ill., approving Secretary Mellon's tax-reduction program; to the Committee on Ways and Means.

334. Also (by request), petition of the Old National Bank, Beaver Dam, Wis., favoring a reduction of taxes; to the Committee on Ways and Means.

335. Also (by request), petition of Flint, Wellington & Co., Boston, Mass., approving the plan of Secretary Mellon to reduce Federal taxes; to the Committee on Ways and Means.

336. Also (by request), petition of R. A. Hebey, St. Louis, Mo., favoring the Mellon plan of reducing taxes with no bonus; to the Committee on Ways and Means.

337. Also (by request), petition of Edith E. Davis, Lansing, Mich., favoring a constitutional amendment to prohibit child labor; to the Committee on the Judiciary.

338. Also (by request), petition of the Filipino Club, of Washington, D. C., protesting against any monopolistic aggrandizement of the islands of Mindanao and Sulu; to the Committee on Insular Affairs.

339. Also (by request), petition of municipal councils of Barotac Viejo and other cities of the Philippine Islands, asking that independence be granted to the Philippine Islands; to the Committee on Insular Affairs.

340. Also, petition of the municipal council of Casiguran, Philippine Islands, expressing sympathy, grief, and sorrow over the unexpected death of the President of the United States, Hon. Warren G. Harding; to the Select Committee on Death of President Harding.

341. By Mr. BLOOM: Petition of M. K. Mayer, secretary St. Lukes Hospital Alumnae Association, New York City, representing a thousand graduate nurses, urging graduate nurses be placed in the professional group; to the Committee on Reform in the Civil Service.

342. Also, petition of George E. Turman, 64 Wall Street, New York, and 14 other residents of New York, urging Congress make a stand for lower taxes at this session of Congress; to the Committee on Ways and Means.

243. By Mr. CURRY: Petition of East Contra Costa Chamber of Commerce, Brentwood, Calif., and Chamber of Commerce of Pittsburg, Calif., protesting against any change in the transportation act at the present time; to the Committee on Interstate and Foreign Commerce.

344. By Mr. DARROW: Petition of the Union League of Philadelphia, urging tax reduction; to the Committee on Ways and Means.

345. Also, petition of the Grocers' and Importers' Exchange of Philadelphia, favoring the Mellon tax-reduction plan; to the Committee on Ways and Means.

346. Also, petition of Typothetae of Philadelphia, favoring the Mellon tax-reduction plan; to the Committee on Ways and Means.

347. Also, petition of the Philadelphia Bourse, favoring the Mellon tax-reduction plan; to the Committee on Ways and Means.

348. By Mr. FENN: Petition of trustees of the City Savings Bank of Connecticut, and Middletown Chamber of Commerce, of Connecticut, favoring the early enactment of the Mellon plan for tax reduction; to the Committee on Ways and Means.

349. Also petition of Wadhams Post, No. 49, Department of Connecticut, G. A. R., Waterbury, Conn., favoring increased pensions for the veterans of the Civil War, their widows and minor children; to the Committee on Invalid Pensions.

350. By Mr. FULLER: Petition of the Chicago Motor Club, favoring repeal of the excise tax on automobiles and automobile parts; to the Committee on Ways and Means.

351. Also, petition of the National Association of Letter Carriers, the National Ladies' Auxiliary to the National Association of Letter Carriers, and the Ladies' Auxiliary No. 160, of Rockford, Ill., favoring reclassification and increase of salaries for postal employees; to the Committee on the Post Office and Post Roads.

352. Also, petition of the G.-E. Wholesale Grocery Co., of Mendota, Ill., favoring the repeal of the tax on telephone and telegraph messages; to the Committee on Ways and Means.

353. Also, petitions of T. M. Hoarty, of Streator, Ill., and the Streator (Ill.) Chamber of Commerce, favoring reclassification and increase of salaries of postal employees; to the Committee on the Post Office and Post Roads.

354. Also, petition of the Evangelical Lutheran Synod of Missouri, Ohio, and other States, opposing the Sterling-Towner bill for a department of education; to the Committee on Education.

355. Also, petition of the Forest City Wholesale Grocery Co., of Rockford, Ill., protesting against the enactment of the bill (H. R. 742) to amend section 8 of the pure food and drug act; to the Committee on Interstate and Foreign Commerce.

356. Also, petition of Riley P. Martin, an ex-service man, of Rockford, Ill., opposing the granting of a bonus to World War veterans who were not injured in the service; to the Committee on Ways and Means.

357. Also, petitions of sundry citizens of Illinois, favoring the plan of Secretary Mellon for tax reduction and opposing the granting of a soldiers' bonus; to the Committee on Ways and Means.

358. Also, petition of sundry posts of the Grand Army of the Republic, favoring an increase of Civil War pensions; to the Committee on Invalid Pensions.

359. By Mr. HUDSON: Petition of the Lothrop Woman's Christian Temperance Union, of Lansing, Mich., favoring an amendment to the Constitution of the United States to prohibit child labor; to the Committee on the Judiciary.

360. Also, petition of the social service board of the First Baptist Church of Lansing, Mich., favoring an amendment to the Constitution of the United States to prohibit child labor; to the Committee on the Judiciary.

361. Also, petition of the Lansing Chamber of Commerce, favoring Secretary Mellon's recommendations for the revision of the present income tax law; to the Committee on Ways and Means.

362. Also, petition of the citizens of Lansing, Mich., favoring an amendment to the Constitution of the United States to prohibit child labor; to the Committee on the Judiciary.

363. By Mr. KING: Petition of Mrs. Anna G. Wall and 1,200 other citizens of Quincy, Ill., urging that war between nations should be abolished and declared a public crime and be outlawed; to the Committee on Ways and Means.

364. By Mr. LEATHERWOOD: Resolutions by the Chamber of Commerce of Milford, Utah, and town board of Hiawatha, Utah, opposing any radical change in the transportation act of 1920; to the Committee on Interstate and Foreign Commerce.

365. By Mr. MACGREGOR: Petition of the Music Industries Chamber of Commerce, favoring the tax recommendations of President Coolidge, and urging prompt and favorable action by Congress; to the Committee on Ways and Means.

366. By Mr. NEWTON of Minnesota: Petition of city council of the city of Minneapolis, urging Congress to prevent private monopoly of electricity; to the Committee on Interstate and Foreign Commerce.

367. Also, petition of Mr. V. J. Mullery and other residents of Minnesota to Congress to bring up for consideration at the present session the question of reduction in income taxes as proposed by the Secretary of the Treasury; to the Committee on Ways and Means.

368. By Mr. RAKER: Petition of University of California, Berkeley, Calif., in re appropriation for agricultural census to be taken in 1925; to the Committee on Agriculture.

369. Also, petition of the Pacific Coast Shoe Travelers' Association, San Francisco, Calif., in re enforcement of transportation act regulation; to the Committee on Interstate and Foreign Commerce.

370. Also, petitions of the Bankers & Shippers' Insurance Co. of New York, Pacific Coast department, San Francisco, Calif., in favor of reductions in taxes; and Gimbel Bros., San Francisco, in re tax reduction and soldiers' bonus; to the Committee on Ways and Means.

371. Also, petitions of W. W. Baldwin, Highland Park, Ill., in re tax reduction and soldiers' bonus; B. Ogden Chisolm, New York City, in re tax reduction; National Council of Traveling Salesmen's Associations, New York, in re tax reduction; and American Paper and Pulp Association, New York City, in favor of reduction in taxes; to the Committee on Ways and Means.

372. Also, petition of James H. Holl, director Lassen County Farm Bureau, Susanville, Calif., in re grazing on the forest ranges; to the Committee on Agriculture.

373. Also, petition of Fifty-sixth Fruit Growers and Farmers' Convention, Santa Anna, Calif., in re lowering and removal of duties on their products; to the Committee on Agriculture.

374. Also, petition of Evangelical Lutheran Synod of Missouri, Ohio, and other States in re Sterling-Towner bill; to the Committee on Education.

375. Also, petition of Dolores Parlor, No. 208, Native Sons of the Golden West, in re law excluding from United States persons ineligible to citizenship; and Columbia Parlor, No. 258, Native Sons of the Golden West, in re law excluding from United States persons ineligible to citizenship; to the Committee on Immigration and Naturalization.

376. Also, petition of Placerville Parlor, No. 9, Native Sons of the Golden West, in re law excluding from United States persons ineligible to citizenship; El Capitan Parlor, No. 222, Native Sons of the Golden West, in re law excluding from United States persons ineligible to citizenship; and Plumas Parlor, No. 228, Native Sons of the Golden West, in re law excluding from United States persons ineligible to citizenship; to the Committee on Immigration and Naturalization.

377. Also, petition of the Fresno Traffic Association, Fresno, Calif., in re transportation act of 1920; to the Committee on Interstate and Foreign Commerce.

378. Also, petition of Excelsior Water & Power Co., California, disapproving any changes in the transportation act; to the Committee on Interstate and Foreign Commerce.

379. Also, petition of board of directors of the San Diego Chamber of Commerce, in re continuation of aerial mail service from New York to San Francisco; to the Committee on Military Affairs.

380. Also, petition of Fort Bayard Chapter, No. 1, Disabled American Veterans of the World War, re legislation in favor of 60 days per year for furloughs; to the Committee on Military Affairs.

381. Also, by the Military Order of the World War, resolution opposing reduction in strength of the Regular Army; the Military Order of the World War, resolution re support of adequate appropriation for the United States Army; the Military Order of the World War, resolution indorsing House bill 11066; the Military Order of the World War, resolution indorsing Air Service; and the Military Order of the World War, resolution indorsing legislation for disabled emergency Army officers; to the Committee on Military Affairs.

382. Also, petition of Tehama County Farm Bureau, Red Bluff, Calif., that the United States accept offer of Henry Ford for the development of Muscle Shoals; to the Committee on Military Affairs.

383. Also, petition of Arad B. Brown, 1071 Annerly Road, Oakland, Calif., in re increase in salary of Railway Mail Service employees; to the Committee on the Post Office and Post Roads.

384. Also, petition of Hugh H. Hilgenstock, Los Angeles, Calif., in re Lehlbach bill; to the Committee on Pensions.

385. Also, petition of United Veterans' Council of San Francisco, in re legislation giving full equality in hospitalization and compensation to veterans of all American wars; to the Committee on Pensions.

386. Also, petition of Sacramento Typographical Union, No. 46, Sacramento, Calif., in re enactment of a law providing for Saturday half holiday; to the Committee on Printing.

387. Also, petition of Alameda County Nurses' Association (Inc.), Oakland, Calif., in re reclassification bill for Government employees; to the Committee on Reform in the Civil Service.

388. Also, petition of Bank of A. Levy (Inc.), Oxnard, Calif., in re income tax reduction and soldiers' bonus; to the Committee on Ways and Means.

389. Also, petitions of E. Goss & Co., San Francisco, Calif., in re excise tax, and Kahn-Beck Co., Los Angeles, Calif., in re excise tax; to the Committee on Ways and Means.

390. Also, petitions of the New First National Bank, Burbank, Calif., in re income tax reduction and soldiers' bonus, and the Security State Bank, of San Jose, Calif., in re income tax reductions and soldiers' bonus; to the Committee on Ways and Means.

391. By Mr. RAMSEYER: Petition of the carriers of the sixth congressional district, requesting a maintenance of equipment allowance of 6 cents per mile and a modification of the retirement act; to the Committee on Reform in the Civil Service.

392. By Mr. ROBINSON of Iowa: Petition of Dubuque Women's Club, Dubuque, Iowa, favoring adjustment of salaries, etc., of postal employees; to the Committee on the Post Office and Post Roads.

393. Also, petition of third congressional district of Iowa, favoring inclusion of moneys expended for life insurance premiums as deductible under the income tax law of the United States; to the Committee on Ways and Means.

394. By Mr. SITES: Petition of Lebanon Paper Box Co., Lebanon, Pa., indorsing the reduction of taxes suggested in the letter of the Secretary of the Treasury, dated November 10, 1923, addressed to Hon. WILLIAM R. GREEN, acting chairman Committee on Ways and Means; to the Committee on Ways and Means.

395. By Mr. TEMPLE: Resolution of Bentleyville Chapter, Isaac Walton League of America, Bentleyville, Pa., indorsing Senator McCORMICK's bill providing for a 300-mile national preserve in the Mississippi Valley from Rock Island, Ill., to Wabasha, Minn.; to the Committee on Agriculture.

396. By Mr. VARE: Petition of Philadelphia Chamber of Commerce, urging that no change be made in the transportation act; to the Committee on Interstate and Foreign Commerce.

397. Also, petition of Wissinoming Improvement Association, of Philadelphia, Pa., asking that work be given to the Frankford Arsenal in such amounts as will continue the operation of that plant; to the Committee on Military Affairs.

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## SENATE.

### MONDAY, *January 7, 1924.*

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

Accept our thanks this morning, our Father, for the brightness of the day. Grant that in all the work of the day we may exercise those conceptions of obligation and of duty which will meet Thy favor and be to Thy glory. Lead us always, we beseech of Thee, and so help us in the understanding of the times that the result will be gratifying and uplifting to all the people. Hear us, accept of us, through Jesus Christ our Lord. Amen.

NAMING A PRESIDING OFFICER.

The Secretary (George A. Sanderson) read the following communication:

UNITED STATES SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D. C., January 7, 1924.*

*To the Senate:*

Being temporarily absent from the Senate, I appoint Hon. GEORGE H. MOSES, a Senator from the State of New Hampshire, to perform the duties of the Chair this legislative day.

ALBERT B. CUMMINS,
*President pro tempore.*

Mr. MOSES thereupon took the chair as Presiding Officer.

THE JOURNAL.

The reading clerk proceeded to read the Journal of the proceedings of Thursday last, when, on request of Mr. CURTIS and by unanimous consent, the further reading was dispensed with and the Journal was approved.

TRIBUTE TO THE LATE PRESIDENT HARDING.

The PRESIDING OFFICER laid before the Senate the following messages of condolence on account of the death of the late President Harding, addressed to the President of the Senate by the presiding officers of the Senates of the Argentine Republic, Brazil, Chile, Cuba, and Mexico, respectively, which were ordered to lie on the table and to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
*Washington, January 4, 1924.*

The Hon. ALBERT B. CUMMINS,
*President pro tempore United States Senate.*

SIR: I have the honor to transmit herewith messages of condolence, on account of the death of the late President Harding, addressed to the President of the Senate by the presiding officers of the Senates of the Argentine Republic, Brazil, Chile, Cuba, and Mexico, respectively. A translation, made in the Department of State, is attached to each message.

I also inclose a copy of a note from the chargé d'affaires of Belgium, containing the text of addresses delivered in the Belgian Senate on the occasion of the death of President Harding, which the chargé d'affaires requested be communicated to Congress.

I have the honor to be, sir,
Your obedient servant,

CHARLES E. HUGHES.

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[Translation.]

BUENOS AIRES, *August 4, 1923.*

The PRESIDENT OF THE SENATE OF THE UNITED STATES,
*Washington:*

In the name of the Argentine Senate and in my own I have the honor to present to your excellency our profound condolences for the great loss suffered by your friendly country in the lamented death of the eminent President, Mr. Harding. I salute Your Excellency.

ELPIDO GONZALEZ.

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[Translation of telegram.]

RIO DE JANEIRO.

The PRESIDENT OF THE SENATE,
*Washington:*

I have the honor to inform your excellency that the Brazilian Senate as a mark of sorrow for the death of President Harding has just adjourned. I present to your excellency and the high body over which you preside the expression of my most sincere condolences.

ESTACIO COIMBRA, *President.*

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[Copy of translation.]

[Telegram received—The White House.]

SANTIAGO, CHILE, *August 3, 1923.*

To his Excellency the PRESIDENT OF THE
SENATE OF THE UNITED STATES OF AMERICA,
*Washington:*

The Senate of Chile at its session of to-day unanimously voted to join in the mourning of the United States of America for the lamentable demise of President Warren G. Harding and adjourned as a token of sorrow. In making this resolution known to your excellency I have the honor to express to you my personal condolence.

LUIS CLARO SOLAR, *President.*
ENRIQUE ZANARTU IGUIGUREN, *Secretary.*

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[Translation.]

HABANA, *August 3, 1923.*

The honorable the PRESIDENT OF THE SENATE:

The death of President Harding, illustrious late member of the American Senate, created in Cuba an impression of deep sorrow. The Cuban Senate, over which I preside and whose sentiment I voice, sends to the brother body the assurance of its most sincere condolence.

AURELIO ALVAREZ,
*President of the Senate of Cuba.*

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[Translation.]

MEXICO CITY, *August 3, 1923.*

To the honorable the PRESIDENT OF THE
SENATE OF THE UNITED STATES OF NORTH AMERICA,
*Washington, D. C.:*

The Senate of the Mexican Republic has the honor to present its condolences on account of the lamentable demise of the illustrious President Warren G. Harding to the Senate of the United States of North America.

The President of the Senate:

FERNANDO IGLESIAS CALDERON.

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AMBASSADE DE BELGIQUE,
*Washington, D. C., September 4, 1923.*

To the honorable The SECRETARY OF STATE,
*Department of State, Washington, D. C.*

SIR: I have the honor to send you, under this cover, a copy of the Belgian Senate report, which I have just received from Mr. Jasper, Minister for Foreign Affairs, by whom I have been instructed to com-