By Mr. NOLAN: A bill (H. R. 9963) for the relief of the Hartford Accident & Indemnity Co., of Hartford, Conn.; to the Committee on Claims.

By Mr. PURNELL: A bill (H. R. 9964) granting a pension to James Hooker; to the Committee on Pensions.

By Mr. REECE: A bill (H. R. 9965) granting a pension to Benjamin Hammonds; to the Committee on Pensions.

By Mr. ROACH: A bill (H. R. 9966) granting a pension to Joseph R. Lawson; to the Committee on Invalid Pensions.

By Mr. ROBSION: A bill (H. R. 9967) granting a pension to Millie A. Scoggin; to the Committee on Invalid Pensions.

By Mr. ROSENBLOOM: A bill (H. R. 9968) granting a pension to Mary C. Bartlebaugh; to the Committee on Invalid Pensions.

By Mr. SULLIVAN: A bill (H. R. 9969) granting a pension to John T. Kiernan; to the Committee on Pensions.

By Mr. TAYLOR of Tennessee: A bill (H. R. 9970) granting an increase of pension to Thomas Smith; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9971) granting a pension to Jack C. Wilson; to the Committee on Invalid Pensions.

By Mr. TINCHER: A bill (H. R. 9972) granting a pension to Thomas Finegan; to the Committee on Pensions.

By Mr. WILLIAMS: A bill (H. R. 9973) granting a pension to Harriet E. Burgess; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9974) granting an increase of pension to Mary Barnhart; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9975) granting an increase of pension to Sabra W. Williams; to the Committee on Invalid Pensions.

By Mr. LANGLEY: Resolution (H. Res. 267) for the relief of Katie Rose; to the Committee on Accounts.

PETITIONS, ETC.

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

3527. By the SPEAKER (by request): Petition of the Philadelphia Board of Trade, opposed to House bill 9381; to the Committee on Banking and Currency.

3528. By Mr. ANSORGE: Petition of the Harlem (N. Y.) Board of Commerce, opposing the canalizing of the St. Lawrence River, etc.; to the Committee on Rivers and Harbors.

3529. By Mr. BARBOUR: Petition of Atlanta Post, No. 92, Department of California and Nevada, Grand Army of the Republic, of Fresno, Calif., favoring the passage of the Morgan pension bill, also the payment of pensions to Civil War veterans and their widows monthly; to the Committee on Pensions.

3530. By Mr. CHRISTOPHERSON: Petition of Henry Hall Post, No. 193, American Legion, of Irene, S. Dak., urging adjusted compensation for soldiers, etc.; to the Committee on Interstate and Foreign Commerce.

3531. Also, petition of citizens of South Dakota, urging the revival of the Government Grain Corporation; to the Committee on Agriculture.

3532. By Mr. CULLEN: Petition of the staff of the New York Agricultural Experiment Station, urging publication of certain journals be continued; to the Committee on Agriculture.

3533. By Mr. FENN: Petition of W. A. Countryman, of Hartford, Conn., and others, for a constitutional amendment relating to representation in Congress; to the Committee on the Judiciary.

3534. By Mr. KINDRED: Petition of the trustees of the New York Public Library, urging certain clauses in House bill 7456 be accepted, etc.; to the Committee on Ways and Means.

3535. Also, petition of the National Game Conference of the American Game Protective Association, urging passage of Senate bill 1452 and House bill 5823; to the Committee on Agriculture.

3536. By Mr. KISSEL: Petition of the Metal Trades Council of Brooklyn, relative to certain legislation; to the Committee on Naval Affairs.

3537. By Mr. RAKER: Petition of the California Metal Trades Association, of San Francisco, Calif., urging opposition to bill authorizing Navy to lease its New Orleans dry dock to private persons; to the Committee on Naval Affairs.

3538. Also petition urging the establishment of a national deer park in the San Jacinto Mountains, Riverside County, Calif.; to the Committee on the Public Lands.

3539. Also, recommendations of the committee on finance and currency of the Chamber of Commerce of the State of New York, relative to Federal Reserve Board membership; to the Committee on Banking and Currency.

3540. By Mr. RIDDICK: Petition of farmers at Hinham, Mont., urging revival of United States Grain Corporation; to the Committee on Agriculture.

3541. By Mr. SINCLAIR: Petition of the commission on rural problems, appointed by the governor of North Dakota, in support of legislation for stabilizing the prices of farm products; to the Committee on Agriculture.

3542. Also, petition of the executive committee of the Hettinger County (N. Dak.) Farm Bureau, praying for an appropriation for loans to farms for the purchase of seed; to the Committee on Agriculture.

3543. Also, petition by residents of Ryder, Halliday, Golden Valley, Dodge, Plaza, Parshall, Rugby, Midway, Rainy Butte, South Heart, Amidon, New England, and Carson, N. Dak., urging the passage of legislation for the relief of agriculture through the revival of the United States Grain Corporation and the stabilization of prices of farm products; to the Committee on Agriculture.

3544. Also, petition of citizens of Amidon, Belfield, Benedict, Kenmare, Noonan, Colgan, Fortuna, Pretty Rock, and Deep, N. Dak., in support of House bill 9461 for the stabilization of prices of farm products and the revival of the United States Grain Corporation; to the Committee on Agriculture.

3545. By Mr. VARE: Petition of the Philadelphia Board of Trade, opposed to any action by Congress preventing the reappointment of Gov. Harding as Head of the Federal Reserve Board; to the Committee on Banking and Currency.

3546. By Mr. WINSLOW: Petition of the senior Baraca class of the Harlem Street Baptist Church, Worcester, Mass., praising the Disarmament Conference, etc.; to the Committee on Foreign Affairs.

SENATE.

WEDNESDAY, *January 18, 1922.*

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

Our Father, the heavens declare Thy glory and the firmament showeth Thy handiwork, but we bless Thee for the closer relationship and relevation of Thyself as given to us in Thy Son. We ask in His name that there may be granted unto each to-day the sense of Thy presence and such help as shall fulfill every duty in Thy fear and for Thy glory. And Thou shalt have all the praise. Amen.

The reading clerk proceeded to read the Journal of the proceedings of the legislative day of Monday, January 16, 1922, when, on request of Mr. CURTIS and by unanimous consent, the further reading was dispensed with and the Journal was approved.

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

The VICE PRESIDENT. The Secretary will call the roll.

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

Ball	Frelinghuysen	McLean	Sheppard
Borah	Glass	McNary	Shortridge
Bursum	Gooding	Moses	Simmons
Calder	Hale	Myers	Smith
Cameron	Harreld	Nelson	Smoot
Capper	Harris	New	Spencer
Caraway	Harrison	Newberry	Stanfield
Colt	Heflin	Norris	Sterling
Culberson	Jones, Wash.	Oddie	Townsend
Cummins	Kellogg	Page	Trammell
Curtis	King	Pepper	Wadsworth
Dial	Ladd	Phipps	Walsh, Mass.
Edge	La Follette	Pittman	Walsh, Mont.
Ernst	Lodge	Poindexter	Warren
Fletcher	McKellar	Pomerene	Watson, Ind.
France	McKinley	Robinson	Willis

Mr. CURTIS. I was requested to announce the absence of the Senator from Connecticut [Mr. BRANDEGEE], the Senator from North Carolina [Mr. OVERMAN], the Senator from Tennessee [Mr. SHIELDS], and the Senator from Georgia [Mr. WATSON] on business of the Senate.

The VICE PRESIDENT. Sixty-four Senators having answered to their names, a quorum is present.

REINTERMENT OF SOLDIER DEAD.

The VICE PRESIDENT. The Chair lays before the Senate a communication from the Quartermaster General of the Army, transmitting a list of American soldier dead returned from overseas, to be reinterred in the Arlington, Va., National Cemetery, Thursday, January 19, 1922, at 2.30 p. m., which will lie on the table for the information of Senators.

THE TOBACCO SITUATION.

The VICE PRESIDENT laid before the Senate a communication from the chairman of the Federal Trade Commission, transmitting, in response to Senate resolution 129, agreed to August 9, 1921, a report on prices, profits, and competitive conditions in the tobacco industry, which was referred to the Committee on Agriculture and Forestry.

EXPENDITURES FOR RURAL POST ROADS, ETC.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of Agriculture, transmitting, pursuant to law, annual reports submitted by the Bureau of Public Roads and the Forest Service showing expenditures for the fiscal year ended June 30, 1921, out of funds appropriated for the construction of rural post roads in cooperation with the States, and for the Federal administration of the work, as well as expenditures for the survey, construction, and maintenance of roads and trails within or partly within the national forests, which was referred to the Committee on Agriculture and Forestry.

COTTON GINNED OF THE CROP OF 1921.

The VICE PRESIDENT. The Chair lays before the Senate a communication from the Secretary of Commerce, giving statistics concerning the number of bales of cotton ginned between August 1, 1921, and December 1, 1921.

Mr. SMITH. The communication is in response to a resolution that I introduced, and I ask that it be referred to the Committee on Agriculture and Forestry. I should like also to have it printed in the RECORD. It is a matter of such importance that it ought to be made of record.

The VICE PRESIDENT. Without objection, it will be printed in the RECORD and so referred.

The communication is as follows:

DEPARTMENT OF COMMERCE,
OFFICE OF THE SECRETARY,
Washington, January 17, 1922.

Hon. CALVIN COOLIDGE,
President of the Senate, Washington, D. C.

DEAR MR. COOLIDGE: I respectfully transmit herewith the report of the Director of the Census, made in compliance with the resolution adopted by the Senate on December 14, 1921, requiring him to collect statistics concerning the number of bales of cotton ginned for the period from August 1, 1921, to December 1, 1921.

Yours, faithfully,

HERBERT HOOVER,
Secretary of Commerce.

REPORT OF THE DIRECTOR OF THE CENSUS.

JANUARY 17, 1922.

The SECRETARY OF COMMERCE,
Washington, D. C.

SIR: On December 14, 1921, the Senate of the United States passed the following resolution:

"*Resolved*, That the Director of the Census be, and he hereby is, directed to ascertain from the ginners, for the period from August 1, 1921, to December 1, 1921, the total number of bales of cotton ginned by each ginner, the total weight of the cotton ginned, and the average weight per bale; and to find the average weight per bale of the total number of bales thus reported, and to report the same to the Senate as early as possible, such findings and report not to include linters."

I have the honor to transmit herewith six tables giving the statistics collected in compliance with this resolution.

The records of the Bureau of the Census show that there were 21,080 cotton ginneries in the United States on December 1, 1921, and that prior to that date 15,960 had ginned some cotton from the crop of 1921. All of the ginneries, both active and idle, were sent copies of the Senate resolution with the request that they furnish statistics of the number of bales of cotton ginned, the total weight of cotton ginned in pounds, and the average weight per bale in pounds for all cotton ginned from August 1, 1921, to December 1, 1921, square and round bales being reported separately. They were also requested to make a separate report on the quantity of linters, so as to insure the exclusion of linters from the statistics of the quantity of cotton ginned. A copy of the card schedule is transmitted herewith.

Of the total number of ginneries (21,080), returns, in compliance with this request, were received from 6,251. Of this number 1,338, or 21 per cent, apparently secured the statistics from records, and reports from them may, I believe, be accepted as a true indication of the average weight of the bale. The statistics for these ginneries are given in Table 2. They show that the 1,338 ginneries ginned 689,222 bales of cotton during the period from August 1, 1921, to December 1, 1921, and that these bales weighed 342,061,182 pounds, an average of 496.3 pounds per bale.

Reports were received from 1,579 ginners which indicated that the statistics concerning the weight of the cotton ginned were obtained by multiplying the average weight of bale by the number of bales ginned. The statistics for these ginneries are given in Table 3. They, however, should not be accepted as a true indication of the actual average weight per bale.

Reports were received from 431 ginneries which did not give the weight of the lint cotton, but instead the seed cotton. The statistics for these ginneries are given in Table 5.

There were 1,364 which showed the number of bales ginned and the average weight, but not the pounds. These ginneries were classified according to the average weight of the bale. The data in Table 4 show the number of ginneries and the number of bales reported for each classification. It is noted that a considerable number of the ginneries showed an even 500 pounds as an average weight.

Table 6 shows the number of ginneries which reported only the number of bales ginned, reporting neither the total pounds nor the average weight. There were 500 reports of this character. One thousand one hundred and thirteen ginneries reported that no cotton had been ginned during the period.

You will note that returns were received for less than one-third of the ginneries. It is probable that additional returns will be received for a considerable time, but I doubt the advisability of holding up the data received for these scattering returns.

Respectfully submitted.

W. M. STEUART, *Director.*

[Copy of card schedule sent to ginneries.]

DEPARTMENT OF COMMERCE,
BUREAU OF THE CENSUS,
Washington, December 29, 1921.

DEAR SIR: Your attention is called to the following resolution (S. Res. 192) passed by the Senate of the United States December 14, 1921:

"*Resolved*, That the Director of the Census be, and he hereby is, directed to ascertain from the ginners, for the period from August 1, 1921, to December 1, 1921, the total number of bales of cotton ginned by each ginner, the total weight of the cotton ginned, and the average weight per bale; and to find the average weight per bale of the total number of bales thus reported, and to report the same to the Senate as early as possible, such findings and report not to include linters."

Kindly answer the inquiries on the reverse side of this card and return it in the accompanying official envelope, which requires no postage. To insure that linters will not be included with cotton, they will be shown separately. I trust that you will give the matter your immediate attention.

Very respectfully,

W. M. STEUART,
Director of the Census.

[Department of Commerce—Bureau of the Census.]

Cotton ginned August 1 to December 1, 1921.

(See Senate resolution 192, on reverse side of card.)

Kind.		Total number of bales ginned.	Total weight of cotton ginned (pounds).	Average weight per bale (pounds).
Cotton	Square bales			
	Round bales			
Linters				

This is to certify that the information contained in this report is complete and correct to the best of my knowledge and belief.

_____.

(Signature of person furnishing information.)

TABLE 1.—*Total number of cotton ginneries by States, and the number active to Dec. 1, 1921, with the number of bales ginned.*

State.	Ginneries.		
	Total number.	Active to Dec. 1.	
		Number.	Bales ginned.
United States	21,080	15,960	7,644,286
Alabama	1,958	1,404	574,096
Arizona	50	31	25,715
Arkansas	1,655	1,456	756,802
California	51	25	16,126
Florida	173	69	11,745
Georgia	3,156	2,190	803,898
Louisiana	1,108	772	275,814
Mississippi	1,929	1,525	789,048
Missouri	105	75	66,142
North Carolina	2,267	1,751	738,383
Oklahoma	960	734	470,662
South Carolina	3,048	2,197	734,751
Tennessee	536	444	281,439
Texas	3,934	3,168	2,077,151
Virginia	134	104	15,049
All other States	16	14	7,445

TABLE 2.—*Reports of concerns which show bales and apparently actual pounds.*

State.	Number of ginneries.	Bales.	Total pounds.	Average weight (pounds).
United States	1,338	689,222	342,010,182	496.3
Alabama	128	45,938	22,749,942	495.2
Arizona	14	18,133	9,238,798	509.5
Arkansas	124	72,069	36,588,358	507.4
California	5	3,682	1,907,832	518.2
Florida	11	944	419,688	444.6
Georgia	163	71,038	33,677,664	474.1
Louisiana	84	30,566	14,799,939	484.2
Mississippi	119	69,897	33,968,560	486.0
Missouri	15	14,016	7,203,750	514.0
New Mexico	3	3,392	1,693,763	499.3
North Carolina	136	75,173	36,392,271	484.1
Oklahoma	63	45,179	22,542,408	499.0
South Carolina	167	69,796	32,720,932	468.8
Tennessee	63	41,496	21,446,501	516.8
Texas	236	126,098	65,758,143	521.5
Virginia	7	1,805	921,653	510.6

TABLE 3.—*Reports of concerns where the number of pounds appears to have been obtained by multiplying the average weight by the number of bales.*

State.	Number of ginneries.	Bales.	Total pounds.	Average weight (pounds).
United States	1,579	898,894	442,490,530	492.3
Alabama	145	74,272	36,118,466	486.3
Arizona	4	3,690	1,912,640	518.3
Arkansas	107	65,060	34,211,179	525.8
California	1	834	442,020	530.0
Florida	10	3,031	1,478,060	487.6
Georgia	205	86,912	41,202,396	474.1
Louisiana	53	24,354	11,779,514	483.7

TABLE 3.—*Reports of concerns where the number of pounds appears to have been obtained by multiplying the average weight by the number of bales*—Continued.

State.	Number of ginneries.	Bales.	Total pounds.	Average weight (pounds).
Mississippi	130	81,318	39,621,825	487.2
Missouri	2	972	495,568	509.8
New Mexico	1	176	84,480	480.0
North Carolina	209	112,229	53,422,098	476.0
Oklahoma	87	58,563	29,219,856	498.9
South Carolina	234	100,632	46,984,604	466.9
Tennessee	41	28,201	13,830,097	490.4
Texas	344	257,673	131,193,334	509.2
Virginia	6	977	494,393	506.0

TABLE 4.—*Reports of concerns which show the number of bales and the average weight, but not the total pounds, classified according to the average weight reported.*

State.	Ginneries reporting and bales ginned.																	
	Less than 450 pounds.		450 pounds.		451 to 474 pounds.		475 pounds.		476 to 499 pounds.		500 pounds.		501 to 524 pounds.		525 pounds.		526 pounds and over.	
	No.	Bales.	No.	Bales.	No.	Bales.	No.	Bales.	No.	Bales.	No.	Bales.	No.	Bales.	No.	Bales.	No.	Bales.
United States	149	41,829	187	63,205	124	67,607	102	38,130	253	161,418	307	174,057	168	133,868	28	18,411	46	32,143
Alabama	18	4,448	16	4,791	9	5,269	10	1,922	25	11,253	51	18,874	9	6,270	1	141	3	1,442
Arkansas	6	1,430	16	4,407	3	1,608	7	2,304	33	18,349	40	20,632	19	11,578	3	5,437	5	5,653
California											2	614						
Florida	2	202									1	199						
Georgia	31	16,867	38	10,645	22	12,067	14	5,682	26	14,875	28	9,271	4	2,576	1	34		
Louisiana	13	2,415	11	3,119	8	4,910	6	1,460	15	7,564	16	8,064	3	2,195			2	631
Mississippi	10	2,297	12	3,838	19	8,489	8	2,542	31	21,318	34	16,936	15	12,633	2	4,959	4	1,849
Missouri											2	423						
North Carolina	15	4,314	30	13,372	18	11,265	17	8,630	22	13,173	21	14,772	6	4,562	3	1,039	1	21
Oklahoma	1	600	3	602	3	2,657	6	4,219	16	8,732	21	10,977	11	11,973				
South Carolina	45	7,114	43	16,032	30	15,727	27	9,233	39	25,699	33	10,917	4	2,730				
Tennessee	2	48			3	1,302	1	62	7	4,237	13	8,140	15	12,726	5	1,591		
Texas	5	2,060	16	5,487	9	4,313	5	1,976	37	35,973	44	54,230	82	66,625	13	5,210	31	22,547
Virginia	1	34	2	912			1	100	2	245	1	8						

TABLE 5.—*Reports of concerns which show the bales and pounds of seed cotton.*

State.	Number of ginneries.	Bales.	Total pounds seed cotton.	Average weight (pounds).
United States	431	198,173	287,175,863	1,449.1
Alabama	26	7,472	9,879,012	1,322.1
Arizona	2	1,780	3,109,070	1,746.7
Arkansas	44	19,318	28,490,074	1,474.8
Georgia	27	8,909	10,988,333	1,233.4
Louisiana	13	3,646	4,773,894	1,309.4
Mississippi	26	6,157	8,219,392	1,335.0
Missouri	4	3,004	4,659,672	1,551.2
North Carolina	61	14,667	19,253,439	1,312.7
Oklahoma	39	18,357	27,532,818	1,499.9
South Carolina	26	5,374	7,218,873	1,343.3
Texas	151	108,635	161,934,487	1,490.6
Virginia	12	854	1,116,799	1,307.7

TABLE 6.—*Reports of concerns which show number of bales ginned but not pounds or average weights, and also number of concerns reporting no cotton ginned.*

State.	Reporting bales but not pounds or average weight.		Number of ginneries reporting no cotton ginned.
	Number of ginneries.	Bales ginned.	
United States	500	375,600	1,039
Alabama	56	39,257	110
Arizona	2	2,409	9
Arkansas	38	26,974	49
California	1	3,678	8
Florida	4	467	13
Georgia	67	39,859	176
Kentucky			1
Louisiana	23	11,310	62
Mississippi	68	55,665	60
Missouri	1	1,408	7
New Mexico	1	150	2
North Carolina	38	22,226	117
Oklahoma	19	15,071	60
South Carolina	57	51,600	174
Tennessee	10	5,985	16
Texas	114	99,439	170
Virginia	1	102	5

HOUSE BILLS REFERRED.

The following bills and joint resolution were severally read twice by title and referred as indicated below:

H. R. 8815. An act to amend the act of March 1, 1921 (41 Stat., p. 1202), entitled "An act to authorize certain homestead settlers or entrymen who entered the military or naval service of the United States during the war with Germany to make final proof of their entries"; to the Committee on Public Lands and Surveys.

H. R. 8818. An act granting the consent of Congress to the city of Pittsburgh, a municipal corporation of the Commonwealth of Pennsylvania, to construct, maintain, and operate a bridge across the Monongahela River at or near its junction with the Allegheny River in the city of Pittsburgh, in the county of Allegheny, in the Commonwealth of Pennsylvania; to the Committee on Commerce.

H. R. 8999. An act to authorize exchanges of lands within the Snoqualmie National Forest, in the State of Washington; to the Committee on Public Lands and Surveys.

H. R. 9050. An act granting the consent of Congress to the Pamunkey Ferry Co. to construct a bridge across the Pamunkey River in Virginia; to the Committee on Commerce.

H. R. 9060. An act to authorize the Secretary of War to lease a certain tract of land in the city of Leavenworth, in the State of Kansas; to the Committee on Military Affairs.

H. R. 9386. An act to grant the consent of Congress to the Whiteville Lumber Co. to construct a bridge across the Waccamaw River at or near Pireway Ferry, county of Columbus, N. C.; to the Committee on Commerce.

H. R. 9495. An act for the protection of timber owned by the United States from fire, disease, or the ravages of beetles or other insects; to the Committee on Public Lands and Surveys.

H. J. Res. 227. Joint resolution extending the term of the National Screw Thread Commission for a period of five years from March 21, 1922; to the Committee on Manufactures.

UNITED STATES LANDS IN TEXAS ACQUIRED FROM MEXICO.

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 2133) ceding jurisdiction to the State of Texas over certain lands or bancos acquired by the United States of America from the United States of Mexico, which were on page 1, line 9, after "shall," to insert "upon the acceptance of this act by the State of Texas"; on page 1, lines 11 and 12, strike out "and

of the respective subdivisions of said State of Texas, wherein said land lies"; on page 2, line 5, strike out "from" and insert "by"; and amend the title so as to read: "An act adding lands to the State of Texas and ceding jurisdiction to the State of Texas over certain lands or bancos heretofore or hereafter acquired by the United States of America from the United States of Mexico."

Mr. SHEPPARD. I move that the Senate concur in the House amendments.

The motion was agreed to.

EXPORT OF COAL AND OTHER WAR MATERIAL.

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the joint resolution (S. J. Res. 124) to amend Senate joint resolution 89, approved March 14, 1912, amending the joint resolution to prohibit the export of coal and other material used in war from any seaport of the United States, approved April 22, 1898, which were to strike out all after the resolving clause and insert:

That whenever the President finds that in any American country, or in any country in which the United States exercises extraterritorial jurisdiction, conditions of domestic violence exist, which are or may be promoted by the use of arms or munitions of war procured from the United States, and makes proclamation thereof, it shall be unlawful to export, except under such limitations and exceptions as the President prescribes, any arms or munitions of war from any place in the United States to such country until otherwise ordered by the President or by Congress.

SEC. 2. Whoever exports any arms or munitions of war in violation of section 1 shall, on conviction, be punished by fine not exceeding $10,000 or by imprisonment not exceeding two years, or both.

SEC. 3. The joint resolution entitled "Joint resolution to prohibit the export of coal or other material used in war from any seaport of the United States," approved April 22, 1898, and the joint resolution entitled "Joint resolution to amend the joint resolution to prohibit the export of coal or other material used in war from any seaport of the United States," approved March 14, 1912, are repealed.

And to amend the title so as to read:

Joint resolution to prohibit the exportation of arms or munitions of war from the United States to certain countries, and for other purposes.

Mr. LODGE. I move that the Senate concur in the amendments. The House substitute does not change the joint resolution substantially.

The motion was agreed to.

TRANSFER OF CERTAIN PUBLIC-LAND ENTRIES.

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 1099) to amend section 2372 of the Revised Statutes, which were on page 1, line 10, to strike out the words "such entry shall, unless" and insert the word "if"; and on page 1, lines 13 and 14, to strike out the words "be reinstated and passed to patent; and in case the land has been so disposed of or appropriated."

Mr. SMOOT. The amendments merely clarify the meaning of the bill and have no effect upon the intent of the bill itself. I move the Senate concur in the amendments of the House.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. SHEPPARD presented resolutions adopted by the Houston (Tex.) Cotton Exchange and Board of Trade, January 11, 1922, favoring the granting of sufficient appropriations to the Bureau of Markets and Crop Estimates of the Department of Agriculture to make more accurate cotton acreage reports, and, if sufficient funds be not granted to make proper canvass, that the source or sources of information be indicated by the department, which were referred to the Committee on Agriculture and Forestry.

Mr. CAPPER presented three petitions of sundry citizens of Stockton, Kans., praying that appropriation be made for continuance of the village postal delivery system, which were referred to the Committee on Post Offices and Post Roads.

Mr. SHORTRIDGE presented resolutions of the Chamber of Commerce of Hayward, the Chamber of Commerce of Pleasanton, and the Yolo County Board of Trade, all in the State of California, favoring enactment of legislation imposing a tariff duty on sugar imported into the United States adequate to protect and encourage the American sugar industry, which were referred to the Committee on Finance.

He also presented a resolution adopted by the California Teachers' Association, southern section, at Los Angeles, Calif., December 22, 1921, favoring the enactment of legislation creating a department of education, which was referred to the Committee on Education and Labor.

He also presented a petition of Golden Key Lodge, No. 26, Knights of Pythias, of Martinez, Calif., praying for the enactment of legislation creating a department of education, which was referred to the Committee on Education and Labor.

He also presented a memorial of sundry citizens of Greenville, Taylorsville, Susanville, and Keddie, all in the State of California, remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which was referred to the Committee on the District of Columbia.

VISIT OF JAPANESE PARLIAMENTARY DELEGATION.

Mr. HARRIS. Mr. President, last year a delegation of the House of Representatives of Japan visited the United States. The Senate adjourned so as to be introduced to the party. I am now in receipt of a letter from the spokesman of the delegation extending thanks for courtesies received here. It is a very cordial letter. I presume the reason the communication has been sent to me is because I was a member of a congressional delegation which visited Japan two years ago. I ask that the letter may be printed in the RECORD.

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

THE HOUSE OF REPRESENTATIVES, TOKYO,
December 15, 1921.

Hon. WILLIAM J. HARRIS,
2400 Sixteenth Street, Washington, D. C., U. S. A.

MY DEAR SIR: I have the pleasure of informing you that we, the delegates from the House of Representatives in Japan, who recently returned home after visiting the United States and Europe, desire to thank you heartily for the great courtesy you showed us during our stay in your country.

When we were in America, we found that most of the derogatory statements made in the past in regard to the relations between your country and Japan were based on misunderstandings, and we sincerely hope that those misunderstandings may be removed as soon as possible through your kind cooperation.

The statements we sent from America to Japanese newspapers concerning your kindness to us and what we saw while abroad created a good impression upon our countrymen. We are taking every chance to make the good impressions received by us while in your country known to our people, so that the bonds of friendship between the United States and Japan may be strengthened ever more and more.

In conclusion, I would say that we most earnestly desire the success of the Washington conference proposed by America.

Again thanking you most heartily for your kindness, we have the honor to remain,

Yours, faithfully,

R. NAKANISHI,
Spokesman for the Party of Members of the House of Representatives of Japan.

REPORTS OF THE COMMITTEE ON NAVAL AFFAIRS.

Mr. POINDEXTER, from the Committee on Naval Affairs, to which was referred the bill (H. R. 5659) for the relief of Ellen M. Willey, widow of Owen S. Willey, reported it without amendment and submitted a report (No. 439) thereon.

He also, from the same committee, to which was referred the joint resolution (H. J. Res. 7) to amend section 2 of the joint resolution entitled "Joint resolution to authorize the operation of Government-owned radio stations for the use of the general public, and for other purposes," approved June 5, 1920, reported it with an amendment and submitted a report (No. 440) thereon.

Mr. PITTMAN, from the Committee on Naval Affairs, to which was referred the bill (S. 2390) to redistribute the number of officers in the several grades of the Supply Corps of the Navy, reported it without amendment and submitted a report (No. 441) thereon.

HUDSON RIVER BRIDGE.

Mr. CALDER. From the Committee on Commerce I report back favorably, without amendment, the bill (S. 2799) to supplement and amend the act entitled "An act to incorporate the North River Bridge Co. and to authorize the construction of a bridge and approaches at New York City across the Hudson River, to regulate commerce in and over such bridge between the States of New York and New Jersey, and to establish such bridge a military and post road," approved July 11, 1890, and I submit a report (No. 442) thereon. The bill is recommended by the War Department, and I ask unanimous consent for its present consideration.

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

Mr. NORRIS. Mr. President, I have no intention, of course, of objecting to the consideration of the bill, but I am interested in the subject, and I desire to ask the Senator from New York whether the time for beginning the construction of this bridge has once before been extended?

Mr. CALDER. Yes.

Mr. NORRIS. Why is it that the construction of the bridge has not been commenced?

Mr. CALDER. Because the people who were given permission to construct the bridge were not able to finance the project, and, in addition, there were engineering problems which had not been overcome. It is now believed that all the engineering problems have been overcome, and if a permit to proceed with construction is now granted, the parties interested believe they will now be able to finance the project and to construct the bridge.

Mr. NORRIS. Is it a question now as to whether or not they will be able to finance the project?

Mr. CALDER. They now feel they will be able to finance the project. The Senator from New Jersey [Mr. FRELINGHUYSEN] introduced the bill, and, perhaps, can give the Senator any information he may desire.

Mr. NORRIS. What is the nature of the corporation or the character of the people who are behind the proposition and who propose to build the bridge?

Mr. FRELINGHUYSEN. Mr. President, this bill provides for an extension of the time for building a bridge across the Hudson River from New York to New Jersey, a project the completion of which is greatly needed at the present time, in view of the congestion now existing by reason of the limitation of the capacity of the ferryboats plying between those two States. A group of financiers have gotten together and arranged to build this bridge under the toll system. It is proposed to be a bridge for vehicular traffic, for passengers, and also for railroads; a bridge that will be so vast in extent that it will require more steel in its construction than the entire five bridges which now span the East River from Brooklyn to New York.

The obstacle which has heretofore prevented the completion of the bridge has been the objection of the transportation companies to the location of the piers in the river as obstructing traffic. The present plans and designs, which have been prepared by Mr. Lindenthal, one of the greatest bridge builders of the country, contemplate piers on both shores of the river and a span across the entire 3,200 feet, with a 150-foot clearance. The bridge will be 2 miles in length. Certain financiers of New York and New Jersey have joined in an effort to build this structure which is so much needed. I have in my office, and will file in connection with the report, a description of the architectural plans.

Mr. NORRIS. Have the States of New York and New Jersey consented to the construction of the bridge?

Mr. FRELINGHUYSEN. I understand that they have, for there is now a treaty between New York and New Jersey, and under what is known as the port authority those States are empowered to give permission for projects of this character.

I simply wish to say, Mr. President, that there is nothing so much needed at the present time to relieve the traffic and travel between New York and New Jersey as a bridge of the character contemplated in the bill.

Mr. FLETCHER. Mr. President——

The VICE PRESIDENT. Does the Senator from New Jersey yield to the Senator from Florida?

Mr. FRELINGHUYSEN. I yield.

Mr. FLETCHER. May I ask the Senator whether this bill changes in any respect the original terms and conditions upon which the bridge was to be built?

Mr. FRELINGHUYSEN. It merely provides an extension of time within which the bridge may be constructed.

Mr. FLETCHER. The bridge would still be constructed under the supervision of the Chief of Engineers, I take it?

Mr. CALDER. It is specified in the bill, I will say to the Senator, that the plans must be submitted to and approved by the Chief of Engineers.

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

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That section 2 of the act entitled "An act to incorporate the North River Bridge Co. and to authorize the construction of a bridge and approaches at New York City across the Hudson River, to regulate commerce in and over such bridge between the States of New York and New Jersey, and to establish such bridge a military and post road," approved July 11, 1890, be, and the same is hereby, so amended as to extend the time for the completion of the said bridge until 15 years from the date of the approval hereof; and said time is hereby extended for said period: *Provided*, That this act shall not be construed as authorizing the building of said bridge in accordance with the plans heretofore approved by the Secretary of War, under which construction of said bridge was heretofore commenced, but drawings showing the new location and plans of said structure shall again be submitted to the Secretary of War for his consideration and approval before construction shall be again commenced: *And provided further*, That actual work hereunder and in accordance with such plans so approved shall be commenced within five years after such approval by the Secretary of War.

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

BILLS AND JOINT RESOLUTION INTRODUCED.

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

By Mr. HARRIS:

A bill (S. 3014) to promote the safety of passengers and employees upon railroads by compelling common carriers engaged in interstate commerce to use steel passenger cars under certain conditions; to the Committee on Interstate Commerce.

By Mr. MYERS:

A bill (S. 3015) to authorize the erection and equipment of a building or buildings for school purposes on the Blackfeet Indian Reservation, in Montana; to the Committee on Indian Affairs.

By Mr. POINDEXTER:

A bill (S. 3016) for the relief of Pay Inspector Charles R. O'Leary, United States Navy; to the Committee on Naval Affairs.

By Mr. JONES of Washington:

A bill (S. 3017) authorizing appropriations for the prosecution and maintenance of public works on canals, rivers, and harbors, and for other purposes; to the Committee on Commerce.

By Mr. SWANSON:

A joint resolution (S. J. Res. 156) authorizing the Secretary of War to grant a permit to erect and maintain a hotel upon the Fort Monroe Military Reservation in Virginia; to the Committee on Military Affairs.

INVESTIGATION OF COMMERCIAL WHEAT-FLOUR MILLING.

Mr. NORRIS. I submit a Senate resolution and ask unanimous consent for its present consideration.

The VICE PRESIDENT. The resolution will be read.

The reading clerk read the resolution (S. Res. 212), as follows:

Resolved, That the Federal Trade Commission be, and it is hereby, directed to extend its investigation of commercial wheat-flour milling from the date of the conclusion of its investigation of said industry included in its report to Congress on September 15, 1920, up to the close of the fiscal year ending June 30, 1921.

The VICE PRESIDENT. The Senator from Nebraska asks unanimous consent for the present consideration of the resolution. Is there objection?

Mr. KING. Mr. President, may I inquire whether or not the proposal will involve any very great expense and whether the commission is now investigating the matter antecedent to the period covered by the resolution?

Mr. NORRIS. It will require some expense, of course, but I presume the expense will not be great. In response to the other question the Senator has asked, and it is a very proper one, I will say that an investigation of this subject was made and a report submitted to Congress on the subject, I think, on September 15, 1920. The investigation, however, was closed before that date because it took some time to prepare the report. The resolution I have now introduced requests that the investigation be extended so as to include the fiscal year 1921.

Mr. KING. Can not the desired information be obtained from the Bureau of Markets or some other agency in the Department of Agriculture?

Mr. NORRIS. I think not at this time. The resolution simply proposes that the investigation which the Federal Trade Commission has already made shall be continued up to the time they made their first report.

Mr. KING. I have no objection to the resolution.

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

The resolution was considered by unanimous consent and agreed to.

PROPOSED BUREAU OF CROP INSURANCE.

Mr. SHEPPARD submitted the following resolution (S. Res. 214), which was referred to the Committee on Agriculture and Forestry:

Resolved, That the Committee on Agriculture and Forestry of the Senate be, and it is hereby, authorized and directed to investigate the practicability and desirability of a bureau of crop insurance to be operated by the United States Government, or otherwise, as may be found advisable.

IMPROVEMENT OF THE ST. LAWRENCE RIVER.

Mr. KELLOGG submitted the following resolution (S. Res. 215), which was considered by unanimous consent and agreed to:

Resolved, That the message from the President of the United States, transmitting a letter from the Secretary of State, submitting the report of the international joint commission on its investigation concerning the improvement of the St. Lawrence River between Montreal and Lake Erie for navigation and power, laid before the Senate and referred to the Committee on Foreign Relations on January 16, 1922, be printed with all accompanying papers and illustrations as a Senate document.

INTERCHANGEABLE MILEAGE TICKETS.

The VICE PRESIDENT. The morning business is closed. In accordance with the order of the Senate, the Chair lays before the Senate the bill (S. 848) to amend section 22 of the interstate commerce act by permitting the issuance of interchangeable mileage tickets on railroads, and for other purposes.

Mr. WARREN obtained the floor.

Mr. HEFLIN. Mr. President——

The VICE PRESIDENT. Does the Senator from Wyoming yield to the Senator from Alabama?

Mr. CUMMINS. Mr. President, is it the unfinished business that is now before the Senate?

The VICE PRESIDENT. It is.

Mr. CUMMINS. I think the Senator from Arkansas [Mr. ROBINSON] has something to say upon it.

Mr. HEFLIN. It will not take me more than four or five minutes to say what I wish to say.

Mr. CUMMINS. I had supposed that the Senator from Arkansas, who had the bill brought forward, intended to submit to the Senate some observations upon it.

PERSONAL EXPLANATION—CORRECTION OF THE RECORD.

Mr. HEFLIN. Mr. President, I want to make reference to an editorial from the Wall Street Journal concerning me that was printed in the RECORD yesterday at the request of the Senator from New York [Mr. CALDER]. It will not take me more than four or five minutes.

Mr. WARREN. Mr. President——

The VICE PRESIDENT. The Senator from Wyoming has the floor.

Mr. WARREN. I do not wish to hold the floor against the special order or the unanimous-consent agreement longer than to present some views which I entertain and which I have stated I would present. I do not think I have a right to yield for anything that is likely to lead to a discussion, however.

Mr. HEFLIN. This matter pertains to me personally. It is in regard to an editorial which was slipped into the RECORD yesterday by the Senator from New York [Mr. CALDER]. I knew nothing about it. It contains a criticism of me, and I want to make a statement regarding it.

Mr. WARREN. If it is a matter of a highly personal nature, I can do no less than to yield.

Mr. HEFLIN. Yes; it will take me only a few minutes.

Mr. President, just before Christmas, in a speech that I made to the Senate, I used the name of "the Wall Street Journal" when I should have said "the New York Journal of Commerce," and what I said applies not to the Wall Street Journal but to the New York Journal of Commerce. I had no intention of doing any injustice to the Wall Street Journal.

I have a letter from Mr. Wannamaker, president of the American Cotton Association, in which he says:

DEAR SENATOR HEFLIN: I have just read with a great deal of interest and pleasure your remarks concerning the attack made by the Journal of Commerce upon the South, and also the matter of the Federal reserve, in the CONGRESSIONAL RECORD. I wish to extend my personal appreciation and that of the entire South to you for your splendid stand in this matter.

He says:

P. S.: I note in the CONGRESSIONAL RECORD you stated the attack was made by the Wall Street Journal, whereas you should have said the Journal of Commerce. Do not get the papers confused. The proper one is the Journal of Commerce.

Mr. President, I had no intention of using the wrong name. I certainly wanted to direct my remarks at the paper that was guilty of the things that I criticized. I am glad to make the proper correction in the matter, and will see that the permanent RECORD has the correction I have made.

I wish to say, however, that the courteous, the proper and the decent thing to have been done by the Senator from New York [Mr. CALDER] before he printed an editorial reflecting on a colleague in this body would have been to have put the Senator upon notice that he was going to ask unanimous consent to have it printed. No Senator should attack another Senator through that sort of procedure. If he has anything to say he ought to say it on the floor, or let the Senator who is attacked know that he is undertaking to slip it into the RECORD.

Mr. NORRIS. Mr. President, may I interrupt the Senator?

Mr. HEFLIN. I am glad to yield to the Senator from Nebraska.

Mr. NORRIS. I should like to inquire of the Senator if the editorial which he is complaining about in the RECORD was read from the desk, or whether it was printed without reading?

Mr. HEFLIN. I think it was printed without reading. I knew nothing about it, and no Senator on this side knew anything about it.

Mr. ROBINSON. Where is it?

Mr. HEFLIN. On page 1261 of the CONGRESSIONAL RECORD.

Mr. NORRIS. I judge from the RECORD to which the Senator calls my attention that it was not read from the desk, but was printed without reading.

Mr. HEFLIN. Yes. In the few remarks the Senator from New York made, he expresses his gratitude to the Senator from Virginia [Mr. GLASS] for his speech on the Federal Reserve Board and its policy, and then later on prints this editorial in the RECORD without its being read.

I simply wanted to make that statement to the Senator and the country, Mr. President.

Mr. ROBINSON. Mr. President——

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

Mr. WARREN. I yield.

Mr. ROBINSON. Under the unanimous-consent order heretofore entered, the Senate has proceeded to the consideration of the bill requiring the issuance of mileage tickets by railroads. The Senator from Wyoming [Mr. WARREN] announced some days ago, I am informed, that he expected to submit this morning some remarks touching a very important subject, which, however, is not intimately related to the bill under consideration. At the conclusion of the remarks of the Senator from Wyoming, which I am very much interested in hearing and anxious that the Senate shall hear, I shall take the floor, if the opportunity is occasioned, and discuss the mileage book bill.

AMENDMENT OF THE RULES—APPROPRIATION BILLS.

Mr. WARREN. Mr. President, a few days since I was interrupted in a brief statement respecting the report of an appropriation bill, which was the first of the great supply bills of the present session. These bills—one of which we have received, another has passed the House, and several others are under consideration there in subcommittees—are quite different in names and terms from those heretofore considered by Congress, and this is because of the Budget law, under which for the first time these bills are completely framed and presented.

THE BUDGET LAW.

It will be remembered that the necessity for a Budget law has been indorsed by both political parties in their conventions, and various bodies—chambers of commerce, boards of trade, and associations of various kinds—have seemed to make the entire Nation practically unanimous in its desire to have a Budget law, and to have the appropriations and expenditures of the Government conducted thereunder. At the time that the first bill was introduced and seemed likely to pass, the House changed its rules and placed all appropriation bills in charge of the general Appropriations Committee, and it handled the bills during the last session of Congress. It should be remembered, however, that they were not yet working under the Budget. In the meantime, after the Budget law had been passed at the last session, vetoed by the President, and reintroduced with the elimination of one or two objectionable clauses, it was passed in the first part of the present Congress; so that now we are up to a point where the House is thoroughly in line with that law.

The law provided that not only should the old style of estimates be made—the huge book of estimates which we have to ponder over in the committees every year—but there should be an alternative list of estimates, and in that alternative list should be set up a new line of treatment. That was adopted, and the House has used those estimates entirely. The result is that the bills came to us in economical terms, arranged differently, of course; but in the House the changes seem to have gained immediate approval, and there seems to have been more efficiency in considering and handling the bills.

Of course, under the Budget law the Bureau of the Budget spends the entire year in communications with the various departments, from the bureau chiefs up to the heads of the departments. It arranges what seem to be the wants of the Government in the way of appropriations. Then they are taken to the President, and by the President laid before the Cabinet, and either approved as a whole or changed by the Cabinet; and then the President becomes the one source from which we receive our estimates and our advices as to what should be done in regard to the expenses of the Government.

Without any intention, I wish to say, of infringing upon the rights or privileges of any Senator or any committee, and without undertaking alone to settle any problems existing under the adoption and the placing of Congress under the guidance of the Budget law and rules, I feel it necessary and, in fact, my bounden duty at this time, in carrying out the work that has been allotted to me by the Senate as chairman of the Appropriations Committee to present the advisability, if not indeed the necessity of certain changes of methods to coordinate our rules and practices and secure the best results expected from the operation of the Budget law.

HOUSE PRACTICE AMENDED.

As before stated, the House has assembled all of the appropriation bills in one committee. Whether or not the Senate will follow in the full acceptance and enforcement of the Budget thus made by the House rests with the wishes of this body. I bring the matter before you without any attempt at dictation on my part and shall accept the views of the Senate as my rule and the rule of the Appropriations Committee.

There is, however, a change in the titles and contents of appropriation bills as they will hereafter come to the Senate which will necessitate a change of our rules, and which I think should have attention without further delay.

SENATE RULE XVI.

For instance, under our present rules all general appropriations bills in the Senate shall be referred to the Senate Committee on Appropriations, as per the first paragraph of Rule XVI, except certain bills which are excepted by title, and which shall be considered by the respective committees for which the bills are named.

Some of those excepted have been, with others, done away with—absorbed in new bills under other names.

As I have said, the Budget law required the submission to Congress of the regular annual estimates in the usual old way, and it also required the submission of an alternative Budget estimate.

The alternative Budget estimate presented to Congress the estimates as required, but collected together and arranged in new and different forms.

NEW ARRANGEMENT OF APPROPRIATION MEASURES.

The Budget Bureau has proposed, the President has approved, and the House committee has adopted the new titles for the regular annual appropriation bills, as follows. I here quote the House record:

This arrangement necessarily will wipe out practically all of the old appropriation bills and establish in their stead new bills to contain the appropriations grouped according to the various units of organization of the Government. The following list shows the present bills and the proposed bills:

PRESENT (13).

1. Agriculture.
2. Army.
3. Diplomatic and Consular.
4. District of Columbia.
5. Fortifications.
6. Indian.
7. Legislative, executive, and judicial.
8. Navy.
9. Pension.
10. Post Office.
11. River and harbor.
12. Sundry civil.
13. Deficiency.

PROPOSED (12).

1. Treasury Department.
2. District of Columbia.
3. War Department.
4. Legislative establishment.

Permit me to say that that has no reference to the legislative, executive, and judicial appropriation bills, except as it takes out the Senate and the House employees, and a few others.

5. Post Office Department.
6. Agricultural Department.
7. Interior Department.
8. Independent offices.
9. Navy Department.
10. Departments of State and Justice.
11. Departments of Commerce and Labor.
12. Deficiency.

Mr. ROBINSON. Will the Senator yield for a question?

Mr. WARREN. Certainly.

Mr. ROBINSON. This scheme would abolish the sundry civil appropriation bill?

Mr. WARREN. Entirely. I will come to that in a moment.

This reduces the number of annual bills from 13 to 12, and it will be noticed that of all the bills heretofore cared for by the general Appropriations Committee, there is no longer a sundry civil bill, which, by the way, has been the most important of any of our appropriation bills; the omnium-gatherum of the sundry civil and other matters which relate, in a way, to all the different parts of our Government, much the same as does a deficiency measure.

Next to the abrogation of the sundry civil, the House will not send us the legislative, executive, and judicial bill. This is the bill that carried the employees of all departments, except Agriculture, from the President and the Congress on down through the line to the charwomen, and taking them all in except a few sundry services in the fields throughout the country and the more important employees of the Agricultural Department.

These become distributed among the various other bills, so that, as I said before, there will be no longer any legislative, executive, and judicial appropriation bill.

There is to be no fortifications bill as heretofore. This will leave to come from the House, directly under the old title, to the Committee on Appropriations only two measures—the District of Columbia and deficiency bills. Of those two, the deficiency bill is the only one that will come in the usual way, because the District of Columbia appropriation bill has been enlarged by adding the Supreme and Circuit Courts of the District of Columbia and sundry other matters which are considered to so relate to the government of the District as to be included therein.

Turning back a moment to the list which I have given, it will be found that not a single one of all the bills remains the same except the deficiency appropriation bill. Next to that is the Agricultural appropriation bill. There is very little added to that. The last three given in the list have been absorbed, the same as the three others mentioned, so that of six under their former names all have been absorbed entirely under these new names.

It would seem that under the present rules, if unamended, the Army appropriation bill would be sent to the Military Affairs Committee, the naval appropriation bill to the Naval Affairs Committee, the Post Office appropriation bill to the Committee on Post Offices and Post Roads, and the Agricultural appropriation bill to the Committee on Agriculture and Forestry, as heretofore, and all of the others would be hanging in the air, except the one or two which formerly have been sent to the Appropriations Committee.

The things provided for heretofore have all been covered somewhere in these different bills, and the idea of the budget has been to so arrange our appropriation bills that when they become laws the seeker after information could find the subject he is looking for more nearly aligned with other similar things than if he had to hunt through three or four bills to find what would be appropriate for some one purpose.

For instance, the new War Department measure is made up very largely of matters formerly carried in the sundry civil bill, legislative, executive, and judicial bill, rivers and harbors bill, and fortifications bill, and it will be noted that this also carries to the War Department the construction, repair, and preservation of all the public works, rivers, harbors, parks, fortifications, and all works of defense, and from the sundry civil the following:

Armories and arsenals.
Barracks and quarters.
Fort Monroe, Va., wharf, roads, and sewer.
Military posts.
National cemeteries.
Antietam Battle Field, repairs, superintendent, etc.
Disposition of remains of officers, soldiers, and certain employees.
Confederate cemeteries.
Burial of deceased indigent patients at Hot Springs, Ark.
Arlington Memorial Amphitheater and chapel.
National military parks.
Buildings and grounds in and around Washington (payable wholly from the Treasury of the United States.
River and harbor contract work, including flood control.
California Débris Commission.
Survey of northern and northwestern lakes.
Harbor of New York.
Medical and surgical history of war with Germany.
Transportation facilities for inland and coastwise waterways.
National Home for Disabled Volunteer Soldiers.
State and Territorial homes for soldiers and sailors.
Artificial limbs, trusses, and appliances for disabled soldiers.
Back pay and bounty.
Panama Canal.

Also all of the wages and salaries of War Department employees formerly carried in the sundry civil bill are transferred to the War Department bill. In the same way all of the department employees' salaries, contingent funds, and so forth, from the legislative, executive, and judicial bill. And thus the War Department appropriation bill becomes far the largest and most important of all appropriation bills—more important than several others combined—not only in amount of probable money appropriated, but in the vast number of distributions to be made of the money, and so forth. This bill, with all the others, comes from the one Appropriations Committee of the House.

The Post Office Department bill in the same way takes from the former legislative bill all of the department officers' and employees' salaries and contingent expenses. And, by the way, it might be well to record here that in contingent expenses for the different departments there should be experience and careful economy always, as well as in salaries of Government employees, in order to be sure that we do not pyramid one department upon the other in expenses, under the influence of the bureau heads and others, whose sole interest is with their par-

ticular branch of the Government service. We should somewhere, somehow, have all these expenses received and compared, one branch with another, and reconciled accordingly.

The Department of Agriculture will come to us more nearly in its old form than will any of the other supply bills.

It is true that we have, under the new title, what is called a legislative establishment, a bill which takes certain items from the old sundry civil, and also from the old legislative, executive, and judicial bills—things which apply more directly to Congress, like the expenses of the Senate, the House, the Library of Congress, Architect of the Capitol, police, drafting service, Committee on Printing, Senate and House Office Buildings, Capitol power plant, and so forth.

The District of Columbia bill takes from the legislative, executive, and judicial bill the courts—supreme and appeals of the District—and quite a number of items from the sundry civil bill.

The bill for the Departments of State and Justice takes all of the Diplomatic and Consular Service, and takes from the legislative, executive, and judicial bill all of the salaries of the two departments and their contingent expenses; salaries of all United States judges and all other court officers and employees, and contingent expenses of the Territories—Alaska and Hawaii. It carries the Supreme Court and circuit courts, retired judges, Court of Customs Appeals and Court of Claims, national park commissioners, books and papers for judicial officers, and so forth.

To give the Senate some of the changes brought about in this new arrangement of our supply bills, I beg to insert and have printed as submitted, in eight-point type, and tabulated and arranged as I present them, some statements which show in general terms the changes of which I have already spoken. I will not take the time to read them unless I am asked to do so, but a glance at the matter presented will show what is taken from other bills to make up the new bills.

The PRESIDING OFFICER (Mr. POMERENE in the chair). Without objection, they will be incorporated in the RECORD.

The matter referred to is as follows:

DEPARTMENTS OF STATE AND JUSTICE.

Will include appropriations for—	Heretofore appropriated for in—
The Diplomatic and Consular Service	Diplomatic and consular bill.
Department of State, salaries and contingent expenses.	Legislative, executive, and judicial bill.
Judges, attorneys, marshals, and clerks, courts of Territory of Alaska.	
Chief justice, associate justices, and judges of circuit courts, Territory of Hawaii.	
Department of Justice, salaries and contingent expenses.	
Supreme Court	
Circuit court of appeals	
District courts	
Retired judges	
National Park Commissioners	
Books for judicial officers	
Court of Customs Appeals	
Court of Claims	
Penitentiary buildings	Sundry civil bill.
Miscellaneous objects, Department of Justice.	
United States courts	
Penitentiaries	

TREASURY DEPARTMENT BILL.

Treasury Department, salaries and contingent expenses.	Legislative, executive, and judicial bill.
Internal revenue, expenses of collecting.	
Mints and assay offices	
Public buildings, including marine hospitals and quarantine stations.	Sundry civil bill.
Coast Guard	
Engraving and Printing	
Miscellaneous objects, Treasury Department.	
Customs Service	
Public Health Service	

WAR DEPARTMENT BILL.

Will include appropriations for—	Heretofore appropriated for in—
Military Establishment	Army bill.
Fortifications and other works of defense, for the armanent thereof and for the procurement of heavy ordnance for trial and service.	Fortification bill.
The construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.	River and harbor bill.
War Department, salaries and contingent expenses.	Legislative, executive, and judicial bill.
Office of public buildings and grounds	
State, War, and Navy Building	
Armories and arsenals	Sundry civil bill.
Barracks and quarters	
Fort Monroe, Va., wharf, roads, and sewer.	
Military posts	
National cemeteries	
Antietam battlefield, repairs, superintendent, etc.	
Disposition of remains of officers, soldiers, and certain employees.	
Confederate cemeteries	
Burial of deceased indigent patients at Hot Springs, Ark.	
Arlington Memorial Amphitheater and Chapel.	
National military parks	
Buildings and grounds in and around Washington (payable wholly from Treasury of the United States.)	
River and harbor contract work, including flood control.	
California Débris Commission	
Survey of northern and northwestern lakes.	
Harbor of New York	
Medical and surgical history of war with Germany.	
Transportation facilities for inland and coastwise waterways.	
National Home for Disabled Volunteer Soldiers.	
State and Territorial homes for soldiers and sailors.	
Artificial limbs, trusses, and appliances for disabled soldiers.	
Back pay and bounty	
Panama Canal	

POST OFFICE DEPARTMENT BILL.

The service of the Post Office Department	Post Office bill.
Post Office Department, salaries and contingent expenses.	Legislative, executive, and judicial bill.

NAVY DEPARTMENT BILL.

The Naval Service	Naval bill.
Navy Department, salaries and contingent expenses.	Legislative, executive, and judicial bill.

INTERIOR DEPARTMENT BILL.

The current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes.	Indian bill.
The payment of invalid and other pensions of the United States.	Pension bill.
Department of the Interior, salaries and contingent expenses.	Legislative, executive, and judicial bill.
Surveyors general	
Governor's Office and legislative expenses, Territory of Alaska.	
Governor's Office and legislative expenses, Territory of Hawaii.	

INTERIOR DEPARTMENT BILL—continued.

Will include appropriations for—	Heretofore appropriated for in—
Public Buildings	Sundry civil bill.
Public Lands Service	
Geological Survey	
Bureau of Mines	
Reclamation Service	
Testimony in disbarment proceedings	
Territory of Alaska	
National Parks	
St. Elizabeths Hospital	
Columbia Institution for the Deaf	
Howard University	
Freedmen's Hospital	

DEPARTMENTS OF COMMERCE AND LABOR BILL.

Will include appropriations for—	Heretofore appropriated for in—
Department of Commerce, salaries and contingent expenses.	Legislative, executive, and judicial bill.
Department of Labor, salaries and contingent expenses.	
Lighthouse Service	Sundry civil bill.
Coast and Geodetic Survey	
Bureau of Fisheries	
Bureau of Standards	
Immigration Service	
Naturalization Service	
United States Housing Corporation	
Employment Service	

DEPARTMENT OF AGRICULTURE BILL.

Will include appropriations for—	Heretofore appropriated for in—
The Department of Agriculture	Agricultural bill.

DISTRICT OF COLUMBIA BILL.

Will include appropriations for—	Heretofore appropriated for in—
Expenses of the government of the District of Columbia.	District of Columbia bill.
Court of Appeals	Legislative, executive, and judicial bill.
Supreme Court	
Columbia Hospital and Lying-in Asylum, construction.	Sundry civil bill.
Rock Creek and Potomac Parkway Commission.	
National Zoological Park	
Expenses of burying ex-Union soldiers, ex-sailors, and ex-marines of the United States service.	
Buildings and grounds in and around Washington (payable 60 per cent from the revenues of the District of Columbia).	
Repairs and improvements to courthouse, District of Columbia.	

LEGISLATIVE ESTABLISHMENT BILL.

Will include appropriations for—	Heretofore appropriated for in—
Senate	Legislative, executive, and judicial bill.
Capitol police	
Joint Committee on Printing	
Legislative drafting service	
House of Representatives	
Library of Congress	
Botanic Garden	
Architect of Capitol Office (from Interior)	
Statement of appropriations	Sundry civil bill.
Capitol police	
Protection of Capitol	
Capitol Building and Grounds, and Maltby Building.	
Senate contingent expenses	
Senate Office Building	
House Office Building	
Capitol power plant	
Government Printing Office	

INDEPENDENT OFFICES BILL.

Will include appropriations for—	Heretofore appropriated for in—
Executive Office	Legislative, executive, and judicial bill.
Bureau of Efficiency	
Civil Service Commission	
Veterans' Bureau	Sundry civil bill.
Alien Property Custodian	
American Printing House for the Blind	
Commission of Fine Arts	
Employees' Compensation Commission	
Federal Power Commission	
Federal Trade Commission	
Interstate Commerce Commission	
Lincoln Memorial Commission	
National Advisory Committee for Aeronautics.	
Railroad Labor Board	
Shipping Board	
Smithsonian Institution	
Tariff Commission	
Federal Board for Vocational Education	

DEFICIENCY BILL.

Same as heretofore.

Mr. WARREN. Under this new grouping, and under the desire of Congress for economy and the desire to avoid overlapping, pyramiding, and duplicating, it is necessary, in my judgment, to have some reviewing authority, some committee, which may, at least, supervise matters to ascertain whether there have been such duplications as we are perfectly familiar with and have known about for years. We have known that ever since the committees were divided in the Senate it has cost the country more, each committee doing the best it could, but on account of the lack of some one reviewing committee we have spent unnecessarily many millions of dollars. I shall quote some of the expressions of those who have been with us in times past, and who have had intimate knowledge of these affairs. Before beginning that, I may say that it will probably be remembered by the Senators that Senator Aldrich stated to the Senate that, in his opinion, it cost $300,000,000 a year too much to run the Government because of the distribution of the appropriation bills among various committees.

DIVIDED AUTHORITY ON APPROPRIATIONS.

In the earlier years appropriations were all considered by one committee in each body, the Committee on Appropriations of the House and the Committee on Appropriations in the Senate. In fact, it was that way when I first entered the Senate. A few years later an unsuccessful attempt was made for division in the Senate, and I remember that I voted against it, although not then a member of the Appropriations Committee. Finally the House of Representatives made some divisions, the Senate followed suit, and the rules were changed, a number of bills—not so many as now—going to committees other than the general Appropriations Committee.

It was predicted, in fact it was known to be a certainty, as near as any future expected event can be a certainty, that this division would lead to great increase in expenditures of the Government, and if not actual extravagance, then surely to an unpreventable duplication and pyramiding of our expenditures.

ONE-COMMITTEE PLAN APPROVED QUITE GENERALLY IN PAST.

Distinguished Members of both Houses who have served upon these committees, and very many others—in fact, I may say almost all of those who have had to do with appropriation bills and who have served a sufficient length of time to enable them to pass judgment upon the matter—have maintained and insisted upon this view.

It is needless for me to go back beyond the memory of our oldest Members to name men of Senate and House who have expressed themselves on the floors of Congress in support of the one-committee plan, but I shall mention a few of the well-known Members whose judgment is entitled to our respectful attention.

I note from the RECORD that Senator Edmunds, of Vermont, of long and faithful service—never a member of the Appropriations Committee—speaking of a move to distribute the bills, strongly opposed it.

Mr. NORRIS. Did the Senator say Senator Edmunds opposed the distribution?

Mr. WARREN. He opposed the distribution among the committees.

Mr. NORRIS. He wanted to retain them all in one committee?

Mr. WARREN. Yes. I will insert later exactly what these different Senators and others said. I do not wish to tire the Senate by reading them all, but will make them a matter of record.

Senator Sherman, not a member of the committee, said:

I believe it is necessary, as my friend from Vermont says, to bring all of the items of expenditure for the Nation under the eye and control of one committee, so that they may limit the amount of expenditure.

Senator Hale, a long-time member and former chairman of the Appropriations Committee, always strongly opposed separation.

Representative Randall, a member of the Ways and Means Committee, not of the Appropriations Committee, a noted economist and statesman, said:

If you undertake to divide all these appropriations and have many committees where there ought to be but one, you will enter upon a path of extravagance.

Mr. Tawney, a former chairman of the House Committee on Appropriations, said:

Mr. Speaker, to my mind no other reform in the rules and procedure of this House is so essential to the future welfare of the people and to the economical appropriation and expenditure of their money for the public service as the consolidation of the appropriating jurisdiction of the House under a single committee of sufficient size to be representative of all sections of the country and of every branch of the public service. * * *

Senator UNDERWOOD, our distinguished colleague, took similar ground in the House of Representatives on February 6, 1915.

Representative Good made many speeches advocating a single committee, and a change in the rules of the House followed. This was while he was chairman of the House Committee on Appropriations, and after they had had quite a long trial with their distribution as against the older plan of one committee.

Hon. James A. Garfield, when a Representative in Congress, said:

* * * I believe it would cost this Government $20,000,000 if the appropriations were scattered to the several committees. * * *

Hon. Thomas B. Reed, Speaker of the House, said, with regard to numerous appropriating committees:

The effect * * * will be to add to the expenses of the Government more than this rule (the Holman rule) ever saved.

And right here might be a good place to insert a quotation from the report of the Committee on Rules of the House, Forty-sixth Congress:

* * * It follows as a logical sequence that if any other committee is to take charge of one of the general appropriation bills the interest involved and considered will stand separate and apart from the interests involved and considered in the other bills, and as a further result any scheme of reduction of expenditures made necessary by a deficit of revenue for that fiscal year must be executed by the Committee on Appropriations without respect to the interests involved in the bill so taken from them, thereby leaving that particular interest to stand independent of and without any relation whatever to the other interests for which appropriations are annually made.

Representatives W. C. Whitthorne, of Tennessee; J. C. S. Blackburn, of Kentucky; J. Warren Keifer, of Ohio; Joseph G. Cannon, of Illinois; J. J. Fitzgerald,, of New York; Swagar Sherley, of Kentucky, and many others might be quoted, but I refrain from enumerating at this point, although I shall ask permission to insert very short extracts from the records containing remarks upon the subject.

The PRESIDING OFFICER. Without objection, the extracts from the records submitted by the Senator from Wyoming will be printed in the RECORD.

The extracts are as follows:

Senator Edmunds—1866–1891:

I think it would be injurious to the interests of the Treasury and to the interests of the people who supply the Treasury of the United States to send appropriation questions for reports of sums to be appropriated to the various committees that have charge of the classes of the public service about which appropriations must be made, and that the practical result would be, if we divide them up, that the sum total of appropriations would be enormously increased. If there be a standing order of the Senate which says that all appropriations respecting the judicial establishment of the United States should be sent to the Committee on the Judiciary, the relations between the Committee on the Judiciary and the Department of Justice and the judicial establishment are of such an intimate and friendly character that we should be quite likely to be acting under a bias and to be more liberal in the money that we would recommend to be expended for the judicial establishment than a body of men not under such a bias would be likely to be. And I confess that I do not see any distinction between the matter of the District of Columbia and any other of the various branches of the public service—the Army, the Navy, Indian Affairs, post offices and post roads, public lands, and every one of the scores of separate subjects of public expenditure. I think that we should find in the main that the aggregate of public expenditure would be largely increased, on account of the necessary fact in human nature that committees charged with particular subjects and in direct communication with the particular branches of the public service get to be impressed with the ideas of the special departments with which they have to do, and feel with the departments that the public service would be better promoted with still larger appropriations to carry it on.

Senator Sherman—1861–1877; 1881–1897:

* * * I believe it is necessary, as my friend from Vermont says, to bring all the items of expenditure for the Nation under the eye and control of one committee, so that they may limit the amount of expenditure.

Senator Hale—1881–1911:

I know from my own experience that the tendency of the mind of a member of either of the other committees calling for appropriations each year—the Military or the Naval Committees, I will speak of the latter because I have had service upon that committee—is to gain all the power in appropriating money possible, and connected with that is the unerring result of desiring to have the power to appropriate more money. There has never been any exception to that. I think few Senators will dispute the statement that if all the business of the Committee on Appropriations was taken from it and given to the several committees we should then be confronted with a general scramble upon the part of each committee for more money. The Senator from Vermont [Mr. Edmunds] urged that point much more forcibly and clearly than I can, and his experience, never a member of the Appropriations Committee but belonging to other committees here, taught him that.

Representative Randall—1863–1890:

If you undertake to divide all these appropriations and have many committees where there ought to be but one, you will enter upon a path of extravagance you can not foresee the length of or the depth of until we find the Treasury of the country bankrupt.

Representative Tawney—1893–1911:

Mr. Speaker, to my mind no other reform in the rules and procedure of this House is so essential to the future welfare of the people and to the economical appropriation and expenditure of their money for the public service as the consolidation of the appropriating jurisdiction of the House under a single committee of sufficient size to be representative of all sections of the country and of every branch of the public service. * * * This division of responsibility over the aggregate of the appropriations between eight committees of the House has year by year since its adoption * * * in 1885 resulted in an abnormal growth of public expenditures. As I have said before, ours is the only Government on earth which tolerates such a system of divided responsibility, the only Government which has established and maintains such a system of utter irresponsibility with reference to the initiation of authority for drawing draft upon the Public Treasury for public expenditures. This system, too, has begotten extravagance and a wide difference in the manner of authorized expenditures between the respective branches of the public service, a difference which is actually grotesque in its inequalities.

Senator UNDERWOOD (House, 1895–96; 1897–1915; Senate, 1915):

It is rarely the case that any body of men in a legislative capacity, except those who hold their commissions directly from the people, are willing to cut down public expenditures. On the other hand, the reckless expenditure of the public money has always been a cancer that in the end destroyed republics. Of course, we are far from that place to-day, but unless this House is willing to take action by which we can centralize the control of these appropriations and limit expenditures within reasonable amounts and cut out the reckless extravagances that sometimes are found in appropriation bills, I can see no place where the increased burdens of taxation on the American people are going to stop.

Representative Garfield (House, 1863–1880; President, 1881):

Let me state that the proposition to divide the Committee on Appropriations to scatter its bills as suggested, and as was once moved, indeed is, in my judgment, although I think it is not pending, an utterly ridiculous proposition. I believe it would cost this Government $20,000,000 if the appropriations were scattered to the several committees. * * * I do say, sir, without the slightest question in my own mind of the truth of the statement, that the scattering of these appropriations as suggested by the gentleman here will be absolutely breaking down all economy and good order and good management of our finances. It can not be otherwise.

Representative Reed (1877–1899):

* * * a large minority of the House are disposed to break down the work of that committee (Appropriations) and put a portion of it in the hands of several committees, the effect of which will be to add to the expenses of the Government more than this rule (the Holman rule) ever saved.

Representative Whitthorne (House, 1871–1883; Senate, 1886–1891):

When I first entered Congress, in the Forty-second Congress, Gen. Coburn, of Indiana, was a member of the Committee on Appropriations. He at that time proposed to divide the labors of that committee as is now proposed by the gentleman from Pennsylvania [Mr. Shallenberger] and by others. At that time I was heartily in favor of that proposition. But during all these years that I have been here my experience and observation have led me to believe that if we turn loose a half dozen committees upon the subject of appropriations it will be impossible to control the amount of these appropriations. I believe that it is for the interest of the people that the subject of appropriations should be committed mainly to one committee. I say this not out of any feeling with respect to my own committee, because if I considered that I should be jealous of its rights and should speak jealously of its intelligence and power of comprehending the duty before it. But, speaking in the interest of the people, in the interest of the Public Treasury, in the interest of the proper control of public expenditures, I may say, what has been forced upon me contrary to my original convictions, that it is the duty of this House to have the subject of appropriations controlled by one committee.

Representative J. C. S. Blackburn (House, 1875–1885; Senate, 1885–1907):

They (the committees) are appointed that they may guard the interests of the particular department committed to their care. That is the theory of the construction of the committees of the House; and it is

a proper theory. The Committee on Appropriations stands in a very different attitude. Because of no special relation to any department, selected as a fair and impartial arbiter, with no more concern for the Navy or the Army than for the Interior Department or the Post Office Department, it has been selected as the one grand reservoir into which all these proposed disbursements of money should pour, in order that fairly, judiciously, impartially, it may make its recommendations to the House.

Representative Keifer (1877–1911):

I believe, Mr. Chairman, that if you transfer to the various committees of this House the duties of preparing the several appropriation bills there will be a strife between those committees, * * * each striving to obtain the most appropriations for the department of the Government directly under its charge, and in that way we will necessarily augment the annual appropriations beyond the ordinary revenues of the Government.

Representative CANNON (1873–——):

Mr. Speaker, that change, in my judgment, based upon intimate knowledge and observation, has cost this country many, many millions of dollars in needless appropriations and expenditures. * * * No matter what the stress of circumstances may bring about in our national life now or hereafter, or how necessary it may become to apply the prunning knife, it can never be done without harsh and inequitable results through the medium of many committees as now provided under our House rules. I speak with deep and firm conviction in these premises, and after many years of somewhat arduous labor as a member of the Committee on Appropriations when it controlled all of the bills, both under Democratic and Republican Houses, and as its chairman when it controlled only a portion of the bills, and as a member of it under Democratic Houses under like conditions.

Representative Fitzgerald (1899–1917):

Years of investigation have convinced me that one change is essential in the methods of this House preliminary to any other reform. Unless this step be taken all other efforts at reform will be futile. It is necessary to return to the practice of the House during the first 93 years of the Union and to concentrate in one committee control of all of the general appropriation bills. The present method under which the appropriation bills are distributed among eight independent committees of the House is universally condemned by disinterested students of our Government.

* * * While such an illogical, unscientific, and universally condemned system prevails, attempts at reform will be futile and an effective remedy for the resulting evils is impossible. * * *

Representative Sherley (1903–1919):

When the estimates shall have come to Congress it is my belief that the House of Representatives should, through one committee, consider the estimates as a whole, and should recommend to the House the totals that should be appropriated for the various departments, and that that should be done without a consideration of all the detailed items that go to make up the total. Whether that shall be done through the creation of one committee that alone shall have the power to appropriate subsequently in detail the sums for the various bureaus or whether it shall be done through a committee that shall fix a limitation upon other appropriating committees is a question about which there has been a great deal of difference of opinion. My own belief had been that it was desirable under present conditions to create a committee composed of the various appropriating committees and, perhaps, if you desired it, of the authorizing committees, which should recommend to the House the sum total of moneys which should be appropriated, and when this recommendation was approved, either completely or by modification, it would then act as a limitation upon the power of each of the present appropriating committees.

In fact, many other distinguished Members of Congress have at sundry and divers times made speeches of considerable length and force, citing evidence and statistics to maintain their position that, in order to conform to a budget plan, to have economy of expenditures, avoidance of vicious or incessant duplications, and so forth, there should be but one committee in each body in charge of appropriations; and this became especially noticeable during the later years of Tawney, Hemenway, Fitzgerald, Sherley, and Good, as well as other chairmen who preceded them, in charge of appropriations in the House.

Thus far I have quoted only from the remarks of men who have served in Congress.

Now, I quote the opinions of three of our Presidents.

Former President Taft, in his testimony before the Select Committee on the Budget, commented as follows:

Now, you have spoken of the House committees, and, naturally, the Good bill does not deal with the House committees. I am bound to say that, under the old maxim that charity should begin at home, that is something that Congress ought to do for itself. In this matter of a budget, if there is any method by which any extravagance in Government expenditures can be expanded it is under the system you have in the House, because that same feeling that I have been describing in the bureaus and the departments that tends to magnify their relative importance inheres also in the making of appropriations of money by one committee for one department or for one branch of the service. A man does not have to be a Member of Congress to see that.

President Wilson, who, by the way, gave earnest support to the matter of a budget law, said in his address delivered at the joint session of Congress on December 4, 1917:

And I beg that the Members of the House of Representatives will permit me to express the opinion that it will be impossible to deal in any but a very wasteful and extravagant fashion with the enormous appropriations of the public moneys which must continue to be made, if the war is to be properly sustained, unless the House will consent to return to its former practice of initiating and preparing all appropriation bills through a single committee, in order that responsibilities may be centered, expenditures standardized and made uniform, and waste and duplication as much as possible avoided.

This, of course, was before the passage of the act.

President Wilson, in his message to Congress in 1919, said:

I hope that Congress will bring to a conclusion at this session legislation looking to the establishment of a budget system. That there should be one single authority responsible for the making of all appropriations and that appropriations should be made not independently of each other, but with reference to one single comprehensive plan of expenditure properly related to the Nation's income, there can be no doubt. I believe the burden of preparing the budget must, in the nature of the case, if the work is to be properly done and responsibility concentrated instead of divided, rest upon the Executive. The budget so prepared should be submitted to and approved or amended by a single committee of each House of Congress, and no single appropriation should be made by the Congress, except such as may have been included in the budget prepared by the Executive or added by the particular committee of Congress charged with the budget legislation.

President Harding, in his message to Congress on December 6, 1921, said:

In these urgent economies we shall be immensely assisted by the budget system for which you made provision in the extraordinary session. The first budget is before you. Its preparation is a signal achievement, and the perfection of the system, a thing impossible in the few months available for its initial trial, will mark its enactment as the beginning of the greatest reformation in governmental practices since the beginning of the Republic.

I ask to have printed at this point a résumé of the names and service records of the Government officials whom I have quoted.

The PRESIDING OFFICER. Without objection, the same will be printed in the RECORD.

The list is as follows:

Senator Edmunds, 1866–1891.
Senator Sherman, 1861–1877, 1881–1897.
Senator Hale, 1881–1911.
Representative Randall, 1863–1890.
Representative Tawney, 1893–1911.
Senator UNDERWOOD, House, 1895–1896, 1897–1915; Senate, 1915——.
Representative Garfield, House, 1863–1880; President, 1881.
Representative Reed, 1877–1899.
Representative Whitthorne, House, 1871–1883; Senate, 1886–1891.
Representative J. C. S. Blackburn, House, 1875–1885; Senate, 1885–1907.
Representative Keifer, 1877–1911.
Representative CANNON, 1873——.
Representative Fitzgerald, 1899–1917.
Representative Sherley, 1903–1919.
President Taft, 1909–1913.
President Wilson, 1913–1921.
President Harding, 1921——.

OLD GENERAL APPROPRIATIONS.

Mr. WARREN. Turning back to earlier years, it is recorded that the first general appropriation bill providing for the expenses of the Government of the United States was embraced in the one act, approved September 29, 1789, which appropriated the total sum of $639,000, and covered only 13 lines of the printed statutes, as follows:

An act making appropriations for the service of the present year.

SECTION 1. *Be it enacted, etc.*, That there be appropriated for the service of the present year, to be paid out of the moneys which arise either from the requisitions heretofore made upon the several States or from the duties on impost and tonnage, the following sums, viz: A sum not exceeding $216,000 for defraying the expenses of the civil list under the late and present Government; a sum not exceeding $137,000 for defraying the expenses of the Department of War; a sum not exceeding $190,000 for discharging the warrants issued by the late board of treasury, and the remaining unsatisfied; and a sum not exceeding $96,000 for paying the pensions to invalids.

Thus it will be seen, even with the total pension list which has become so great since, that they at that time felt that $639,000 was sufficient for the year's expenses, and I fail to find any record of a deficiency bill for that year.

The second general appropriation bill, approved March 26, 1790, was entitled:

An act making appropriations for the support of the Government for the year 1790—

and provided for the expenses of the civil list, including the contingencies of the several executive offices, the expenses of the Department of War, pensions to individuals, all expenses arising from and incident to the sessions of Congress, the contingent charge of Government, certain demands existing against the United States, and other authorized expenses and payments therein specified.

This style of bill, with the same or similar title, continued until 1833, when the title was changed to—

An act making appropriations for the civil and diplomatic expense of the Government for the year * * *—

and under this title continued up to 1856.

Commencing with the fiscal year 1857, a change was made to provide for the objects usually appropriated therein, and three general bills were adopted; and the many changes from that time to this, and up to the present line of procedure, are all well known, I think.

Mr. NORRIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Wyoming yield to the Senator from Nebraska?

Mr. WARREN. I yield.

Mr. NORRIS. I should like to ask the Senator if in those times of which he was just speaking the fiscal year was the same as it is now?

Mr. WARREN. I do not believe that I gave that point any attention, but I assume that it was. Of course, the period would be 12 months in any case.

Mr. NORRIS. I know it would be 12 months, but it would be interesting to know. I never have, that I now remember, read about it or heard it stated whether the fiscal year always ended on the 30th of June, or whether in the beginning it corresponded with the calendar year, and, if so, why the change.

Mr. WARREN. I did not give that any attention.

SHOULD THE RULES BE CHANGED?

Mr. President, I have considered it my duty thus to bring the business of the Appropriations Committee of the Senate before the full Senate at this time, so that there may be no ambiguity as to what the budget law intends to effect.

In the House of Representatives appropriations matters seem now to be conducted with great harmony, expedition, and exactness; never as much so as in the present Congress, since the adoption of the alternative estimates and since the consolidation of all into one, and Members have become accustomed to the change.

Whether the Senate will join the House in its endeavor to make the budget law a success as a whole, conforming to the plan of one appropriations committee only, thus taking that route to secure its greatest success, or whether a halfway route—one-half budget and one-half nonbudget—is for the Senate in its wisdom to determine.

Undoubtedly the correct way—in fact, the only correct way—of working out the greatest success under the budget plan would seem to be for all appropriation bills to be built up carefully by the various subcommittees and passed upon finally by the one main full committee; and it is also undoubtedly true, in the event this course should be followed, that there could be drawn and added to the main committee members from the other committees, experienced in appropriations, thus enlarging to some extent the general Appropriations Committee.

However, these are all mere suggestions, and it is my purpose when I conclude my remarks to introduce a resolution proposing to amend the rule by providing that all appropriation bills shall go to one committee. I shall ask that the resolution be referred to the Committee on Rules, expecting, of course, that that committee will act upon its own information and belief. The resolution is designed to unscramble the grouping which has so changed the status from the old system.

Now, I suggest that this could perhaps be accomplished by adding to the general Appropriations Committee the chairman, or the chairman and one or two other members, of the present subcommittee of other appropriating committees—Members who have had much valuable experience in appropriation matters. That is to say, the work of appropriating committees is largely performed by subcommittees consisting of the chairmen and some of the other members. They, of course, have had experience which should be valuable in the future in connection with the consideration of appropriations.

The general committee would need to have and should have added to it experienced, able men, if not as permanent members, then surely as ex officio members.

As one studies the question it becomes convincingly apparent at every turn that there should be cool judgment and what might be termed a liberal but exact economy in providing for all our national expenses. A failure finally to compare the appropriations of one department with those of another and in some degree to submit them to the whole court at some stage of the proceedings may cause us to duplicate certain expenditures or indulge in careless extravagance.

I feel confident that the members of the Senate Committee on Appropriations stand ready with the chairman to undertake and carry forward successfully the whole line of appropriations, as is now done by the Appropriations Committee of the House of Representatives, if that be the wish and judgment of the Senate.

Always ready to do my full duty in the responsibility and work imposed upon me, it is not my desire to seek any further responsibility or work than the Senate of the United States wishes to delegate to me. But in whatever way we may approach the preparation and consideration of these bills there ought to be strenuous effort to make all the bills jibe and dovetail, as a carpenter would say, thus avoiding duplications and unnecessary expenses, not to mention possible extravagance.

Under our unrevised rules, all general appropriation bills except four, under the new titles, would be considered by the Committee on Appropriations, these four being War Department, Navy Department, Agriculture Department, and Post Office Department. The Agricultural appropriation bill will be in terms much the same as heretofore, but the other three will be greatly enlarged, as I have shown, from the legislative, executive, and judicial and other bills, more especially the War Department bill, which will embrace very much of the old sundry civil, legislative, fortifications, and all of the rivers and harbors bills, and others.

And while we await the pleasure of the Senate the Committee on Appropriations offers assurances that it will undertake to perform, as ably and promptly as possible, any and all duties that may be intrusted to its care.

When the question arises as to what committees may lose in the matter of jurisdiction over appropriation bills and what committees may gain in that respect, I will say that there is no committee which will be shorn of power to the same extent as will the general Committee on Appropriations, if the rules of the Senate are to remain unchanged. Of the four bills which I have mentioned which go to other committees, the fact is that under the new grouping of bills the measure providing for the War Department will contain several bills, three by name, which have heretofore belonged entirely to the general Appropriations Committee. Still I believe, notwithstanding what bill the proposed rule may take from one committee or another, that the grouping of the appropriation bills, as it is proposed they shall be grouped, if the idea is carried out exactly, as is now being done in the other House, so that all appropriation bills will be passed upon by some one authority, will be more satisfactory, and we shall get along not only faster but more economically with the transaction of our business. That is my judgment in regard to the matter, which, however, I humbly submit to my colleagues.

Mr. President, in order to bring the whole matter before the distinguished members of the Committee on Rules for their consideration, I shall now introduce a Senate resolution and ask that it may be referred to the Committee on Rules.

I wish to say that while the resolution is of some length, containing quite a number of lines, it embodies precisely the language of the rule as it now exists, except that it provides for the sending of all the bills to one committee, and leaves out the exceptions naming certain bills and the committees to which such bills have heretofore been sent.

The PRESIDING OFFICER. Does the Senator from Wyoming desire that the resolution which he proposes may be incorporated in the RECORD as a part of his remarks?

Mr. WARREN. I do.

The PRESIDING OFFICER. The resolution will be received, incorporated in the RECORD, and referred to the Committee on Rules.

Mr. NORRIS. Mr. President, I should like to have the proposed new rule read.

The PRESIDING OFFICER. The Secretary will read the resolution proposed by the Senator from Wyoming.

The resolution, S. Res. 213, was read and referred to the Committee on Rules, as follows:

Resolved, That clause 1 of Rule 16 of the Standing Rules of the Senate be amended so as to read as follows, to wit:

"1. All general appropriation bills shall be referred to the Committee on Appropriations, and no amendments shall be received to any general appropriation bill the effect of which will be to increase an appropriation already contained in the bill, or to add a new item of appropriation, unless it be made to carry out the provisions of some existing law, or treaty stipulation, or act, or resolution previously passed by the Senate during that session; or unless the same be moved by direction of a standing or select committee of the Senate, or proposed in pursuance of an estimate of the head of some one of the departments."

Mr. NORRIS. I should like to ask the Senator a question.

Mr. WARREN. Let me say to the Senator that the language of the proposed new rule is the same as the language of the present rule, except as to the first lines and the old exceptions.

Mr. NORRIS. Except as to the very first line, which refers all appropriation bills to one committee. Is that the only proposition to amend the rules the Senator intends to offer?

Mr. WARREN. Mr. President, in my judgment, if it should be concluded wise to distribute the appropriation bills to the various committees, it would, because of the new grouping of the bills, probably require another rule; but, on the other hand, should it be determined to send all the appropriation bills to one committee, I think it will be expedient to provide for additional members on that committee from the other committees.

Mr. NORRIS. That is the point I was coming to, and I come to it without having any preconceived ideas. I am not sure but that it would be better to let the Appropriations Committee remain as it is now, because when a committee is made too large it becomes unwieldy. However, the Senator himself in his argu-

ment advocated, as I understood him, the enlargement of the Committee on Appropriations, but the proposed change in the rules which he has offered does not contemplate bringing that about.

Mr. WARREN. That would not be my province, and I merely offer that as a suggestion to the Committee on Rules.

Mr. NORRIS. It would be just as much the Senator's province as the province of anybody else. The resolution which the Senator has offered to change the rules proposes to send all the appropriation bills to the Committee on Appropriations, but does not enlarge that committee.

Mr. WARREN. No; it does not; and I wish to say to the Senator, and I undertake to say for the committee, that should all of the appropriation bills be sent to the committee without any additions to its membership, the bills will be taken care of and they will come to the Senate promptly and, in my judgment, in good form.

Mr. NORRIS. I am not disputing that.

Mr. WARREN. But, if the Senator will allow me further, I think it would be of service to the Senate to have the experience of the members of other committees which have been reporting bills appropriating money and who are familiar with the subjects matter of some of the bills, if any additional members are added to the general Appropriations Committee. When I say that I think all of the bills should go to the one committee I am simply stating what, I think, has been admitted almost universally. So far, however, as my position as chairman of the committee is concerned, I am not, I hope, such a glutton for work that I want to assume any additional tasks; but I should rather have the matter properly taken care of even if heavier labors were imposed upon the committee. On the other hand, I feel so interested in the subject, which has been under my eye for nearly 30 years, as to the manner in which the appropriation bills shall be handled that I believe the budget law will be incomplete and the action under it will fail in some degree unless, as I have remarked, we manage to have some one authority pass finally upon the appropriation measures. I feel so strongly about it that I would myself rather step aside and let the Senate provide an entirely new Committee on Appropriations, if they shall see fit so to do, and I should not ask any position at the hands of the Senate which they did not wish to place before me.

In this matter I realize that I may be considered as treading upon the toes of members of other committees. I know that the Senator from Nebraska, however, does not so consider it.

Mr. NORRIS. No, indeed.

Mr. WARREN. But I am giving my best judgment as to what the country ought to have. I shall be satisfied, of course, with whatever the Senate may do in the premises.

Mr. NORRIS. Mr. President, I hope the Senator does not get the idea, because I am taking an interest in this matter, that I am taking a position antagonistic to the one he takes.

Mr. WARREN. No; entirely the opposite. I thank the Senator for taking an interest in it. I appreciate it.

Mr. NORRIS. I think I have an open mind. I am unconscious of any prejudice that I have on the subject. I do not know whether I should favor the proposed change or not, because it is a very great question, I think. I know that much can be said in favor of the Senator's position. He is probably right in thinking that one committee ought to do it all.

Mr. WATSON of Georgia. Mr. President——

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

Mr. NORRIS. I thought the Senator had yielded to me.

Mr. WATSON of Georgia. I rise to a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WATSON of Georgia. Is this an executive session?

The PRESIDING OFFICER. The Chair thinks the suggestion is well taken, and that Senators should speak a little louder, so that Senators in other parts of the Chamber can hear what is said.

Mr. WARREN. If the Senator is alluding to me, I shall endeavor to make myself heard, although I am suffering somewhat from a bad throat. I will say to the Senator from Georgia, however, that I am sorry to say I am often obliged to ask somebody, when he is talking, what he says. This time I really did not hear him at all.

Mr. JONES of Washington. Mr. President——

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

Mr. NORRIS. I hope the Senator will let me conclude.

Mr. JONES of Washington. I did not want to interrupt. I thought the Senator was through.

Mr. NORRIS. I will yield to the Senator, however.

Mr. JONES of Washington. I am obliged to leave for a committee meeting.

Mr. NORRIS. Then I will yield.

Mr. JONES of Washington. I merely wanted to ask the chairman of the committee whether he is presenting this matter to-day as a notice, under the rule, of his intention to offer this amendment to the rules?

Mr. WARREN. No; I am not presenting it now in that way; but I am asking that it go immediately to the Committee on Rules.

Mr. JONES of Washington. I think the Senator should present it.

Mr. WARREN. I am not moving to change the rules, except to put it in that shape. I have no objection to the other course, except that it might result in delay.

Mr. JONES of Washington. I do not think it would result in delay at all, because I take it that the committee could not report an amendment to the rules without giving a day's notice, as the rules require. I think the Senator will be gaining time if he asks to have this treated as a notice of his intention to present an amendment to the rules, and then he can ask that it be referred to the committee to-morrow.

Mr. WARREN. Very well, Mr. President; then I give notice that I shall present such an amendment.

The PRESIDING OFFICER. The Chair is advised that the practice has been to refer such matters immediately to the Committee on Rules in any event, and that was done a few minutes ago.

Mr. NORRIS. I think it would be in order to take either course. The rules provide that a Senator can present his motion and give notice and have it read, and the next day he can offer it, and it does not have to go to the Committee on Rules at all; but the Senate would probably refer it to the Committee on Rules. Another way, I take it, would be that the Senator could have it referred to the Committee on Rules, as he has done. That seems to me to be perfectly proper.

Mr. WARREN. Whichever way may be deemed best by the Senate is entirely satisfactory to me.

Mr. NORRIS. I should like to ask the Senator whether he has made any inquiry from Members of the House of Representatives as to how this new rule has worked over there?

Mr. WARREN. I have.

Mr. NORRIS. What do they say?

Mr. WARREN. Not only have I done that but I have watched its operation very closely. They were not satisfied with it when first put into operation, because they were working under the old estimates, and those old estimates came up, as we all know, practically from the different employees—men drawing $2,000 or $2,500, heads of divisions. The department heads, the Cabinet officers, received those estimates, and they came on up through them. They sent them, for want of time, as I have explained, to the Secretary of the Treasury because the law required it. The Secretary of the Treasury confessedly gave them no attention except to send them forward. I quote the remarks of the distinguished Senator from Virginia [Mr. GLASS], who, responding to an inquiry of mine soon after he came to the Senate as to whether these matters that came up for consideration had had the consideration of the Secretary, stated very emphatically that for want of time he sent them to us as they came to him.

Mr. NORRIS. That will not be true now, however.

Mr. WARREN. I was going to say that now, for the first time, we have the first bill that is really under the Budget system. It was given a day for debate in the House. The day was not all used. Then the next day it passed quite early in the day, and I think there were but one or two very slight changes. One point of order was made by the Member from Texas [Mr. BLANTON], which struck out the provision for an undersecretary of the Treasury, and there were one or two places where a little change of language by way of explanation was made; but the new rule has seemed to be very satisfactory. I met different Members, including Members who had been very skeptical theretofore, and they said, "Things are going mighty well under the Budget."

Take the Post Office bill; that was brought in one day and submitted to the usual course of debate. The next day I went over—I went over only once or twice to see how things looked—and just as I got inside the door the House adjourned, I should say a little after 2 o'clock in the afternoon.

Mr. NORRIS. They found out that the Senator was coming, I suppose.

Mr. WARREN. Oh, no; they do not have that respect for the Senate—not for me, at least.

Mr. NORRIS. I am not sure that the fact that they could get one of these big bills through in a day is any recommendation for the change, because that probably would mean that it was not given very much consideration.

Mr. WARREN. On the contrary, the hearings were very complete. The hearings were distributed and noted. When I speak of the readiness with which the bill was passed, I agree with the Senator that that means nothing of itself; but in talking with those who were not members of the committee, the other Members who take an interest in these affairs, I have yet to find anybody—there may be some, but I have yet to find anybody—who criticizes the bills as they are conducted now under the present rules. As the Senator from Washington [Mr. JONES] remarked a few days ago, there was some delay in the last session in the way bills came over here from this one committee; but they were gotten up under the old estimates, which, as we all know, were very incomplete, so far as giving the information we wanted was concerned.

INTERCHANGEABLE MILEAGE TICKETS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 848) to amend section 22 of the interstate commerce act by permitting the issuance of interchangeable mileage tickets on railroads, and for other purposes, which was read, as follows:

Be it enacted, etc., That section 22 of the interstate commerce act is amended by inserting "(1)" after the section number at the beginning of such section and by striking out all after the first proviso of such section and inserting at the end of such section two new paragraphs to read as follows:

"(2) Each common carrier by railroad, or partly by railroad and partly by water, within the continental United States subject to this act, shall issue interchangeable nontransferrable 5,000-mile tickets (including the privilege of carrying baggage free to the amount of —— pounds), to be sold at the rate of 2½ cents a mile, for transportation of persons on any lines of such carrier or any other such carrier, without regard as to whether the points of origin and destination for any single journey are within the same State. The commission, by order, (a) may initiate and establish such classifications, regulations, and practices relating to such tickets, (b) may make such regulation as it deems necessary for the enforcement of the provisions of this paragraph, and (c) shall modify the rate established by this paragraph, whenever in its opinion there is, after this paragraph takes effect, a substantial alteration in the average rate level for the transportation of persons by such carriers throughout the country as a whole, so as to increase or decrease such rate directly in proportion, as nearly as the commission deems practicable, to such alteration in such average rate level. Any ticket unused in whole or in part at the time of any such modification may be redeemed at the same rate per mile as that for which it was purchased. No common carrier shall demand, collect, or receive greater or less compensation for the transportation of persons or baggage under any such 5,000-mile ticket than that required by the provisions of this paragraph or any order of the commission issued thereunder; or refuse to accept any such ticket for the transportation of persons as provided in this paragraph.

"(3) If any provision of paragraph (2) or the application thereof to any person or circumstances is held invalid, the validity of the remainder of such paragraph and the application of such provision to other persons and circumstance shall not be affected thereby."

Mr. ROBINSON obtained the floor.

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

The PRESIDING OFFICER (Mr. JONES of New Mexico in the chair). The Secretary will call the roll.

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

Borah	Glass	McKinley	Smoot
Bursum	Hale	McNary	Spencer
Calder	Harreld	Nelson	Swanson
Cameron	Harris	Nicholson	Townsend
Capper	Harrison	Norris	Trammell
Caraway	Heflin	Oddie	Wadsworth
Culberson	Jones, N. Mex.	Overman	Walsh, Mass.
Cummins	Jones, Wash.	Page	Walsh, Mont.
Curtis	Kellogg	Phipps	Warren
Dial	King	Pittman	Watson, Ga.
Edge	Ladd	Poindexter	Watson, Ind.
Ernst	La Follette	Pomerene	Williams
Fernald	Lenroot	Robinson	Willis
Fletcher	Lodge	Sheppard	
France	McCumber	Simmons	
Frelinghuysen	McKellar	Smith	

Mr. WALSH of Massachusetts. I desire to announce the absence of the Senator from Rhode Island [Mr. GERRY], on account of illness.

The PRESIDING OFFICER. Sixty-one Senators having answered to their names, a quorum is present.

Mr. ROBINSON. Mr. President, the bill now under consideration is of very great importance and some controversies respecting the propriety or justification for its passage will arise during its consideration. I therefore hope that Senators who are interested in the subject will remain in the Chamber so as to avoid the necessity for the repetition of statements of fact and argument, to the end that, if possible, the consideration of the bill may be concluded within a reasonable, not to say a brief, time.

Mr. President, the demand for the issuance of mileage books for use in travel had become so great in the early part of 1921 that many Senators introduced bills upon the subject. Among those Senators may be mentioned the Senator from Indiana [Mr. WATSON], whose bill is now under consideration; the Senator from Tennessee [Mr. MCKELLAR], the Senator from Wisconsin [Mr. LENROOT], the Senator from Missouri [Mr. SPENCER], the Senator from Georgia [Mr. HARRIS], and the Senator from Arkansas [Mr. ROBINSON].

Mr. POINDEXTER (from his seat). I suppose every Senator will vote against the other Senator's bill.

Mr. ROBINSON. It is noted that the Senator from Washington remarks that every Senator will vote against the other Senator's bill. I hope that the matter will not take that course. I was about to say, before the humorous remark of the Senator from Washington just quoted, that these bills have a uniform purpose, but their provisions are in some respects quite different from the provisions of the bill now under consideration. It is my intention to explain briefly this measure and also to discuss what I believe will be its probable and reasonable consequences in relation to railway revenues.

The bill provides for the issuance of mileage books at the rate of 2½ cents per mile. The average rate for passenger fares, according to my information, is now 3.6 cents per mile. It is noticeable that the bill contemplates the issuance of these books at a rate substantially lower than the prevailing average passenger rates. I believe that it is 25 per cent less than the average rates now in force.

Mr. CUMMINS. The Senator from Arkansas ought to mention in that connection that the general level of passenger rates is 3.6 cents per mile.

Mr. ROBINSON. I have done so.

Mr. CUMMINS. But that does not include the surcharge made upon the tickets of persons who ride in Pullman cars.

Mr. ROBINSON. I intend to speak of that in the course of my remarks, and I intend to discuss briefly the times and purposes under which passenger rates have been greatly increased during the last few years. Now, however, I prefer to pursue the analysis of the pending bill.

This bill provides for the issuance of books in blocks of 5,000 miles. It has been suggested by many that there should be a substantial reduction in the mileage to be contained in the books. My investigations upon that subject have led me to the conclusion that the books should probably be issued in blocks of something like 2,000 miles; that this will not tend to a reduction of revenues, but will probably cause an increase in revenues.

Under this bill the unused portions of books, if any, are not redeemable, and the books can be used by the purchasers only. Later on in my remarks I expect to recur to these features of the bill. They are important and bear a substantial relation to the revenues.

Mr. WATSON of Indiana. Mr. President——

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

Mr. ROBINSON. I yield.

Mr. WATSON of Indiana. The Senator, I think, misstated one of the provisions of the bill; that is, that the unused portions are not redeemable. They are redeemable at the same price at which they were purchased. The bill reads:

Any ticket unused in whole or in part at the time of any such modification may be redeemed at the same rate per mile as that for which it was purchased.

Mr. ROBINSON. But the Senator will understand that the language he is now quoting relates to a very different provision from that which I am now discussing.

Mr. WATSON of Indiana. Oh, yes; I see that.

Mr. ROBINSON. The Senator from Indiana, I take it, understands his own bill.

Mr. WATSON of Indiana. Yes; I do.

Mr. ROBINSON. When his attention is called to it, he will readily see that the provision for redemption in this bill relates to a modification of the rate by the Interstate Commerce Commission in the event the commission finds a necessity for modifying the rate when it is considered in connection with rate levels and railway revenues.

I repeat my statement in order to make it clear, that under this bill, if the books are not used, or any portion of them is not used, or if they are lost, there can be no redemption, and that that provision bears a substantial relation to the subject of revenues. I think the Senator from Indiana agrees with me upon that construction.

The demand for this legislation in part grows out of the conditions which have arisen respecting travel under the prevailing high passenger rates. The bill does not make its benefits to any particular class of citizens. Any person who desires to do so is at liberty to purchase one of these books. The demand comes in large part from commercial travelers and their associations, manufacturing associations, jobbers' associations, farming organizations, theatrical and moving-picture companies, and,

in general, organizations whose representatives travel a great deal.

Undoubtedly the principle upon which such legislation rests, and should be justified, is a recognition of wholesaling in transportation. I am not unmindful of the fact that some of the courts have stated in decisions that the principle of wholesaling is not recognized in the laws in connection with transportation. I have found no case, however, in which such a statement is more than obiter. Undoubtedly the principle of wholesaling is now and has for a long period been applied in connection with freight rates, and no reason can be assigned why it should be applied to freight rates and denied as to passenger rates.

Let us look for a few minutes at the recent history of mileage books in transportation. During the war in order to diminish travel and thus enable the Government, in the Federal operation of railroads, more promptly and efficiently to handle freight business, indispensable in the successful conduct of the war, the Director General of Railroads issued general order No. 28, embracing section 8, effective June 10, 1918, as follows:

No mileage ticket shall be issued at a rate that will afford a lower fare than the regular one-way tariff fare.

Mr. McKELLAR. What was the date of that order?

Mr. ROBINSON. The order was issued to be effective June 10, 1918. I have not the date that order was issued, but it was a short time prior to the date it became effective, and I think that is the material date.

Mr. CUMMINS. I think it was issued on the 28th of May—at least some time during the latter part of the month of May.

Mr. ROBINSON. I think that is correct. On August 2, 1918, passenger fare authority No. 26 was issued, reading in part as follows:

Carriers under Federal control, and their authorized agents, are hereby authorized to supplement tariff now in effect canceling the sale of all forms of mileage and scrip books effective August 20, 1918, such supplements to provide that outstanding tickets will be honored within limit, under conditions shown in tariffs under which sold, or will be exchanged for new scrip books containing coupons of equivalent value.

By that authority mileage books were canceled and their issue forbidden. As I have already stated, one of the important purposes upon which those orders were justified was the desire to reduce travel at that time rather than to promote it. So far as my memory goes, it was not related closely to the purpose of increasing railway revenues.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER (Mr. WALSH of Massachusetts in the chair). Does the Senator from Arkansas yield to the Senator from Iowa?

Mr. ROBINSON. I yield.

Mr. CUMMINS. The order of the director general does not state the desire to reduce travel as a reason for the abolition of mileage books. I assume the Senator from Arkansas infers that from the general condition which then prevailed. I hope he will remember also that the increased freight rates which were put into effect at or about the same time were obviously for the purpose of increasing revenue. This order, as the Senator will remember, or an order issued about the same time, increased freight rates 25 per cent.

Mr. ROBINSON. Yes, Mr. President, I think that is true. I know it is true that the order issued by the director general did not state any justification for the action in terminating the use of mileage books; but I am sure that neither the Senator from Iowa nor anyone else who is familiar with the transportation history of that period—and there is no one more familiar with it than the Senator from Iowa—will controvert the statement that the primary object of terminating the use of mileage books in transportation was to diminish travel, not to increase revenues. I shall have something to say a little later about the relation of the subject to the question of revenue.

Mr. CUMMINS. I do not wish to be misunderstood by appearing to assent to the proposition just made by the Senator from Arkansas. It might have been very desirable at that time to decrease travel, but the director general increased passenger rates to 3 cents per mile throughout the country, and that increase was intended by him to produce the revenue which he thought he ought to have in order successfully to operate the railroads. I suppose that the abolition of mileage books was for the same purpose—the increase of revenue.

Mr. ROBINSON. Mr. President, increases in passenger fares under General Order No. 28 became effective June 10, 1918. All regular fares on railroads under Federal control which were lower than 3 cents per mile were increased to that figure. Commutation fares were increased 10 per cent. There was, as stated by the Senator from Iowa, a substantial and an important increase in passenger fares at the same time the order stopping the use of mileage books went into effect.

But I repeat that, in my judgment, the principal justification for the order terminating the use of mileage books was not closely related to revenues. It was more closely related to the desire of the director general to stop the public from traveling unnecessarily, so that some of the facilities which were used in passenger traffic might be used in moving troops, munitions, and supplies necessary for the successful conduct of the war.

Mr. McKELLAR. Mr. President——

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

Mr. ROBINSON. I yield.

Mr. McKELLAR. Has the Senator any figures showing the effect of the abolition of mileage books upon the revenues of the railroads?

Mr. ROBINSON. Yes; and I shall discuss that in some detail a little later.

Mr. PITTMAN. Mr. President——

Mr. ROBINSON. I yield to the Senator from Nevada.

Mr. PITTMAN. I understand the Senator from Arkansas to contend that while no reason was given for these particular acts, yet it is common knowledge to the Senate and probably to the country that the most important thing then required was to break up the congestion in railroad transportation in the country, so that we might reach the ports with the necessary war materials that had to go to Europe.

Mr. ROBINSON. Oh, yes; and it was also currently discussed that the people were traveling more than they needed to travel, and that something ought to be done to stop that, so that the things that had to be done might be more easily accomplished.

Mr. CUMMINS. Mr. President, will the Senator yield to me again?

Mr. ROBINSON. I yield with pleasure.

Mr. CUMMINS. I have no way of ascertaining what was the object or purpose in the mind of the director general in increasing passenger rates. I have always assumed it was for the purpose of getting enough revenue to run the railroads, but if it was his purpose to decrease travel he failed signally, because from that time on until 1921 the passenger travel upon the railroads of the country advanced by leaps and bounds, so that there was more passenger travel in 1920 than there has ever been before in the history of the United States.

Mr. WATSON of Indiana. Mr. President, will the Senator from Arkansas yield to me that I may ask a question of the Senator from Iowa?

Mr. ROBINSON. Certainly.

Mr. WATSON of Indiana. Does the Senator from Iowa insist that there was any relation between those two things—the discontinuance of the mileage books and the increase in passenger travel?

Mr. CUMMINS. I do not think there was any relation between them, because passenger travel depends upon a great many other things than the mere rates which the passenger must pay. I am only saying that if it was the object of Mr. McAdoo to reduce travel, the increase of rates failed to accomplish that purpose.

Mr. ROBINSON. Mr. President, it is true that in spite of the effort made to diminish travel, it continued. This was the result of the conditions which existed and the state of mind of the people. It was more or less the result of psychological conditions. The people were in a state of excitement and anxiety, and the natural result was that they wanted to move about. Then, of course, their movement was in many instances made necessary by the existence of war conditions.

Mr. WALSH of Massachusetts. Mr. President——

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

Mr. ROBINSON. Certainly.

Mr. WALSH of Massachusetts. At that time were there not millions of soldiers in camp, and people who never traveled before went miles to visit their sons and daughters who were in the camps of the country?

Mr. ROBINSON. Undoubtedly. Thousands of women—mothers, sisters, sweethearts—and thousands of men—fathers, brothers, and friends—visited military camps, traveled long distances from the interior of the country to the embarkation points for the sole purpose of bidding good-by to soldiers who were going abroad to fight in foreign lands and perhaps never to return. But no one can dispute that at the time this order went into effect there was a well-understood policy on the part of the Federal administration of railroads to discourage travel where it was not necessary. The reasons for it I have already stated.

Let me turn briefly to a consideration of what I believe will be the reasonable effect of this legislation. First, it will tend to stimulate travel. The railroad executives of the country do not seem to realize that by the maintenance of both excessive passenger and freight rates business which ordinarily should be conducted on the railroads is being diverted to other instrumentalities.

Throughout the United States better roads are being constructed and thousands of commercial travelers and others in the course of their regular business are employing automobiles for traveling, and thousands of persons are receiving deliveries of freight through automobile trucks and similar means. The reason, in part, for it is that both passenger and freight rates are too high on the railroads. If freight rates were reduced to-morrow, judiciously reduced, intelligently reduced, it probably would promote more business and yield more revenue than the railroads are now receiving, and the same is equally true of passenger rates.

This diversion of traffic from railroads to automobiles and automobile trucks is a policy that is growing, and the railroads can only counteract it by doing something to invite and encourage the public to use their instrumentalities.

I wish to be frank. I am not a transportation expert and I do not think I am qualified to tell the Senate or anyone else just what will be the effect of a general increase or reduction in rates. For six months, under the order of the Senate, as a member of a joint commission of Congress I have been trying to look into that question. I know that thousands of cases exist where business is being discouraged, retarded, hampered, and hundreds of cases exist where it has been prevented by reason of the very excessive rates that are being charged by the railroads.

I know that thousands of traveling men in the United States, men who earn their living as drummers or commercial travelers, have left the road. Some drummers are traveling in automobiles and others are staying at home, for the reason that the passenger rates which they are now compelled to pay have discouraged their employers, and have induced them to adopt a restrictive policy in their business.

Mr. WALSH of Massachusetts. In many instances the rates have prohibited business.

Mr. ROBINSON. As the Senator from Massachusetts [Mr. WALSH] suggests, in many instances the rates have prohibited business. This condition is growing worse and will continue to grow worse unless something is done to relieve it.

Mr. McKELLAR. Mr. President——

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

Mr. McKELLAR. As an illustration of the point the Senator from Arkansas is stating and stating so well, I wish to suggest to him that some time ago the Senator from Wyoming [Mr. WARREN], who is, as we all know, a large sheep raiser in Wyoming, said to me it was a strange thing that we were complaining of hard times down South when he could not for a reasonable price buy any cottonseed meal for his sheep in Wyoming. I said to him, "Senator, cottonseed meal is cheaper in Memphis, Tenn., at this time"—referring to the time when he was speaking—"than it has been since the year 1914, and there is no reason in the world why you can not buy cottonseed meal cheaply in Memphis, Tenn. I have just returned from there, and I happen to know the price of cottonseed meal." He said, "That may be true, but the freight rate from Memphis to Wyoming is considerably more than the price of the cottonseed meal in Memphis." In other words, the Wyoming market for cottonseed meal for sheep feeding purposes was absolutely closed because of the excessive freight rates.

Mr. ROBINSON. Mr. President, the illustration just given by the Senator from Tennessee is forceful. Hundreds of similar cases were brought to the attention of the Joint Commission on Agricultural Inquiry, disclosing that the movement of commodities which has heretofore been reasonably profitable, and which was profitable prior to the installation of these excessive rates, has now become unprofitable, and that in many instances the freight charge equals the entire selling price of the commodity. That condition means, of course, if it is to become permanent, that the particular business referred to has terminated, for unless there is a reasonable hope that some profit will be derived from a business it will not be carried on.

Mr. CARAWAY. Will the Senator from Arkansas yield to me?

Mr. ROBINSON. I yield to my colleague.

Mr. CARAWAY. Possibly the Senator has already alluded to the matter which I am going to suggest, but I do not remember his having done so. The people in the neighborhood of Hope, Ark., ship cantaloupes and other commodities. I remember on one occasion they shipped a carload of cantaloupes from Hope to Pittsburgh. The carload sold for $586.70, but after the freight and other charges were paid the growers received only $38.20. Oh over $10,000 worth of produce of one kind or another, including cantaloupes, beans, and other similar commodities, the average freight rate ran from 60 to 94 per cent of the total selling price of the produce.

Mr. ROBINSON. Mr. President, take the case of potatoes shipped from North Carolina to the Chicago market. In some instances from carload lots there was realized barely enough to pay the freight, and in other instances an entire carload lot of potatoes, when potatoes were selling on the market in Chicago at $2 a bushel, yielded but $30 or $60.

I do not believe that any Senator will controvert the proposition that there is a point at which an ascending scale of rates will diminish revenue. If passenger fares were 10 cents per mile instead of 3.6 per mile as now, the revenues from passenger fares would probably be much less than the amount which is now received. I have before me a statement of the revenues received from passenger fares on all class 1 railroads in the United States during every month, beginning January, 1915, and I am going to put that statement in the RECORD. I take the position that the increases in passenger rates to which I am about to refer have not materially increased revenues but in all probability have diminished them.

I have already referred to the increases that were made under the director general. After the Federal administration of railroads had substantially expired there was issued "Increases under ex parte 74," which took effect August 26, 1920, according to which all passenger fares were increased 20 per cent and a surcharge upon passengers riding in sleeping cars and parlor cars amounting to 50 per cent of the rate charged for space in such cars was authorized, and those increases are still in effect. The average rate that a person traveling now pays is 3.6 cents per mile.

I wish to make a comparison now between the revenues under the rate when the average was 2.6 per mile and the revenues under the rate when it became 3.6 per mile. As the Senator from Iowa has suggested, these figures are not conclusive of the point I am seeking to make; a great many circumstances properly enter into the consideration of the question, and I do not think it is possible for anyone to say that the analogy which I am drawing is a conclusive one; but during the first half of 1920 the total revenues from an average fare of 2.6 cents per mile were $564,586,242, while during the first half of the following year, after the order to which I have referred, granting a 20 per cent increase and providing for a surcharge on the fares of those who ride in Pullman or parlor cars had gone into effect, the revenues were $573,254,211, or an increase of only a little over $8,666,000, notwithstanding the rate had been increased on the average from 2.6 cents per mile to 3.6 cents per mile.

Mr. WALSH of Massachusetts. Mr. President, will the Senator yield?

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

Mr. ROBINSON. I yield, with pleasure.

Mr. WALSH of Massachusetts. Will the Senator state how many increases in passenger rates per mile there have been since 1915?

Mr. ROBINSON. I have referred to the increase made by the director general.

Mr. WALSH of Massachusetts. Yes; amounting, as I understand, to about 20 per cent?

Mr. ROBINSON. And to the surcharge, and the increase of 20 per cent made by the Interstate Commerce Commission. I think that is all. The increase made by the director general, which was in effect for a time, was an increase to 3 cents per mile during the period it was in effect.

Mr. WALSH of Massachusetts. I was going to suggest to the Senator, in connection with the table which he has introduced showing the revenues from passenger service received by class A railroads, that he also show what increases have been made in passenger rates per mile from 1915 up to the present time by such railroads.

Mr. ROBINSON. I have stated all the general increases with which I am familiar. The figures with which I am dealing in connection with the point which I am attempting to make relate to the changes that have occurred under the present high rates. I take the figures beginning with the year 1920 when the rate was 2.6 per cent and compare the earnings for the first half of that year, when that rate prevailed, with the

earnings for the first half of the next year when the higher rate of 3.6 cents prevailed, and I show that the difference in revenue was only about $8,666,000.

Mr. WALSH of Massachusetts. I think the Senator has made that clear.

Mr. CUMMINS. Mr. President——

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

Mr. CUMMINS. Mr. President, I think there is a little confusion—at least there is in my own mind—in regard to the figures just given by the Senator from Arkansas. I will ask him whether this is not the exact situation: During Federal control the rates were 3 cents per mile; that is, those were the maximum rates?

Mr. ROBINSON. That order went into effect June 10, 1918.

Mr. CUMMINS. It went into effect in June, 1918; but when the Senator speaks of a rate of 2.6 cents per mile he speaks of the actual revenue—that is, the average of the rates actually charged and the money actually received by the railroad companies.

Mr. ROBINSON. When I speak of 3.6 cents per mile the same rule applies.

Mr. CUMMINS. There is the confusion. When the Senator speaks of a rate of 3.6 cents per mile there is the same disparity between that general level of passenger rates as there is between 2.6 cents per mile and 3 cents per mile. The railroads have not actually received upon the average 3.6 cents per mile.

Mr. ROBINSON. Yes; they have; that is the point I am making.

Mr. CUMMINS. I venture to say that the Senator is mistaken about that.

Mr. ROBINSON. Well, of course, I can not testify as to what the books of the railroads show, or anything of that sort, but in the first half of 1920——

Mr. CUMMINS. I have a communication from the Interstate Commerce Commission on that very point, and at the proper time I think I can convince the Senator from Arkansas that the railroads have not actually received 3.6 cents per mile.

Mr. ROBINSON. That is the average rate charged.

Mr. CUMMINS. So was 3 cents a mile the average rate charged during the other period.

Mr. ROBINSON. All ordinary passenger rates below 3 cents were raised to that figure.

Mr. CUMMINS. But it resulted in the railroads only receiving 2.6 cents per mile.

Mr. ROBINSON. I now understand the suggestion of the Senator; unquestionably there would be a discrepancy between the average rate and the actual rates as to revenues; but the discrepancy does not apply with great force to the point I am making, because the average rate for the first half of 1920 is compared with the average rate for the first half of 1921, and the difference probably would apply to the one as well as to the other.

Mr. CUMMINS. Precisely. I was not disputing the conclusion which the Senator from Arkansas was drawing from the facts, but I wanted the exact relation between the rates in these two periods to be borne in mind; and I should like to say a word, if the Senator will permit me, with regard to a statement he made a moment ago.

Mr. ROBINSON. Certainly.

Mr. CUMMINS. So far as I am concerned—and I think what I say would be the judgment of every man who knows anything about this subject—there is a point which measures the maximum producing qualities of a railroad rate, whether freight or passenger; and if the rate is advanced beyond that point, the result will be a lessened revenue instead of an increased revenue.

The position I take with regard to this particular bill is that the Interstate Commerce Commission is the best judge with regard to that point, and where the line should be drawn. It is charged with that duty, and it exercises its jurisdiction after hearings and notice and after full information; and it has said that the rates which now prevail are at the point at which they will produce the maximum revenue. I, for one, do not feel like reviewing the action of the Interstate Commerce Commission and insisting that it is less qualified to enter a judgment upon this question than the Congress of the United States, which must necessarily act with very inadequate and imperfect information.

I wanted that to be made perfectly clear before the Senator proceeds further. I agree with everything that the Senator from Arkansas has said.

Mr. ROBINSON. I am very happy in that information, Mr. President, because that simplifies what appears to be my task, and I thank the Senator for his interruption.

Mr. NORRIS. Mr. President——

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

Mr. ROBINSON. I yield; but I do not want to be diverted from the statement of the Senator from Iowa.

Mr. NORRIS. I wanted to refer to a part of his statement.

Mr. ROBINSON. All right.

Mr. NORRIS. I wondered if the Interstate Commerce Commission takes the position that it is its duty to retain rates on the railroads at a point which shall be absolutely the maximum revenue-producing point; and does the Senator from Iowa take such a position?

Mr. ROBINSON. Let me answer the Senator.

Mr. CUMMINS. Mr. President——

Mr. ROBINSON. It has not done anything of the kind, and I was just about to say to the Senator from Iowa that his declaration to that effect was an inference that is not justified by the facts.

Now, what are the facts?

Mr. CUMMINS and Mr. McKELLAR addressed the Chair.

Mr. ROBINSON. Just let me have a little of my own time, and then I will yield. The Interstate Commerce Commission has not determined the question; it now is considering the reduction of rates. Does the Senator from Iowa mean to imply that it has decided to maintain the maximum revenue-producing rates and not to lower existing rates? I do not think the Senator meant that inference.

Mr. CUMMINS. Mr. President, I said nothing even to suggest that inference. The Senator from Arkansas was arguing that a reduction in passenger rates would increase the revenue of the railroads—I assume he means the net revenue of the railroads—and he said that there was a point beyond which increased rates would result in a lessened revenue, and I agree to that; but I said that the Interstate Commerce Commission is a better judge of that point than the Congress of the United States.

Mr. ROBINSON. And the Senator also said, if I may interpolate, that the Interstate Commerce Commission had decided that the present rates were the rates which would produce the maximum revenue.

Mr. NORRIS. And that is what brought about my inquiry.

Mr. ROBINSON. Yes; and the commission has not decided any such question.

Mr. CUMMINS. I beg the pardon of the Senator from Arkansas if I said any such thing.

Mr. ROBINSON. The Senator certainly said it.

Mr. CUMMINS. I did not intend to say it. This is a paraphrase of what I intended to say:

In August, 1920, the Interstate Commerce Commission, having considered after a long and arduous hearing the whole railroad situation, advanced the rates to the point which has been named by the Senator from Arkansas because in the judgment of the commission the railroad companies were entitled to and must have the revenue which these rates would produce. If the Interstate Commerce Commission had been of the opinion that lower rates would have produced the revenue to which the railroads were entitled, the rates would have been fixed at a lower point. Therefore, if any mistake has been made, it is the mistake of the Interstate Commerce Commission in believing that lower rates than now prevail would not have produced the revenues to which the railroad companies are entitled.

Mr. ROBINSON. Mr. President, it is entirely conceivable, from facts within the knowledge of all of us, that under the circumstances the commission might have made a mistake; and, indeed, I believe a mistake has been made.

What are the facts? At the expiration of Federal control and prior to this order the railroads filed their new schedules for new rates to go into effect. It was known that they required additional revenues. The commission adopted the tariffs proposed and permitted them to go into effect. The matter has been under experiment. I am maintaining that if the rates had been fixed upon a somewhat lower basis, both as to freights and as to passengers, the revenues likely would have been greater, and I think I am prepared to show that by figures. I have already referred to the fact, and other Senators have mentioned it, that much business has been prevented by reason of the alleged excessive rates charged. Would it not have been better to permit that business to continue and to develop under slightly lower rates, rather than to destroy the business?

Mr. McKELLAR. Mr. President——

Mr. ROBINSON. Just one moment. In the case of passenger rates, if thousands of men have been driven from the railroads to find new means of travel, and thousands of others have been kept at home, by reason of the high rates, would it not have

been more profitable to the railroads, instead of running empty trains, as they are now doing throughout this country, to have filled their trains with passengers at somewhat lower fares?

I now yield to the Senator from Tennessee.

Mr. McKELLAR. The Senator has just stated what I was about to suggest—that whether or not a railroad is prosperous depends upon the volume of its business quite as much as upon the rates fixed.

Mr. ROBINSON. And if it operates under rates that constantly diminish the volume, no matter how high the rates are, it may reduce its revenues.

Mr. McKELLAR. Why, of course.

Mr. ROBINSON. Of course that is axiomatic.

Before I revert to the statement of the Senator from Iowa let me state that in going home from Washington to Little Rock, Ark., I have found the Pullman cars, which were crowded beyond their capacity prior to the installation of the present rates, since have been half filled to the point of St. Louis. Going from St. Louis south and southwest I frequently have enjoyed the privileges of a private car, few others riding in them, and principally for the reason that the rates have been made so high that the people will not pay them.

There is not a Senator here who travels who does not know that the great trains that come thundering into the station in this city are coming with their parlor cars and their Pullmans half filled now. The passengers on a train that entered this station over one of the big lines a few days ago were counted, and there were scarcely a hundred. Would it not be more profitable to that railroad and to every other railroad, instead of operating these cars partly empty at the same cost that it would require to operate them when filled, to put into effect rates that would invite travel, and thus secure additional fares?

Mr. SMITH. Mr. President——

Mr. ROBINSON. I yield to the Senator from South Carolina.

Mr. SMITH. If the Senator will allow me, I should like to give an illustration of the operation of these excessive rates, as one illustration is generally worth an hour's argument.

After our recess a relative of mine, my brother, who had unfortunately very suddenly lost his sight, had to come to Washington for treatment. I therefore engaged the drawing-room from our home to this place. Prior to any increase in the rates the price of the drawing-room from Lynchburg, S. C., to Washington was something like $9.50. We paid from that point to this city—about 460 miles—$19 and the major fraction of a dollar. The surcharge of 50 per cent on the regular charge amounted to something like $6.50, in addition to the thirteen or fourteen dollars that was charged as the regular rate, and that was after the war tax had been deducted.

Mr. ROBINSON. Mr. President, supplementing the illustration of the Senator from South Carolina with one of my own, I recently traveled with my family from Little Rock, Ark., to Washington in a drawing-room, and I paid $44 and 90-odd cents for the drawing-room space.

Of course, Senators may answer that I had a remedy—to go out and ride in a day coach, or on top of the cars, or on the rods, or I could have come by other means of transportation—but the point to the proposition is that the railroads would make more money if they charged a reasonable fare for such services, and that the fare now charged is unreasonable.

Mr. NORRIS. Mr. President, would the Senator have gotten a reduced rate on top of the car if he had ridden that way?

Mr. ROBINSON. I might have been in a better financial if a worse physical condition if I had resorted to that elemental method of travel.

Mr. PITTMAN. Mr. President——

Mr. ROBINSON. I yield to the Senator from Nevada.

Mr. PITTMAN. I want to get back to the evidence that the increase in rates in the latter half of 1920 did not show a proportionate increase in revenues. I am not saying that that is proof; I say the evidence, whatever weight it has. I should like to have the figures again.

Mr. ROBINSON. I am glad the Senator from Nevada suggests that. I had prepared to make a consecutive statement regarding those figures. I was diverted from it. I will make the statement again.

In the first half of 1920, when the average passenger rate was 2.6 cents per mile—although that was not the actual fare paid, as suggested by the Senator from Iowa—the revenues were only $8,666,000, less than they were in the first half of 1921, when the average fare paid was 3.6 cents per mile, or a cent per mile more than in the first period with which it is compared; although in the latter case, as in the former case, the average fare, of course, can not represent the actual fare, and these figures are used only for purposes of comparison. I want to show, further, the effect of those rates on travel.

Mr. PITTMAN. Permit me to ask a question before the Senator goes to that. In other words, the increase of approximately 25 per cent in rates made an approximate increase of only 1 per cent plus in revenue. I think it figures out approximately that.

Mr. ROBINSON. The Senator from Nevada can make the calculation. I will be glad to have him do so.

Mr. PITTMAN. I think that is approximately true.

Mr. ROBINSON. That enforces the proposition I am making. Carry this comparison further. I said these rates were now so high that they discourage travel. The comparison I am making proves that. While the revenues for the first half of 1921, under the high rates I have already described, exceeded the revenues for the first half of 1920 by $8,666,000 plus, the number of fares paid was approximately $73,000,000 less in the first half of 1921 than in the first half of 1920. The number of fares paid in the first half of 1920 was 595,771,000. The number of fares paid in the same period of 1921 was only 522,195,000, or more than 73,000,000 less, tending to show that these rates did discourage travel very greatly.

In addition to that, not only were the number of fares sold under the high rate greatly diminished, as I have just shown, but the average journey traveled under the new and high rates for the first half of 1921 was only 35.4 miles, while the average journey under the lower rate in force in the first half of 1920 was 36.41 miles.

I have referred to the receipts from passenger fares by first-class railroads in the United States throughout the period beginning January 19, 1915, and extending to the end of the month of November, 1921. The December figures have not yet become available.

I have a statement showing these revenues by months. This statement not only reflects the passenger fares collected and their relation as between the higher and the lower rates, but there are also figures relating to freight, mail, and express, and while I have not examined the latter three thoroughly, I am going to put them into the RECORD. In general, the conclusion seems warranted that the same or greater revenues might be obtained if the rates were judiciously reduced. Of course, I do not mean that you could reduce them arbitrarily or on a percentage basis and produce that wholesome result. In that connection I admit that such work is for the Interstate Commerce Commission. Congress can not do it; but I propose to show in a few minutes why the Senate can intelligently act upon this proposition and why it need not refer it to the commission.

Mr. SMITH. Before the Senator makes his legal argument in reference to that I want to ask him if, in the tables which he has, there are any figures showing the increased revenues from all sources resulting from the change in rates, as compared with the prewar rates?

Mr. ROBINSON. Yes; I go back to January, 1915.

Mr. SMITH. If the Senator will allow me, I was led to ask that question because while chairman of the Interstate Commerce Committee of the Senate, just before the railways were turned back, or near the conclusion of Government control, I asked what increase there was in the revenues or the tariffs paid by the people by virtue of the flat raise, both in freight and in passenger rates, as compared with the tariffs on the same tonnage under the old rates, and the reply was that it was something in excess of a billion dollars. That meant an additional tax on the traveling and shipping public of something in excess of a billion dollars.

Subsequent to that there has been an increase of about 40 per cent, I believe, if I am correct, in the freight charges, and a like increase, or greater, in the passenger charges. It was from about 3 cents to about 3.6 cents, about 25 per cent increase.

Mr. CUMMINS. The increase of the passenger rates after the roads were turned back was an increase of 20 per cent, with a surcharge for those who traveled in Pullman cars.

Mr. SMITH. The point I want to make is that if the additional expense to the traveling and shipping public was in excess of a billion dollars under the first rate, this addition must be something like two billion dollars, because I remember that the fractional part of the billion was perhaps the major fraction of a succeeding billion. Adding that to this surcharge, and the 20 per cent raise in the passenger rates and in the freight rates, we find it has decreased passenger and freight rates, as the Senator from Arkansas has said, but still imposes something in excess of the prewar revenue of approximately $2,000,000,000.

Mr. CUMMINS. May I ask the Senator from Arkansas a question?

Mr. ROBINSON. Yes; I yield, if it is related to the subject I am discussing.

Mr. CUMMINS. Does not the Senator recognize that there are other conditions which affect passenger travel than the rate charge?

Mr. ROBINSON. I so stated, and I stated that the figures I am using are not conclusive on the subject. They are merely persuasive. I made that statement in the beginning.

Mr. CUMMINS. I wanted to have that statement made to satisfy my own mind about it.

Mr. ROBINSON. Reverting for a moment to one feature of the topic, as discussed by the Senator from South Carolina, let me give a few figures on freight for the same comparative periods; that is, the first half of 1920 and the first half of 1921. The total freight revenues for the first six months of 1921 were $1,863,836,308, as against $1,860,948,323 for the first half of 1920. The difference in freight earnings under the higher rates prevailing in the first half of 1921 and those of the first half of 1920 was less than $3,000,000.

How does the tonnage compare? Senators will see the force of the point I am attempting to make when I cite the figures. Tonnage, like passenger travel, dropped. The tonnage in the first half of 1920, the same comparative period, was 1,020,118 tons. In the first half of 1921, under the exorbitant rates which were then and are now being charged, the tonnage dropped to 779,360 tons.

As in the case of passenger fares, all of the facts and circumstances existing at the time concurred in producing this disparity, but in six months under low rates for freight the railroads received almost as much as they received in a similar period under the enormously increased rates, and at the same time their business dropped from more than 1,000,000 tons to 779,000 tons, plus.

Mr. WALSH of Massachusetts. They dropped about 25 per cent.

Mr. ROBINSON. Approximately 25 per cent. I maintain that if freight rates were reduced judiciously and promptly the tonnage would be so greatly and so rapidly increased that the revenues would exceed the revenues that are now being received, and the great and wholesome benefit that would come to this Nation in the stimulation and revival of business and prosperity can not be estimated.

Mr. POMERENE. Mr. President——

The PRESIDING OFFICER (Mr. BURSUM in the chair). Does the Senator from Arkansas yield to the Senator from Ohio?

Mr. ROBINSON. I yield.

Mr. POMERENE. The objection I have to this legislation is not that I feel that the rates ought not to be reduced, because I think they should be, just as the Senator has been contending. The objection I have is to establishing the precedent of having the Congress of the United States fix rates. What I rose to say was bearing out the Senator's theory that a reduction will increase traffic. I can give the Senator a concrete illustration from my own State.

About 15 or 16 years ago the legislature of Ohio passed what was known as the Feiner law, which reduced passenger rates from 3 cents to 2 cents per mile. It was contended that that legislation would reduce the revenues of the roads. The report of the State railway commissioner for the year following showed that the revenues at a 2 cents per mile rate in that State exceeded what they were the preceding year when the rate was 3 cents.

Mr. ROBINSON. That is a wonderfully apt illustration.

Mr. WALSH of Massachusetts. I understand the position of the Senator from Ohio to be substantially the same as that of the Senator from Iowa.

Mr. POMERENE. I did not hear the statement of the Senator from Iowa in full. I think it would be unfortunate if we should establish a principle of this character, because if we do, somebody will come in wanting rates established for iron and steel and every other commodity that is shipped. That is the difficulty about it.

Mr. WALSH of Massachusetts. Will the Senator from Arkansas deal with that aspect of the situation later?

Mr. ROBINSON. I am coming to that almost immediately. I believe that there is a general consensus of opinion in the Senate, among those who have attended this discussion, that if the railroads desire to increase their operating revenues they may better and more easily accomplish that end by a substantial and judicious reduction of both passenger and freight rates than by the maintenance of the present rates unmodified.

I am going to print in the RECORD, with permission of the Senate, the statement to which I have referred, showing by months the revenue from passenger fares tending to sustain, in the main, the contention that the present rates are so high as to discourage in many instances and to prevent in others the conduct of business that is necessary and that ought to be carried on. I would like to print that statement without further comment.

The PRESIDING OFFICER. Without objection, the statement will be printed in the RECORD.

Mr. ROBINSON. Mr. President, I come now to a consideration of the position taken by the Senator from Iowa [Mr. CUMMINS], and, as I understand it, by the Senator from Ohio [Mr. POMERENE], that this is a matter which the Interstate Commerce Commission is peculiarly qualified to determine and that the commission ought to be permitted to decide it.

With the general proposition that legislatures can not successfully fix transportation rates, I am in hearty accord. We do not possess the information nor the agencies necessary successfully and intelligently to perform such services. I wish to be entirely frank with the Senate. If I thought the commission would act and act promptly upon the matter I would have no objection to referring it to the Interstate Commerce Commission. But I am advised that the commission have had this matter under consideration for several months, and they stand approximately evenly divided on the question of policy. They now, in my opinion, have the power to authorize the issuance of mileage books in the exercise of their general power to fix just and reasonable rates.

Mr. KELLOGG. Mr. President——

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

Mr. KELLOGG. Does the Senator think they have the power to compel their issuance?

Mr. ROBINSON. I do not know. I think they have the power to fix the rate at which the books shall be sold.

Mr. KELLOGG. Yes; if the railroads made application; but suppose the commission initiated the matter?

Mr. ROBINSON. The commission can initiate rates. The commission has the full power in the matter now if it finds a necessity for it. In the exercise of its general power to initiate and fix just and reasonable rates it can fix any rate that it regards as just and reasonable.

Mr. CUMMINS. Mr. President——

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

Mr. CUMMINS. May I suggest that the difficulty on that point—and I submit it to the Senator from Arkansas—is that while the commission has the power to initiate rates it has no power to compel one railroad to recognize or accept tickets issued by another railroad unless a joint route is established and unless a joint rate has been promulgated. That is the way I understand its power.

Mr. ROBINSON. They have the power to promulgate the general rate, which is the same thing in the end, if they choose to exercise it. The difficulty about the matter is this: The commission are overburdened with duties. They are performing very important and very difficult functions. They have been unable to reach an agreement respecting this subject. Merely to authorize the commission to do something which many think they have the power already to do if they chose to exercise that power, would not be accomplishing very much. But conceding that the commission may not without legislation require the issuance of mileage books, an objection grows out of the fact that great delay will ensue if the matter is relegated to the commission. I do not believe any step Congress can take will more quickly and more vitally restore courage, enthusiasm, and interest among the people of the country in their business affairs than the passage of legislation of this character. It is not a question of general rate making, although, of course, the effect of our action here must be considered in relation to the broader and even more important question of revenues to railroads generally.

It is a comparatively simple matter. If the rate fixed in the bill, in the judgment of the Senate, is too low, if the Senate thinks that the Senator from Indiana [Mr. WATSON] in preparing the bill and fixing the rate at which the mileage should be issued at 2½ cents per mile acted unwisely and that the rate ought to be increased, we can do it. We have sufficient intelligence and information respecting the subject to wisely determine it. I think the rate is about right. The enactment of this legislation will have a wholesome effect. I do not see the slightest necessity for throwing it into the Interstate Commerce Commission, where we know there is such a division of opinion respecting the policy involved in the legislation and

probably its relation to revenue that no action is likely to result if the amendment of the Senator from Iowa is agreed to.

I wish to see something done that will revive the business of the country. Nothing has contributed more to the present depressed state of business, to the dimunition of the number of sales, to the loss of profits, and the maintenance in many localities of excessive prices than have exorbitant railroad rates. We have to meet this question. The courts in every decision have said that rate making is a legislative function. If we want mileage books issued, we have the power to require their issuance, if any power can require it. There is no reason why the Senate can not intelligently determine the very simple questions involved in the bill. The commission is authorized to modify the rate if that is found necessary.

Mr. President, I have profound regard for the judgment of the Senator from Iowa. In my opinion he is perhaps the best-informed man on transportation questions in the Congress of the United States. I have not only confidence in his judgment but unlimited confidence in his integrity. I am looking at this question from the standpoint of the business interests of the country generally as well as from the standpoint of the interest of the railroads. I think my record in the Senate has demonstrated beyond necessity for vindication on my part willingness to support and advocate legislation that would put the railroads of the United States on a secure basis and enable them to operate profitably.

I have no hesitancy in saying that I have been disappointed with the manner in which the transportation act has been applied through the instrumentality of the railway executives. Their policies in some particulars have depopularized the very liberal rule of rate making prescribed in that act. They ought to have gone forward in the carrying out of the act in a way that would draw to the railroads the confidence of the people whom they serve. Necessarily many rates in the new tariffs quickly proved the necessity for corrections. Railroad authorities have been slow to make them, slow to make any concessions. For fear of establishing precedents that might later rise to plague them they have stood still when they ought to have advanced.

I indulge the hope that the Senate, having full knowledge of the subject, will enact this legislation, and do it by an overwhelming vote.

There is nothing further that I can say now that will clarify the issue presented by the amendment of the Senator from Iowa. The power exercised in this bill is a legislative power. It is our right to exercise it if we can do so intelligently. The proposition involved is simple. Any Senator can understand it. Why, then, delay action by sending it to the Interstate Commerce Commission, whom we know to be so divided upon the subject that results are not likely to be prompt.

APPENDIX.

CLASS I.—*Steam roads in the United States.*

Months.	Freight.	Passenger.	Mail.	Express.
January, 1915	$147,182,367	$45,530,479	$4,753,442	$5,666,770
February, 1915	143,323,279	41,428,728	4,751,333	4,907,838
March, 1915	163,422,093	46,445,173	4,738,881	5,265,417
April, 1915	161,867,689	47,087,401	4,737,963	5,756,318
May, 1915	165,336,359	49,683,811	4,727,596	5,877,965
June, 1915	168,849,117	56,049,246	4,707,262	6,392,334
Total, 6 months	949,980,904	286,224,838	28,416,477	33,866,642
July, 1915	170,303,824	64,133,913	4,873,886	6,140,360
August, 1915	181,017,319	66,911,861	4,939,819	6,012,403
September, 1915	198,718,493	62,353,622	5,104,536	6,493,453
October, 1915	220,640,409	56,449,825	5,027,108	6,521,413
November, 1915	219,327,033	53,876,383	4,993,230	6,451,660
December, 1915	206,380,030	55,570,292	5,044,260	7,313,098
Total, 6 months	1,196,387,138	359,295,896	29,982,859	38,932,357
January, 1916	185,915,218	49,882,858	4,989,820	6,355,630
February, 1916	191,076,384	46,685,985	5,007,120	6,385,733
March, 1916	212,254,494	50,765,440	5,146,457	7,009,386
April, 1916	202,710,224	52,408,601	4,996,112	7,112,765
May, 1916	217,905,694	54,337,812	4,998,335	7,450,232
June, 1916	208,079,249	61,640,455	5,006,404	7,820,068
Total, 6 months	1,217,941,263	315,721,151	30,144,248	42,193,814
July, 1916	204,178,123	70,187,529	5,052,461	7,473,814
August, 1916	227,305,954	70,103,793	5,122,052	7,601,199
September, 1916	228,836,893	66,570,022	5,075,656	7,914,339
October, 1916	245,629,725	62,679,601	5,073,764	8,170,282
November, 1916	236,386,684	57,087,958	5,090,663	7,915,850
December, 1916	214,647,746	65,398,511	5,667,918	9,113,481
Total, 6 months	1,356,985,128	392,027,414	31,082,514	48,188,965

CLASS I.—*Steam roads in the United States*—Continued.

Months.	Freight.	Passenger.	Mail.	Express.
January, 1917	$211,651,105	$59,418,166	$5,441,955	$7,847,754
February, 1917	185,138,707	52,400,863	4,192,730	8,666,245
March, 1917	227,271,167	59,031,845	5,123,324	8,501,812
April, 1917	227,943,184	60,363,082	4,973,262	8,564,590
May, 1917	251,929,055	61,288,774	4,994,881	8,878,007
June, 1917	247,318,427	68,113,521	4,927,465	9,345,141
Total, 6 months	1,351,251,646	360,616,251	29,653,617	51,803,549
July, 1917	241,556,482	73,739,148	4,846,049	9,059,920
August, 1917	250,281,115	81,923,003	4,830,148	9,107,049
September, 1917	242,174,017	82,527,870	4,771,814	9,402,030
October, 1917	271,395,058	77,280,262	4,636,813	9,212,441
November, 1917	254,560,948	70,133,132	4,510,568	9,033,837
December, 1917	221,657,204	80,985,621	4,515,450	10,268,250
Total, 6 months	1,481,624,824	466,589,036	28,110,842	56,083,527
January, 1918	188,753,476	66,493,870	4,574,891	8,797,331
February, 1918	198,583,302	62,294,450	4,382,556	9,040,642
March, 1918	259,850,752	73,118,329	4,526,594	9,574,221
April, 1918	264,477,396	72,466,908	4,602,459	9,525,143
May, 1918	263,258,643	79,172,892	4,568,208	10,221,406
June, 1918	263,796,118	94,810,606	4,495,709	9,650,621
Total, 6 months	1,438,719,687	448,357,055	27,150,417	56,809,364
July, 1918	328,414,138	104,676,569	4,440,811	8,580,828
August, 1918	350,936,907	113,761,117	4,481,361	10,659,296
September, 1918	342,101,018	105,925,071	4,352,989	13,753,762
October, 1918	365,427,509	84,803,839	4,276,597	12,693,162
November, 1918	322,551,705	81,766,019	4,244,888	10,695,145
December, 1918	309,727,496	92,965,315	4,608,339	12,860,944
Total, 6 months	2,019,158,773	583,897,930	26,404,985	69,243,137
January, 1919	278,375,866	87,055,662	4,353,090	6,349,831
February, 1919	242,295,875	79,318,347	4,171,441	7,823,221
March, 1919	256,041,645	89,440,170	4,295,021	8,168,652
April, 1919	265,675,547	89,565,251	4,306,948	11,239,431
May, 1919	286,709,568	92,742,679	4,379,044	9,213,958
June, 1919	284,326,350	105,634,362	4,303,349	10,068,796
Total, 6 months	1,613,424,851	543,756,471	25,808,893	52,863,889
July, 1919	303,514,025	113,725,352	4,166,808	7,618,528
August, 1919	313,839,603	120,689,954	4,676,053	9,978,809
September, 1919	346,668,124	110,219,099	4,276,447	13,136,634
October, 1919	368,546,313	99,033,423	4,530,175	13,315,129
November, 1919	303,489,474	92,475,222	4,283,363	14,758,277
December, 1919	308,704,454	100,080,515	9,716,268	16,048,057
Total, 6 months	1,942,761,993	636,223,565	31,649,114	74,855,434
January, 1920	311,565,615	91,874,146	[1]60,528,728	13,899,174
February, 1920	299,212,509	82,571,053	9,058,642	11,671,553
March, 1920	324,598,960	92,631,705	8,390,790	11,729,993
April, 1920	268,812,703	92,963,857	7,566,673	11,823,542
May, 1920	314,147,944	98,901,390	7,765,173	13,129,574
June, 1920	340,335,900	107,383,211	8,099,084	12,341,165
Total, 6 months	1,858,673,631	566,325,372	101,409,090	74,595,001
July, 1920	356,091,063	123,218,449	7,741,624	14,389,175
August, 1920	369,580,250	132,903,613	7,823,168	15,165,514
September, 1920	438,882,228	129,857,101	7,888,630	11,744,382
October, 1920	480,375,264	113,902,023	8,220,583	7,605,951
November, 1920	436,891,209	106,652,325	8,341,313	10,889,577
December, 1920	386,057,436	115,060,511	8,876,400	9,664,053
Total, 6 months	2,467,877,450	721,594,022	48,891,718	69,458,652
January, 1921	324,825,450	105,295,673	8,225,256	7,443,572
February, 1921	283,908,205	88,492,583	7,915,776	4,459,069
March, 1921	320,694,043	97,312,305	9,673,927	6,980,555
April, 1921	304,730,452	90,698,125	7,782,447	8,221,054
May, 1921	313,057,371	93,516,961	7,829,078	6,960,929
June, 1921	322,073,544	99,783,567	7,689,826	7,586,530
Total, 6 months	1,869,349,065	575,099,214	49,116,310	41,651,719
July, 1921	314,611,353	108,865,325	7,307,354	8,140,074
August, 1921	353,307,011	109,174,998	7,449,068	10,313,774
September, 1921	354,052,825	100,679,514	7,370,281	10,417,319
October, 1921	400,709,558	88,844,414	7,358,399	12,182,364
November, 1921	342,024,698	82,655,520	7,241,535	9,783,342

[1] Includes approximately $50,000,000 back mail pay.

Mr. CUMMINS. Mr. President, I offer the following amendment by way of a substitute for the pending bill.

The PRESIDING OFFICER. The amendment in the nature of a substitute will be reported.

The reading clerk read as follows:

Strike out all after the enacting clause and substitute therefor the following:

"That section 22 of the act entitled 'An act to regulate commerce,' approved February 4, 1887, as amended, is hereby amended by inserting '(1)' after the section number at the beginning of such section and by adding to the section two new paragraphs, as follows, to wit:

"'(2) The commission is empowered to require, after notice and hearing, each carrier by rail, subject to this act, to issue at such offices as may be prescribed by the commission joint interchangeable mileage tickets at a just and reasonable rate per mile, good for interstate pas-

senger carriage upon the passenger trains of any and all other carriers by rail subject to this act. Such tickets may be required to be issued for any distance not exceeding 5,000 miles nor less than 1,000 miles. Before making any order requiring the issuance of any such tickets the commission shall make and publish such reasonable rules and regulations for their issuance and use as in its judgment the public interest demands; and especially it shall prescribe whether such tickets are transferable or nontransferable, and if the latter, what identification may be required; and especially, also, to what baggage privileges the lawful holders of such tickets are entitled.

"'(3) Any carrier which through the act of any agent or employee willfully refuses to issue or accept any such ticket demanded or presented under the lawful requirements of this act, or willfully refuses to conform to the rules and regulations lawfully made and published by the commission hereunder, or any person who shall willfully offer for carriage any such ticket contrary to the said rules and regulations shall be deemed guilty of a misdemeanor and upon conviction shall be fined not to exceed $1,000.'"

Mr. WALSH of Massachusetts. Mr. President, will the Senator from Iowa permit me to ask a question of the Senator from Arkansas before he proceeds with his remarks?

Mr. CUMMINS. Certainly.

Mr. WALSH of Massachusetts. I would like to ask the Senator from Arkansas why the size of the mileage book was fixed at 5,000 miles rather than 1,000, 2,000, or 3,000?

Mr. ROBINSON. I think that ought to be reduced, as I said during the course of my remarks, probably to 2,000 miles.

Mr. WATSON of Indiana. Mr. President, will the Senator from Iowa permit me?

Mr. CUMMINS. Certainly.

Mr. WATSON of Indiana. Mr. President, if the Senator from Iowa will permit me, I desire to say it was stated that if the railroads were compelled to issue mileage books for 1,000 miles, a very great number of people might buy a 1,000-mile ticket who could not buy a 5,000-mile ticket and thereby greatly reduce the revenue of the railroads from passenger traffic. As the Senator well knows, the pending measure is very largely sponsored by the commercial travelers and other allied associations. Their theory has been that if the books were fixed at 5,000 miles the commercial travelers would very largely purchase them, but that the general traveling public would not purchase them; that the commercial travelers would thereby enjoy the book thus issued, and that the revenue to the railroads would not be so greatly reduced as by a thousand-mile ticket which the general public would buy. That was partially the theory.

Mr. ROBINSON. The bill is based upon the principle of wholesaling transportation.

Mr. WATSON of Indiana. That is the point I was going to make.

Mr. ROBINSON. And it was thought probable by the framers of the bill that a 5,000-mile book would more clearly recognize that principle than would a 1,000-mile book.

Mr. WATSON of Indiana. That is what I was about to say.

Mr. ROBINSON. I have said and I repeat that I think the limitation as to 5,000 miles ought to be reduced to 2,000 miles, and, so far as I am concerned, I would not oppose an amendment to that end, although I am not offering such an amendment.

Mr. WATSON of Indiana. If this measure shall pass, I am very seriously in favor of a 5,000-mile book. I take it that all of the organizations referred to stand for the 5,000-mile book, and that so far as they are concerned they desire the measure passed in that form.

Mr. CUMMINS addressed the Senate. After having spoken, with interruptions, for over an hour, he said: I will yield the floor now, knowing that there is some business to be done that should be done before the Senate adjourns, with the hope that when the consideration of the bill is resumed to-morrow I may be permitted to conclude what I have to say about it.

DUTIES OF FEDERAL JUDGES.

Mr. DIAL. Mr. President, if I am in order, I desire to move that Senate bill 384, to require judges appointed under authority of the United States to devote their entire time to the duties of a judge, be made the unfinished business.

Mr. CURTIS. Mr. President, I hope——

Mr. ROBINSON. I make the point of order that such a motion is not in order.

The VICE PRESIDENT. It is not in order.

EXECUTIVE SESSION.

Mr. CURTIS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 4 o'clock and 40 minutes p. m.) the Senate adjourned until to-morrow, Thursday, January 19, 1922, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate January 18, 1922.

REGISTERS OF THE LAND OFFICE.

Job Alexander McLeod, of Arkansas, to be register of the land office at Camden, Ark., effective upon completion of consolidation under act of October 28, 1921.

Oran Layton, of Kansas, to be register of the land office at Topeka, Kans., effective upon completion of consolidation under act of October 28, 1921.

APPOINTMENTS BY TRANSFER IN THE REGULAR ARMY.

CORPS OF ENGINEERS.

Capt. John Mead Silkman, Coast Artillery Corps, with rank from July 1, 1920.

ORDNANCE DEPARTMENT.

Capt. John Kay Christmas, Coast Artillery Corps, with rank from July 1, 1920.

First Lieut. Harrison Shaler, Field Artillery, with rank from August 27, 1919.

First Lieut. John William Slattery, Air Service, with rank from July 1, 1920.

FIELD ARTILLERY.

Maj. William Rudicil Henry, Cavalry, with rank from July 1, 1920.

PROMOTIONS IN THE REGULAR ARMY.

DENTAL CORPS.

First Lieut. Clarence Constantin Olson to be captain, Dental Corps, from January 10, 1922.

CHAPLAIN.

Chaplain Charles Oliver Purdy to be chaplain, with the rank of captain, from January 5, 1922.

POSTMASTERS.

CALIFORNIA.

George W. Bull to be postmaster at Weed, Calif., in place of G. W. Wentner, resigned.

CONNECTICUT.

Robert O. Judson to be postmaster at Woodbury, Conn., in place of J. J. Cassidy. Incumbent's commission expired July 21, 1921.

ILLINOIS.

William E. Erfert, jr., to be postmaster at Lansing, Ill. Office became presidential April 1, 1921.

Bessie McTamaney to be postmaster at Fort Sheridan, Ill., in place of F. C. Sweeney, resigned.

INDIANA.

Earl L. Rhodes to be postmaster at Milltown, Ind. Office became presidential April 1, 1921.

Charles J. Sparks to be postmaster at Kewanna, Ind., in place of C. M. Snepp. Incumbent's commission expired July 21, 1921.

IOWA.

Walter H. Lake to be postmaster at Bedford, Iowa, in place of C. N. Nelson. Incumbent's commission expired August 7, 1921.

Glen D. Curtis to be postmaster at Buffalo Center, Iowa, in place of H. E. Eiel, resigned.

Eugene E. Heldridge to be postmaster at Milford, Iowa, in place of J. J. Herbster, deceased.

KANSAS.

Willard E. Johnston to be postmaster at Attica, Kans., in place of J. H. Stanbery. Incumbent's commission expired July 23, 1921.

LOUISIANA.

Victor L. Brumfield to be postmaster at Winnfield, La., in place of G. A. Payne, resigned.

MASSACHUSETTS.

William F. Runnells to be postmaster at Newburyport, Mass., in place of J. F. Carens. Incumbent's commission expired January 25, 1920.

MICHIGAN.

Carl J. Willis to be postmaster at Bannister, Mich. Office became presidential July 1, 1921.

Eugene J. Richardson to be postmaster at Temperance, Mich. Office became presidential April 1, 1921.

Clarence J. Williams to be postmaster at Carleton, Mich., in place of E. C. Maxwell. Incumbent's commission expired July 21, 1921.

Curtis G. Reynolds to be postmaster at Dundee, Mich., in place of F. B. Carr. Incumbent's commission expired July 21, 1921.

James D. Housman to be postmaster at Petersburg, Mich., in place of F. L. Logan. Incumbent's commission expired July 21, 1921.

MINNESOTA.

Amos P. Wells to be postmaster at Holloway, Minn. Office became presidential April 1, 1921.

Racine Olson to be postmaster at Holt, Minn. Office became presidential April 1, 1921.

Emily M. Drexler to be postmaster at Brandon, Minn., in place of E. M. Drexler. Incumbent's commission expired March 16, 1921.

Fred C. Brower to be postmaster at Kimball, Minn., in place of F. E. Smith. Incumbent's commission expired August 7, 1921.

Harry Coleman to be postmaster at Lancaster, Minn., in place of Olof Risted. Incumbent's commission expired August 7, 1921.

Walter W. Parrish to be postmaster at Rushford, Minn., in place of W. W. Parrish. Incumbent's commission expired August 7, 1921.

MISSISSIPPI.

Charles P. Chappell to be postmaster at Tupelo, Miss., in place of F. H. Mitts, deceased.

MISSOURI.

William P. Murphy to be postmaster at Wheatland, Mo. Office became presidential January 1, 1921.

Herman E. Christrup to be postmaster at Laddonia, Mo., in place of C. E. Mayhall, resigned.

David L. Blanchfield to be postmaster at Martinsburg, Mo., in place of W. G. Pike. Incumbent's commission expired July 25, 1921.

Henry W. Werges to be postmaster at New Haven, Mo., in place of T. P. Diggs. Incumbent's commission expired January 27, 1920.

William F. Norris to be postmaster at Perry, Mo., in place of A. H. Martin. Incumbent's commission expired July 25, 1921.

John H. Fisher to be postmaster at Sullivan, Mo., in place of M. B. Lane. Incumbent's commission expired July 25, 1921.

Ben J. Drymon to be postmaster of Willow Springs, Mo., in place of J. W. Hogan. Incumbent's commission expired July 25, 1921.

MONTANA.

Letta Conser to be postmaster at Plevna, Mont., in place of Letta Conser. Incumbent's commission expires February 5, 1922.

NEBRASKA.

Edward H. Hering to be postmaster at Orchard, Nebr., in place of F. D. Strope. Incumbent's commission expired August 6, 1921.

NEW JERSEY.

Adrian P. King to be postmaster at Beachhaven, N. J., in place of A. P. King. Incumbent's commission expired August 6, 1921.

Chester A. Burt to be postmaster at Helmetta, N. J., in place of C. A. Burt. Incumbent's commission expired August 6, 1921.

John J. Schilcox to be postmaster at Keasbey, N. J., in place of J. J. Schilcox. Incumbent's commission expired August 6, 1921.

Arthur S. Warner to be postmaster at Spring Lake Beach, N. J., in place of C. W. Simonson, deceased.

NEW YORK.

Erastus C. Davis to be postmaster at Fonda, N. Y., in place of J. B. Martin, resigned.

Frank Foggin to be postmaster at Staten Island, N. Y., in place of F. O. Driscoll. Incumbent's commission expired January 8, 1921.

NORTH CAROLINA.

Christopher H. Mattocks to be postmaster at Maysville, N. C. Office became presidential April 1, 1920.

Cecil E. Spruill to be postmaster at Creswell, N. C., in place of E. S. Woodley, appointee declined.

Heber R. Munford to be postmaster at Greenville, N. C., in place of D. J. Whichard. Incumbent's commission expired July 21, 1921.

Henry Reynolds to be postmaster at North Wilkesboro, N. C., in place of J. G. Hackett. Incumbent's commission expired July 21, 1921.

Wiley F. Talley to be postmaster at Randleman, N. C., in place of A. N. Bulla. Incumbent's commission expired July 21, 1921.

Samuel L. Parker to be postmaster at St. Pauls, N. C., in place of P. J. Caudell. Incumbent's commission expired July 21, 1921.

OKLAHOMA.

John Wilson to be postmaster at Keystone, Okla. Office became presidential April 1, 1921.

PENNSYLVANIA.

Lena M. Trettel to be postmaster at Coal Center, Pa. Office became presidential April 1, 1921.

Robert S. Gumaer to be postmaster at Dalton, Pa., in place of E. H. Fisk. Incumbent's commission expired August 17, 1921.

William L. Swarm to be postmaster at Millheim, Pa. Office became presidential January 1, 1920.

TENNESSEE.

James G. McKenzie to be postmaster at Big Sandy, Tenn., in place of Leon Caraway. Incumbent's commission expired January 2, 1921.

WASHINGTON.

Winslow M. McCurdy to be postmaster at Port Townsend, Wash., in place of H. L. Tibbals. Incumbent's commission expired January 5, 1920.

WISCONSIN.

Charles H. Lake to be postmaster at Marshall, Wis., in place of A. M. Sanders, resigned.

CONFIRMATIONS.

Executive nominations confirmed by the Senate January 18, 1922.

AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

Henry P. Fletcher to be ambassador extraordinary and plenipotentiary to Belgium.

ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY.

William J. O'Toole to be envoy extraordinary and minister plenipotentiary to Paraguay.

SECRETARIES OF EMBASSIES OR LEGATIONS.

CLASS 1.

William Walker Smith to be secretary of embassy or legation of class 1.

CLASS 3.

Barton Hall to be secretary of embassy or legation of class 3.

Walter H. Schoellkopf to be secretary of embassy or legation of class 3.

APPRAISER OF MERCHANDISE.

Martin L. Durgin to be appraiser of merchandise in customs collection district No. 1, with headquarters at Portland, Me.

COLLECTOR OF INTERNAL REVENUE.

William E. Snead to be collector of internal revenue, district of Alabama.

PROMOTIONS IN THE NAVY.

To be rear admirals.

Louis R. de Steiguer.
William Woodward Phelps.
William C. Cole.

To be captains.

David F. Boyd.	Stafford H. R. Doyle.
Clarence A. Abele.	Charles S. Freeman.
Frank L. Pinney.	Joseph R. Defrees.
Frederick J. Horne.	Edward S. Jackson.
Alfred W. Johnson.	Julius F. Hellweg.
Chauncey Shackford.	Robert Morris.
Ralph E. Pope.	George W. Steele, jr.
Charles P. Snyder.	John W. Timmons.
Samuel W. Bryant.	Henry C. Mustin.
Henry L. Wyman.	William B. Wells.
Sinclair Gannon.	Hilary H. Royall.
John D. Wainwright.	Paul B. Dungan.

To be commanders.

David W. Bagley.	John T. G. Stapler.
Robert L. Ghormley.	Roland M. Brainard.
Douglas L. Howard.	John S. McCain.
Earl R. Shipp.	Alexander Sharp, jr.
Fred M. Perkins.	Robert A. Theobald.

To be lieutenant commanders.

Edward C. Raguet.	Harry L. Merring.
Holbrook Gibson.	William D. Chandler, jr.
Lemuel E. Lindsay.	James C. Byrnes, jr.
Jesse B. Oldendorf.	Cecil Y. Johnston.
Augustine H. Gray.	John H. Magruder, jr.
Edwin J. Gillam.	Elliott B. Nixon.
Roland M. Comfort.	Lybrand P. Smith.
George N. Reeves, jr.	Harry W. Hill.
Charles H. Maddox.	Edward B. Lapham.

Augustine W. Rieger.
Alston R. Simpson.
Frank H. Luckel.
Charles A. Pownall.
Jefferson D. Smith.
Robert M. Griffin.
Edgar R. McClung.
Everett D. Capehart.
James H. Taylor.
Ralph E. Dennett.
Harry D. McHenry.
Alfred S. Wolfe.

To be lieutenants.

Clifford G. Richardson.
Paul W. Rutledge.
Houston L. Maples.
Robert W. McReynolds, jr.
Ward P. Davis.
Ralph E. Davison.
John S. Roberts.
Sydney J. Wynne.
George L. Harriss.
Benjamin O. Wells.
Lloyd E. Clifford.

To be lieutenants (junior grade).

George L. Harriss.
Lloyd E. Clifford.
Carl K. Fink.

To be medical director.

Medical Inspector Edgar Thompson.

To be surgeons.

Daniel Hunt.
John F. Riordan.

To be passed assistant surgeon.

Earl E. Sullivan.

To be dental surgeons.

Harry D. Johnson.
Paul G. White.
George H. Reed.

To be passed assistant dental surgeons.

Charles C. Tinsley.
Harry L. Kalen.
Philip H. MacInnis.

To be pay director.

George M. Stackhouse.

To be pay inspectors.

James F. Kutz.
David G. McRitchie.
Philip J. Willett.
Brainerd M. Dobson.

To be paymasters.

Harold C. Shaw.
Smith Hempstone.
William Gower.
Thomas Cochran.
Frederick C. Bowerfind.

To be naval constructors.

Ernest F. Eggert.
Henry Williams.
Henry T. Wright.
Julius A. Furer.
Jerome C. Hunsaker.

To be civil engineers.

Clinton D. Thurber.
Norman M. Smith.
Glenn S. Burrell
Ralph D. Spalding.

To be assistant naval constructors.

Wesley M. Hague.
Evander W. Sylvester.
Bennett L. Falknor.
Horatio C. Sexton, jr.
Lawrence T. Haugen.
Lloyd Harrison.
Lisle J. Maxson.
Neil B. Musser.
Roy T. Cowdry.
Paul B. Nibecker.
Walter F. Christmas.
Wallace R. Dowd.
Roswell B. Daggett.
George C. Calnan.
Calvin M. Bolster.
DeWitt C. Redgrave, jr.
Philip Lemler.
Harold S. Van Buren.
Floyd A. Tusler.
Mason D. Harris.

MARINE CORPS.

To be brigadier general.

John H. Russell.

POSTMASTERS.

COLORADO.

Forrest B. Rose, Castle Rock.
A. G. Thomson, Leadville.
Mary J. Anderson, Rocky Ford.
Loran G. Denison, Telluride.

DELAWARE.

Annie C. Fleetwood, Cannon.

FLORIDA.

Simeon C. Dell, Alachua.
Lynn Kilbourn, Carrabelle.
Eva R. Vaughn, Century.
Joseph B. Bower, Rockledge.
John C. Beekman, Tarpon Springs.
Samuel D. Holmes, Titusville.

INDIANA.

Woodson E. Greenlee, Coatesville.
Harry H. Spencer, East Chicago.
Gilbert M. Jordan, Flora.
Robert H. Bryson, Indianapolis.
Robert M. Campbell, La Fayette.
Howard Chitty, Mitchell.
William W. Schmidt, Wanatah.
Clyde H. Fee, Waterloo.

IOWA.

Orien J. Perdue, Altoona.
James H. Post, Carroll.
Arthur W. Liston, Coin.
Joseph D. Schaben, Earling.
Fred A. Robinson, Estherville.
Olger H. Raleigh, Graettinger.
Emmet M. Henery, Grand Junction.
Francis D. Winter, Hinton.
Frank Jaqua, Humboldt.
James W. Fowler, Jefferson.
Martin J. Severson, Jewell.
Walter J. Overmyer, Lacona.
Daniel Anderson, Lamoni.
Jacob D. Kruse, Little Rock.
Estella Griffin, McIntire.
Martha Slatter, Manson.
Benjamin H. Morrison, Mapleton.
Harry L. Brenton, Minburn.
Otto J. Warneke, Readlyn.
Paul H. Harlan, Richland.
M. W. Maxey, Riverton.
Arthur E. Norton, Rowley.
Raymond G. Laird, Tabor.
Clarence W. Rowe, Vinton.
Marion L. Voshell, Volga.
Roy H. Bedford, What Cheer.

KANSAS.

Floyd I. Shoaf, Clay Center.
Asahel A. Castle, Clayton.
Charles M. Swan, Lansing.
Joseph H. Andrews, Overbrook.
Pearl M. Mickey, Zurich.

MAINE.

Clifford J. Sharp, Monticello.
Fremont A. Hunton, Readfield.
Lemuel Rich, Sebago Lake.

MASSACHUSETTS.

Benjamin S. Whittier, East Walpole.
Horace D. Prentiss, Holyoke.
James H. Walsh, Leominster.
John H. Pratt, Natick.
William H. Pierce, Winchendon.

MICHIGAN.

Sylva Blain, Alba.
Fred W. Fitzgerald, Bellevue.
Ernest Muscott, Breckenridge.
Charles G. Chamberlain, Breedsville.
Willis Wightman, Buckley.
Martin C. Kilmark, Coloma.
Roy B. Gaskill, Delton.
David E. Hills, Fife Lake.
Emma L. Lewandowsky, Honor.
John A. Sherman, Ludington.
George N. Jones, Marine City.
John A. Meier, Manistee.
Fred C. McQuinn, Mecosta.
Harry M. Colby, New Lothrop.
Leslie A. Quale, Onekama.
Ray G. Turner, Onsted.
Charles W. Munson, Republic.
May Rowley, St. Charles.
Charles F. Grozinger, Woodland.

MINNESOTA.

Margaret M. Briggs, Princeton.
Ira E. King, Stillwater.

NEW HAMPSHIRE.

Fred T. Wilson, Alton Bay.
Frederick R. Jennings, Gorham.
Herbert Perkins, Hampton.

NORTH CAROLINA.

Barron P. Caldwell, Cliffside.
John W. Shook, Clyde.
John M. Meshaw, Council.
George W. Lance, Fletcher.
Willis R. Smith, Garland.
Pierce P. Richards, Lawndale.
A. H. Greene, Mooresboro.
James E. Green, Mount Gilead.
Ira E. Tucker, Polkton.
Cecil M. Griffin, Rural Hall.
Frielden B. Jones, West Jefferson.

OHIO.

Benson M. Harrison, Alexandria.
William H. Campbell, Galena.
Jacob E. Davis, Kingsville.
Stanley C. Compher, Piedmont.
Ralph E. Saner, Powhatan Point.
Wheeler R. White, Rising Sun.

OKLAHOMA.

Mahlon F. Manville, Ada.
Harry F. Hall, Alva.
Edgar M. Cowles, Arapaho.
Oliver T. Robinson, Britton.
Charles L. Logan, Butler.
Alexander E. Richey, Caddo.
Elta H. Jayne, Edmond.
Edwin C. Willison, Elk City.
Marion D. Self, Erick.
William T. Malone, Harrah.
Denny Montgomery, Hobart.
David King, Luther.
William M. Bennett, Sentinel.
Joseph H. Cruthis, Talihina.
Logan G. Hysmith, Wilburton.

TEXAS.

Henry J. Whitworth, Avinger.
Nora Platt, Browndel.
Earl J. Smith, Eliasville.
William Reese, Floresville.
William H. Newby, League City.
Jennie W. Reynolds, Mason.
George E. Comegys, Merkel.
Monroe W. Krueger, New Ulm.
Robert E. Slocum, Pharr.
Thomas E. Franklin, Poteet.
Bessie B. Hackett, Raymondville.
Willie E. Penick, Rule.
J. Philomel Stephens, Sierra Blanca.
George M. Sewell, Talpa.

WISCONSIN.

Lewis T. Larsen, Danbury.
Michael C. Keasling, Exeland.
Alexander C. Magnus, Glen Flora.
Felix A. Roeseler, Hustisford.
Susan D. Olson, Siren.
Laura K. Reingruber, South Germantown.
Hartvig J. Elstad, Whitehall.
Charles A. Smart, Wild Rose.

WYOMING.

Elizabeth W. Kieffer, Fort Russell.
John E. Gilmore, Greybull.
Elmer T. Beltz, Laramie.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January 18, 1922.*

The House met at 12 o'clock noon.

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

Almighty God, while the days of our pilgrimage are hurrying by we are so thankful that Thy mercy is attending us. The prints of Thy fingers are upon us, and our souls are the crowning gifts of Thy handiwork. O assure us of Thy presence, Lord, and make our errors the beginnings of wisdom. More and more establish us in love and in obedience, and lift us above the corroding influences of weakness and fear. Give us hearts that lovingly accept Thy providences and find peace and rest even in their mysteries. Always enable us to bear the yoke of service without complaint and to do our duty in the spirit of a high privilege; and when we falter or fail hold us with Thy gentle hand. Through Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

ORDER OF BUSINESS.

The SPEAKER. To-day is Calendar Wednesday.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent to dispense with business under the Calendar Wednesday rule.

The SPEAKER. The gentleman from Wyoming asks unanimous consent to dispense with business under Calendar Wednesday. Is there objection?

Mr. GARRETT of Tennessee. Mr. Speaker, I object.

Mr. MONDELL. Mr. Speaker, I move to dispense with business under Calendar Wednesday.

The SPEAKER. The gentleman from Wyoming moves to dispense with business under Calendar Wednesday.

The question was taken; and on a division (demanded by Mr. GARRETT of Tennessee) there were—ayes 36, noes 17.

Mr. GARRETT of Tennessee. Mr. Speaker, I object to the vote on account of the absence of a quorum.

The SPEAKER. The gentleman from Tennessee makes the point of order that there is no quorum present. Evidently there is no quorum present. The Doorkeeper will close the doors and the Sergeant at Arms will notify absent Members. As many as are in favor of dispensing with business under Calendar Wednesday will, as their names are called, vote "yea," those opposed "nay," and the Clerk will call the roll.

The question was taken; and there were—yeas 244, nays 107, answered "present" 2, not voting 77, as follows:

YEAS—244.

Ackerman	Edmonds	Kissel	Ricketts
Anderson	Elliott	Kline, N. Y.	Riddick
Andrew, Mass.	Ellis	Kline, Pa.	Roach
Andrews, Nebr.	Evans	Kraus	Robsion
Ansorge	Fairchild	Lampert	Rodenberg
Anthony	Fairfield	Larson, Minn.	Rogers
Appleby	Faust	Layton	Rose
Arentz	Fenn	Lea, Calif.	Rossdale
Atkeson	Fess	Leatherwood	Sanders, N. Y.
Bacharach	Fish	Lehlbach	Schall
Barbour	Fitzgerald	Little	Scott, Mich.
Beck	Focht	London	Scott, Tenn.
Begg	Fordney	Longworth	Shelton
Benham	Foster	Luce	Shreve
Bird	Frear	Luhring	Siegel
Bixler	Free	McArthur	Sinclair
Bland, Ind.	Freeman	McCormick	Sinnott
Boies	French	McFadden	Smith, Idaho
Bowers	Frothingham	McKenzie	Smith, Mich.
Brennan	Fuller	McLaughlin, Mich.	Snell
Brooks, Ill.	Gahn	McLaughlin, Nebr.	Snyder
Brooks, Pa.	Gallivan	McLaughlin, Pa.	Speaks
Brown, Tenn.	Gensman	MacGregor	Sproul
Browne, Wis.	Gernerd	Madden	Stafford
Burroughs	Glynn	Magee	Steenerson
Burtness	Goodykoontz	Maloney	Stephens
Burton	Gorman	Mann	Strong, Kans.
Butler	Green, Iowa	Mapes	Strong, Pa.
Cable	Greene, Mass.	Merritt	Summers, Wash.
Campbell, Kans.	Greene, Vt.	Michaelson	Sweet
Campbell, Pa.	Griest	Michener	Swing
Cannon	Griffin	Miller	Taylor, N. J.
Chalmers	Hadley	Millspaugh	Temple
Chandler, Okla.	Hardy, Colo.	Mondell	Thompson
Chindblom	Haugen	Montoya	Tilson
Christopherson	Hawley	Moore, Ohio	Timberlake
Clague	Hersey	Moores, Ind.	Tincher
Clarke, N. Y.	Hickey	Morgan	Towner
Clouse	Hicks	Murphy	Treadway
Codd	Hill	Nelson, A. P.	Underhill
Cole, Iowa	Himes	Nelson, J. M.	Vaile
Colton	Hoch	Newton, Mo.	Vestal
Connell	Hukriede	Norton	Volk
Connolly, Pa.	Hull	Ogden	Volstead
Cooper, Ohio	Husted	Paige	Walsh
Cooper, Wis.	Ireland	Parker, N. Y.	Walters
Copley	James	Patterson, Mo.	Wason
Coughlin	Jefferis, Nebr.	Patterson, N. J.	Watson
Crago	Johnson, Ky.	Perkins	Wheeler
Cramton	Johnson, S. Dak.	Perlman	White, Kans.
Crowther	Jones, Pa.	Petersen	White, Me.
Curry	Kearns	Purnell	Williams
Dale	Kelley, Mich.	Radcliffe	Williamson
Dallinger	Kelly, Pa.	Ramseyer	Winslow
Darrow	Kendall	Ransley	Wood, Ind.
Davis, Minn.	Kennedy	Reavis	Woodyard
Dempsey	Ketcham	Reber	Wurzbach
Denison	Kiess	Reece	Wyant
Dickinson	King	Reed, N. Y.	Yates
Dowell	Kinkaid	Reed, W. Va.	Young
Dyer	Kirkpatrick	Rhodes	Zihlman

NAYS—107.

Almon	Byrnes, S. C.	Drewry	Herrick
Aswell	Byrns, Tenn.	Driver	Hooker
Bankhead	Cantrill	Favrot	Huddleston
Barkley	Carew	Fields	Hudspeth
Bell	Carter	Fisher	Humphreys
Black	Collier	Garner	Jacoway
Bland, Va.	Collins	Garrett, Tenn.	Jeffers, Ala.
Blanton	Connally, Tex.	Garrett, Tex.	Johnson, Miss.
Bowling	Crisp	Gilbert	Jones, Tex.
Box	Cullen	Goldsborough	Kincheloe
Brand	Davis, Tenn.	Hardy, Tex.	Lanham
Briggs	Dominick	Harrison	Lankford
Buchanan	Doughton	Hawes	Larsen, Ga.
Bulwinkle	Drane	Hayden	Lazaro

Lee, Ga.	Oldfield	Rouse	Ten Eyck
Linthicum	Oliver	Sanders, Tex.	Thomas
Logan	Overstreet	Sandlin	Tillman
Lowrey	Padgett	Sears	Upshaw
Lyon	Park, Ga.	Sisson	Vinson
McClintic	Parks, Ark.	Smithwick	Ward, N. C.
McDuffie	Parrish	Steagall	Weaver
McSwain	Pou	Stedman	Wilson
Martin	Quin	Stoll	Wingo
Mead	Rainey, Ill.	Sumners, Tex.	Wise
Montague	Raker	Swank	Woods, Va.
Moore, Va.	Rankin	Tague	Wright
O'Connor	Rayburn	Taylor, Ark.	

ANSWERED "PRESENT"—2.

Cockran	Robertson

NOT VOTING—77.

Beedy	Graham, Pa.	Lineberger	Ryan
Blakeney	Hammer	McPherson	Sabath
Bond	Hays	Mansfield	Sanders, Ind.
Brinson	Hogan	Mills	Shaw
Britten	Houghton	Moore, Ill.	Slemp
Burdick	Hutchinson	Morin	Stevenson
Burke	Johnson, Wash.	Mott	Stiness
Chandler, N. Y.	Kahn	Mudd	Sullivan
Clark, Fla.	Keller	Newton, Minn.	Taylor, Colo.
Classon	Kindred	Nolan	Taylor, Tenn.
Cole, Ohio	Kitchin	O'Brien	Tinkham
Deal	Kleczka	Olpp	Tyson
Dunbar	Knight	Osborne	Vare
Dunn	Knutson	Parker, N. J.	Volgt
Dupré	Kopp	Porter	Ward, N. Y.
Echols	Kreider	Pringey	Webster
Fulmer	Kunz	Rainey, Ala.	Woodruff
Funk	Langley	Riordan	
Gould	Lawrence	Rosenbloom	
Graham, Ill.	Lee, N. Y.	Rucker	

So the motion to dispense with business under Calendar Wednesday was agreed to.

The Clerk announced the following pairs:

Until further notice:

Mr. LANGLEY with Mr. CLARK of Florida.

Mr. KNUTSON with Mr. SULLIVAN.

Mr. SANDERS of Indiana with Mr. RIORDAN.

Mr. PORTER with Mr. SABATH.

Mr. KELLER with Mr. KUNZ.

Mr. COLE of Ohio with Mr. KINDRED.

Mr. STINESS with Mr. TAYLOR of Colorado.

Mr. WOODRUFF with Mr. O'BRIEN.

On this vote:

Mr. MCPHERSON and Mr. OLPP (for) with Mr. DUPRÉ (against).

Mr. ECHOLS and Mr. MORIN (for) with Mr. STEVENSON (against).

Mr. PRINGEY and Mr. OSBORNE (for) with Mr. RAINEY of Alabama (against).

Mr. LINEBERGER and Mr. BURKE (for) with Mr. KITCHIN (against).

Mr. MOORE of Illinois and Mr. HUTCHINSON (for) with Mr. HAMMER (against).

Mr. KAHN and Mr. VARE (for) with Mr. FULMER (against).

Mr. BEEDY and Mr. LAWRENCE (for) with Mr. BRINSON (against).

Mr. HAYS and Mr. KNIGHT (for) with Mr. TYSON (against).

Mr. GRAHAM of Pennsylvania and Mr. BLAKENEY (for) with Mr. MANSFIELD (against).

Mr. HAYS and Mr. KNIGHT (for) with Mr. TYSON (against).

Mr. HOGAN and Mr. MILLS (for) with Mr. RUCKER (against).

The result of the vote was announced as above recorded.

The SPEAKER. A quorum is present. The Doorkeeper will open the doors.

ANTILYNCHING LEGISLATION.

Mr. VOLSTEAD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of H. R. 13, the antilynching bill.

The SPEAKER. The gentleman from Minnesota moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of H. R. 13.

The question being taken, on a division (demanded by Mr. GARRETT of Tennessee) there were—ayes 157, noes 107.

Mr. GARRETT of Tennessee. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 245, nays 104, answered "present" 2, not voting 79, as follows:

YEAS—245.

Ackerman	Atkeson	Bixler	Brooks, Pa.
Anderson	Bacharach	Blakeney	Browne, Wis.
Andrew, Mass.	Barbour	Bland, Ind.	Burroughs
Andrews, Nebr.	Beck	Boies	Burtness
Ansorge	Begg	Bowers	Burton
Appleby	Benham	Brennan	Butler
Arentz	Bird	Brooks, Ill.	Cable
Campbell, Kans.	Glynn	McKenzie	Shreve
Campbell, Pa.	Goodykoontz	McLaughlin, Mich.	Siegel
Cannon	Gorman	McLaughlin, Nebr.	Sinclair
Chalmers	Graham, Ill.	McLaughlin, Pa.	Sinnott
Chindblom	Green, Iowa	MacGregor	Smith, Idaho
Christopherson	Greene, Mass.	Madden	Smith, Mich.
Clague	Greene, Vt.	Magee	Snell
Clarke, N. Y.	Griest	Maloney	Snyder
Codd	Hadley	Mann	Speaks
Cole, Iowa	Hardy, Colo.	Mapes	Sproul
Cole, Ohio	Hawley	Merritt	Stafford
Colton	Hersey	Michaelson	Stephens
Connell	Hickey	Michener	Strong, Kans.
Cooper, Ohio	Hicks	Miller	Strong, Pa.
Cooper, Wis.	Hill	Mills	Summers, Wash.
Copley	Himes	Millspaugh	Sweet
Coughlin	Hoch	Mondell	Swing
Crago	Hukriede	Montoya	Taylor, N. J.
Cramton	Hull	Moore, Ohio	Taylor, Tenn.
Cullen	Husted	Moores, Ind.	Temple
Curry	Ireland	Morgan	Thompson
Dale	James	Murphy	Tilson
Dallinger	Jefferis, Nebr.	Nelson, A. P.	Timberlake
Darrow	Johnson, Ky.	Newton, Mo.	Tincher
Davis, Minn.	Johnson, S. Dak.	Nolan	Tinkham
Dempsey	Jones, Pa.	Norton	Towner
Denison	Kearns	Ogden	Treadway
Dickinson	Kelley, Mich.	Paige	Underhill
Dowell	Kendall	Parker, N. Y.	Vaile
Dunbar	Kennedy	Patterson, Mo.	Vare
Dyer	Ketcham	Perkins	Vestal
Edmonds	Kiess	Perlman	Voigt
Elliott	King	Purnell	Volk
Ellis	Kinkaid	Radcliffe	Volstead
Evans	Kirkpatrick	Rainey, Ill.	Walsh
Fairchild	Kissel	Ramseyer	Walters
Faust	Kline, N. Y.	Ransley	Wason
Fenn	Kline, Pa.	Reber	Watson
Fess	Knutson	Reece	Wheeler
Fish	Kraus	Reed, N. Y.	White, Kans.
Fitzgerald	Kunz	Reed, W. Va.	White, Me.
Focht	Lampert	Rhodes	Williams
Fordney	Larson, Minn.	Ricketts	Williamson
Foster	Layton	Riddick	Winslow
Frear	Lea, Calif.	Roach	Wood, Ind.
Free	Leatherwood	Robsion	Woodruff
Freeman	Lehlbach	Rodenberg	Woodyard
French	Little	Rogers	Wurzbach
Frothingham	London	Rose	Wyant
Fuller	Longworth	Rossdale	Yates
Funk	Luce	Sanders, N. Y.	Young
Gahn	Luhring	Schall	Zihlman
Gallivan	McArthur	Scott, Mich.	
Gensman	McCormick	Scott, Tenn.	
Gernerd	McFadden	Shelton	

NAYS—104.

Almon	Doughton	Lankford	Robertson
Aswell	Drane	Larsen, Ga.	Rouse
Bankhead	Drewry	Lazaro	Rucker
Barkley	Driver	Lee, Ga.	Sanders, Tex.
Bell	Favrot	Linthicum	Sandlin
Black	Fields	Logan	Sears
Bland, Va.	Fisher	Lowrey	Sisson
Blanton	Garner	Lyon	Smithwick
Bowling	Garrett, Tenn.	McDuffie	Steagall
Box	Garrett, Tex.	Martin	Stoll
Brand	Gilbert	Mead	Sumners, Tex.
Briggs	Goldsborough	Montague	Swank
Brown, Tenn.	Hardy, Tex	Moore, Va.	Tague
Buchanan	Harrison	O'Connor	Taylor, Ark.
Bulwinkle	Hawes	Oldfield	Ten Eyck
Byrnes, S. C.	Hayden	Oliver	Thomas
Byrns, Tenn.	Herrick	Overstreet	Tillman
Carew	Hooker	Padgett	Upshaw
Clouse	Huddleston	Park, Ga.	Vinson
Collier	Hudspeth	Parks, Ark.	Ward, N. C.
Collins	Humphreys	Parrish	Weaver
Connally, Tex.	Jacoway	Pou	Wilson
Crisp	Jeffers, Ala.	Quin	Wingo
Davis, Tenn.	Johnson, Miss.	Raker	Wise
Deal	Kincheloe	Rankin	Woods, Va.
Dominick	Lanham	Rayburn	Wright

ANSWERED "PRESENT"—2.

Chandler, Okla.	Cockran

NOT VOTING—79.

Anthony	Graham, Pa.	Lawrence	Pringey
Beedy	Griffin	Lee, N. Y.	Rainey, Ala.
Bond	Hammer	Lineberger	Reavis
Brinson	Haugen	McClintic	Riordan
Britten	Hays	McPherson	Rosenbloom
Burdick	Hogan	McSwain	Ryan
Burke	Houghton	Mansfield	Sabath
Cantrill	Hutchinson	Moore, Ill.	Sanders, Ind.
Carter	Johnson, Wash.	Morin	Shaw
Chandler, N. Y.	Jones, Tex.	Mott	Slemp
Clark, Fla.	Kahn	Mudd	Stedman
Classon	Keller	Nelson, J. M.	Steenerson
Connolly, Pa.	Kelly, Pa.	Newton, Minn.	Stevenson
Crowther	Kindred	O'Brien	Stiness
Dunn	Kitchin	Olpp	Sullivan
Dupré	Kleczka	Osborne	Taylor, Colo.
Echols	Knight	Parker, N. J.	Tyson
Fairfield	Kopp	Patterson, N. J.	Ward, N. Y.
Fulmer	Kreider	Petersen	Webster
Gould	Langley	Porter	

So the motion to go into Committee of the Whole was agreed to.

The following additional pairs were announced:

Mr. ANTHONY (for) with Mr. MANSFIELD (against).

Mr. JOHNSON of Washington (for) with Mr. BRINSON (against).

Mr. ECHOLS (for) with Mr. FULMER (against).
Mr. PATTERSON of New Jersey (for) with Mr. CANTRILL (against).
Mr. DUNN (for) with Mr. JONES of Texas (against).
Mr. GRAHAM of Pennsylvania (for) with Mr. STEDMAN (against).
Mr. OSBORNE (for) with Mr. HAMMER (against).
Mr. PRINGEY (for) with Mr. MCCLINTIC (against).
Mr. OLPP (for) with Mr. RAINEY of Alabama (against).
Mr. BURKE (for) with Mr. MCSWAIN (against).
Mr. LINEBERGER (for) with Mr. KITCHIN (against).
Mr. BEEDY (for) with Mr. DUPRÉ (against).
Mr. HUTCHINSON (for) with Mr. CARTER (against).
Mr. CONNOLLY of Pennsylvania (for) with Mr. TYSON (against).
Mr. MCPHERSON (for) with Mr. STEVENSON (against).
General pairs:
Mr. LANGLEY with Mr. CLARK of Florida.
Mr. KAHN with Mr. SULLIVAN.
Mr. LAWRENCE with Mr. KINDRED.
Mr. MOORE of Illinois with Mr. TAYLOR of Colorado.
Mr. HAYS with Mr. O'BRIEN.
Mr. KNIGHT with Mr. SABATH.
Mr. KREIDER with Mr. GRIFFIN.
Mr. SANDERS of Indiana with Mr. RIORDAN.
The vote was announced as above recorded.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. CAMPBELL of Kansas in the chair.

The CHAIRMAN. The time for general debate as between the gentleman from Minnesota and the gentleman from Texas stands as follows: The gentleman from Minnesota has 153 minutes remaining and the gentleman from Texas 117 minutes remaining.

Mr. VOLSTEAD. Mr. Chairman, I yield 40 minutes to myself. I ask unanimous consent to revise and extend my remarks.

The CHAIRMAN. The gentleman from Minnesota asks unanimous consent to revise and extend his remarks. Is there objection?

There was no objection.

Mr. VOLSTEAD. Mr. Chairman, in what I have to say I shall not dwell on the evil sought to be remedied by the pending bill. It is an evil recognized and deplored by all law-abiding citizens. When the colored people were emancipated from slavery and their freedom had been assured by the adoption of the thirteenth amendment to our Constitution, it became evident that unless certain States were restrained from unfairly discriminating against or otherwise oppressing them the liberty which the thirteenth amendment sought to confer might be illusory, if not a positive injury. To guard against that the fourteenth amendment to the Constitution was proposed and adopted. This amendment made all the citizens of a State citizens of the United States as well, and forbade the State making or enforcing any law which should abridge the privileges or immunities of the citizens of the United States, and further directed that no State should deprive any person of life, liberty, or property without due process of law, or deny to any person within its jurisdiction the equal protection of the laws. We seek to rest this legislation upon that amendment. That a person who is lynched by a mob has been deprived of life without due process of law, and that he has been denied the equal protection of the laws needs no argument.

We are confronted with a situation that must bring a blush of shame to every law-abiding citizen. The record shows that since this amendment was adopted thousands of persons have been put to death by mob violence. Almost every week one or more persons suffer death in that way, many in a manner that would disgrace a savage and uncivilized country. One of the saddest comments upon these outrages is that a very large proportion of the victims are innocent of the crime for which they are put to death. Instead of these outrages lessening in number, they appear rather to be on the increase and to have become a recognized mode of dealing with certain classes of persons or crimes. It is practiced with utter disregard of law and without the slightest danger of punishment in many sections of this country. In view of this situation it is asked, and earnestly asked, is there not some power in the Federal Government to correct this evil?

From the history of the times and the legislation that Congress sought to enact immediately after the adoption of the fourteenth amendment, I believe it is clear that it was understood and intended to confer on Congress such power. The Supreme Court has repeatedly and uniformly held that Congress has power to enforce this amendment by legislation. The fifth section of the amendment provides in so many words that Congress may enforce it. In view of that fact, the constitutional question involved in the pending bill is whether it provides appropriate legislation. All the vehement appeals that have been made against it as an attempt to violate the Constitution are nothing but mere rhetoric. If this legislation is without constitutional warrant, the Supreme Court will promptly set it aside. But if we believe it to be valid, its enactment is in line with the duty we owe as Members of the House.

Mr. SUMNERS of Texas. Will the gentleman yield?

Mr. VOLSTEAD. No; I can not yield.

In considering the constitutionality of this bill I desire that you bear in mind that the measure as reported by the committee involves only three substantive propositions. Two of these, sections 5 and 6 and the first paragraph of section 3, are, as I view it, clearly within the logic and language of an unbroken line of Supreme Court decisions. The feature of the bill that is drawn in question, especially by the early decisions of that court, arise upon section 4 and the last paragraph of section 3, in that they seek to punish individuals that are not officers of a State. It is contended that Congress has no such power. Even if section 4 and the last paragraph of section 3 should be held void, that part of the bill still remaining would go a long way toward compelling the States to protect their citizens. We do not desire to take from the States any power that they possess so long as that power is exercised in obedience to the Constitution of the United States.

Only a few words will be devoted to the question of whether sections 5 and 6 and the first paragraph of section 3 are constitutional. The first part of the latter section makes it a crime for an officer of a State who is charged with the duty, or who has the power or authority to protect the life of any person, or who has any person in his charge as a prisoner, that fails, neglects, or refuses to make all reasonable efforts to protect such person from being put to death. The Supreme Court in Ex parte Virginia, found in One hundredth United States, 339, in dealing with a case in which a State judge was prosecuted under an act passed for the enforcement of the fourteenth amendment, held that in selecting a jury this judge by excluding and failing to select upon the panel colored jurors made himself liable to indictment and punishment for a crime. In speaking of the power of Congress under this amendment the court, on page 346, said:

> Nor does it make any difference that such legislation is restrictive of what the State might have done before the constitutional amendment was adopted. The prohibitions of the fourteenth amendment are directed to the States, and they are to a degree restrictions of State power. It is these which Congress is empowered to enforce, and to enforce against State action, however put forth, whether that action be executive, legislative, or judicial. Such enforcement is no invasion of State sovereignty.

And again, on page 347:

> But the constitutional amendment was ordained for a purpose. It was to secure equal rights to all persons, and to insure to all persons the enjoyment of such rights, power was given to Congress to enforce its provisions by appropriate legislation. Such legislation must act upon persons, not upon the abstract thing denominated a State, but upon the persons who are the agents of the State in the denial of the rights which were intended to be secured.

The case of United States *v.* Reese (92 U. S., 215) is also in point, because it was there held that a State officer who deprived a citizen of a right to vote because of his color might be punished for violating the fifteenth amendment, which, in form, is directed to the State the same as the fourteenth amendment. It would not seem necessary to cite any further cases on this point, as the doctrine announced in these cases is in line with the general theory upon which the court has proceeded ever since the amendment was adopted.

Sections 5 and 6 impose a penalty upon a county where a person is killed by a mob. This is a remedy that is in force in a number of States. It is borrowed from England and is so ancient that the memory of man runneth not to the contrary. Such laws have been uniformly held to be constitutional. It would seem quite clear that this is an appropriate method of enforcing this amendment. The county is a political subdivision of a State created for the purpose and charged with the duty of enforcing law in its locality. It is that part of the State that is guilty of failing to enforce this amendment when a person is killed by a mob. Such a punishment appears to be fully warranted from the doctrine that under this amendment Congress does not proceed against the State itself, but against the instrumentalities of the State that violate its provisions. The Supreme Court in Chicago *v.* Sturges (222 U. S., 323), in affirming a judgment against that city for a like penalty, used this language:

> The policy of imposing liability upon a civil subdivision of government exercising delegated police power is familiar to every student of the common law. We find it recognized in the beginning of the police system of Anglo-Saxon people. Thus, "The hundred," a very early form

of civil subdivision, was held answerable for robberies committed within the division. By a series of statutes, beginning possibly in 1285, in the statutes of Winchester (13 Edw. I, ch. 1), coming on down to the 27 Elizabeth, chapter 13, the riot act of George I (1 Geo. I, Stat. 2) and act of 8 George II, chapter 16, we may find a continuous recognition of the principle that a civil subdivision intrusted with the duty of protecting property in its midst and with police power to discharge the function may be made answerable not only for negligence affirmatively shown but absolutely as not having afforded a protection adequate to the obligation. Statutes of a similar character have been enacted by several of the States and held valid exertions of the police power. (Darlington *v.* Mayor, etc., of New York, 31 N. Y., 164; Fauvia *v.* New Orleans, 20 La. Ann., 410; County of Allegheny *v.* Gibson, etc., 90 Pa. St., 397.) The imposition of absolute liability upon the community when property is destroyed through the violence of a mob is not, therefore, an unusual police regulation, neither is it arbitrary as not resting upon reasonable grounds of policy. Such a regulation has a tendency to deter the lawless, since the sufferer must be compensated by a tax burden which will fall upon all property, including that of the evildoers as members of the community. It is likewise calculated to stimulate the exertions of the indifferent and the law-abiding to avoid the falling of a burden which they must share with the lawless. In that it directly operates on and affects public opinion; it tends strongly to the upholding of the empire of the law.

The suggestion that the imposition of a fine or forfeiture for a failure to perform a duty is the imposition of a tax is novel. This is not a tax any more than the imposition of a fine upon an individual is a tax. The claim that this punishment could be made so large as to destroy the counties is met by the seventh amendment to the Constitution which prevents excessive fines. Nor is there any merit in the contention that the Federal Government has no police power. That it has such power in carrying out its expressed power—and this is an expressed power—no one questions at this late date. The following are some of the recent cases on the subject: Hoke *v.* United States (227 U. S., 308), Buchanan *v.* Warey (245 U. S., 60), Hamilton *v.* Kentucky Distillery Co. (251 U. S., 146).

Mr. SUMNERS of Texas. Will the gentleman yield?

Mr. VOLSTEAD. I do not have the time.

Mr. SUMNERS of Texas. I will yield to the gentleman an additional minute if he will yield.

Mr. VOLSTEAD. What is it?

Mr. SUMNERS of Texas. In the distillery case, did not the judge hold that the Federal Government had no police power?

Mr. VOLSTEAD. The judge repeated the old formula that the Federal Government has no police power, but said that the Federal Government had a power the same as a police power. In some cases the court has said that the Federal Government has a police power but in the early days the court started out with the statement that the Government had no police power, but all through our history it has exercised such power, and it is about time that fiction disappeared. The Federal Government has no general police powers but it exercises all sorts of police powers under its express powers.

Mr. SUMNERS of Texas. I understood the gentleman to say that in the distillery case it was decided that they had police power.

Mr. VOLSTEAD. They held that the Federal Government had the power but did not call it police power.

Mr. SUMNERS of Texas. I want to ask the gentleman if Judge Brandeis did not hold that the Federal Government has no police power?

Mr. VOLSTEAD. In about three lines. But it is all nonsense to talk about the Federal Government not having police power because anybody who has read any law at all knows that the Government exercises a power the same as the police power and which in fact is a police power.

In considering the constitutional question involved in section 4 and the second paragraph of section 3 I believe it can be said that the precise point that will be raised by this legislation as I expect to have it amended has never before been presented to the Supreme Court. A number of statutes were passed shortly after the adoption of the fourteenth amendment and held void, but the operation of those statutes did not depend upon any failure of the State to protect the individual. In setting aside those statutes the court repeatedly called attention to that fact. I shall not attempt to analyze the numerous cases in which this amendment has been discussed. There are hundreds of them. Many of the criminal cases depend upon the particular language of the statute under which the charge was made or the form of the indictment drawn to meet the particular facts of the case. But they all proceeded on the theory that Congress had power to act whether the State was in default or not.

To avoid the construction that this is direct instead of corrective legislation it is my intention to offer an amendment to the bill so as to make the provisions of sections 3 and 4 inapplicable to any private person until the State has had a reasonable opportunity to perform its duty. My view is that when the State fails to punish it denies the protection guaranteed by the amendment, acquiesces in the action of the mob, and consents to a continuance of that mode of punishing offenses.

In construing this amendment it is well to bear in mind what was said in regard to it in Guthrie's Fourteenth Amendment. I read from page 33:

> The construction or interpretation of a constitution is not governed by the rules that apply to ordinary statutes or private writings. A constitution is designed to be a frame or organic law of government and to settle and determine the fundamental rights of the individual. A national constitution is intended to endure for all time. Its provisions should not in any sense be limited to the conditions happening to exist when it is adopted, although those conditions and the history of the times may well throw light upon the provisions and reveal their true scope. Such a constitution is an enumeration of general principles and powers or of limitations upon the exercise of governmental functions, and it is not a mere code of rules to regulate particular cases. All progress and improvement would be barred and a constitution would soon become useless if it were not construed as a declaration of general principles to be applied and adapted as new conditions presented themselves.

The first section of the fourteenth amendment was at first construed very narrowly. It was thought by the Supreme Court at one time that its provisions were only applicable to the Negroes, but that view soon disappeared; it was contended that it gave no rights to one person as against another, and still case after case can be cited in which such rights have been asserted and secured. Due process of law at first meant very little, but it has been gradually developed and expanded way beyond what anyone imagined it would mean when it was first written. This narrow construction of this amendment is contrary to the practice that has prevailed in construing the Constitution, but this gradual evolution is in line with that practice. It is evident that the committee that drew and the Congress which proposed this amendment gave to it a construction that would afford ample protection to life as well as liberty and property. I read from the same authority, pages 59 to 61:

> There can be no reasonable doubt that the reconstruction committee understood and contemplated that among the privileges and immunities they were seeking to protect against invasion or abridgment by the States were included those set forth in the first eight amendments. The committee's report declared that it was necessary to have such "changes of the organic law as shall determine the civil rights and privileges of all citizens in all parts of the Republic." In submitting the amendment to the Senate on behalf of the committee, Senator Howard presented what he said were "the views and the motives which influenced that committee * * * and the ends it aims to accomplish." Speaking of the privileges and immunities of citizens of the United States, he said, "We may gather some intimation of what probably will be the opinion of the judiciary by referring to a case adjudged many years ago." He then quoted at length from Corfield *v.* Coryell, 4 Wash. C. C. Rep. 371, 380, and proceeded to say: "Such is the character of the privileges and immunities spoken of in the second section of the fourth article of the Constitution. To these privileges and immunities, whatever they may be—for they are not and can not be fully defined in their entire extent and precise nature—to these should be added the personal rights guaranteed and secured by the first eight amendments of the Constitution, such as the freedom of speech and the press; the right of the people peaceably to assemble and petition the Government for a redress of grievances, a right appertaining to each and all the people; the right to keep and bear arms; the right to be exempted from the quartering of soldiers in a house without the consent of the owner; the right to be exempt from unreasonable searches and seizures, and from any search or seizure except by virtue of a warrant issued upon a formal oath or affidavit; the right of an accused person to be informed of the nature of the accusation against him, and his right to be tried by an impartial jury of the vicinage; and also the right to be secure against excessive bail and against cruel and unusual punishments." After further discussion, Senator Howard continued: "The great object of the first section of this amendment is therefore to restrain the power of the States and compel them at all times to respect these great fundamental guaranties."
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> From these statements as to the declared purpose of the framers, officially and authoritatively made to the Senate on behalf of the reconstruction committee, it would seem to be entirely clear that the intention was that the essential rights of life, liberty, and property, distinctly recognized in the Constitution and in the first eight amendments, should, by the fourteenth amendment, be made the indisputable and secure possession of every citizen of the United States beyond the power of any State to abridge. * * *

If the contention of those who insist that Congress has no power to deal with the individual is correct, the main purpose of this amendment has, as I view it, been defeated. It is true that under that construction property may under certain circumstances be fairly well protected, and so may a person's liberty; but the protection of life, which was no doubt one of the main considerations for its adoption, is left to the mercy of a mob. Instead of this amendment being a shield over the poor man's hut, it becomes by this construction a protection to wealth and a bulwark for what the socialists delight to call privilege. The Supreme Court may give protection under existing laws against any affirmative action of a State when a person can be made a party to an action. Its writs or judgments can then be directed against the State courts or officers engaged in violating the amendment. But the person whose life has been taken by a mob can not become a party to an action and is beyond the reach of the court. His dependents weep in vain, while thousands of others threatened with a like fate tremble with fear

lest they be the next victims. I do not believe that Congress is without power. I can not persuade myself that the Supreme Court will so hold. When Congress was given power to enforce the amendment it would seem that any fair construction would authorize it to see that the purpose of the amendment was fulfilled. The real question is, Can Congress act when the State fails to act and fails to protect? The Supreme Court has repeatedly said that the Federal Government occupies toward the State the position of a guarantor. The duty of a guarantor is not to compel his principal to pay, but to pay when his principal makes default.

That a State may deny due process or protection of law by inaction as well as by action would seem to be clear. In the Civil Rights cases (109 U. S., 23) the court, in enumerating wrongs obnoxious to the amendment, said "that allowing persons who have committed certain crimes—horse stealing, for example—to be seized and hung by the posse comitatus without regular trial" would be one such wrong. In Strauder *v.* West Virginia (100 U. S., 306) the court said Congress had power to enforce this amendment in case a State withholds from a person equal protection of the law; and in that same case (p. 307) it is said that "the words of the amendment, it is true, are prohibitory, but they contain a necessary implication of a positive immunity or right most valuable to the colored race." The colored race is not given any greater right or immunity under this amendment than other races or persons.

In United States *v.* Hall (26 Fed. Cases, p. 81), Circuit Judge Wood, sitting with Busteed, district judge, in speaking for the court in explaining the power of Congress under the provision of this amendment prohibiting a State from denying to any person under its jurisdiction the equal protection of the law, said:

"Congress may enforce this provision by appropriate legislation." From these provisions it follows clearly, as it seems to us, that Congress has the power by appropriate legislation to protect the fundamental rights of citizens of the United States against unfriendly or insufficient State legislation, for the fourteenth amendment not only prohibits the making or enforcing of laws which shall abridge the privileges of the citizen, but prohibits the States from denying to all persons within its jurisdiction the equal protection of the laws. Denying includes inaction as well as action, and denying the equal protection of the law includes the omission to protect as well as the omission to pass laws for protection. The citizen of the United States is entitled to the enforcement of the laws for the protection of his fundamental rights as well as the enactment of such laws. Therefore, to guard against the invasion of the citizen's fundamental rights and to insure their adequate protection, as well against State legislation as State inaction or incompetency, the amendment gives Congress the power to enforce its provisions by appropriate legislation.

In United States *v.* Blackburn (24 Fed. Cases, p. 1158) Judge Krekel expressed this view:

Hence if the outrages and crimes shown to have been committed in the case before you were well known to the community at large, and that community and the officers of the law willfully failed to employ the means provided by law to ferret out and bring to trial the offenders because of the victims being colored, it is depriving them of the equal protection of the law.

In Louisiana & Northwest Railroad Co. *v.* Bosworth (233 Fed., 191) the court said:

And what is it to deny equal protection? It is to refuse to grant or to withhold equal treatment.

In Truax against Corrigan, decided last December, the Supreme Court held that because the State of Arizona by a statute sought to withhold protection from a certain class of persons it therefore denied due process and equal protection.

I am not aware of any case in which the Supreme Court has held that an omission or failure to afford protection is not within the prohibition of this amendment. I do not believe that the Supreme Court will ever hold that Congress does not have all the power that is necessary to fully enforce it. It is a rule of universal application that every statute must be construed so as to carry out the object intended to be accomplished by it.

Cyclopedia of Law and Procedure, volume 36, page 1110, cites a vast number of cases in support of that doctrine.

In Ex parte Virginia, Mr. Justice Strong stated the rule to be:

Congress is authorized to enforce the prohibitions by appropriate legislation. Some legislation is contemplated to make the amendments fully effective. Whatever legislation is appropriate—that is, adapted to carry out the objects the amendments have in view—whatever tends to enforce submission to the prohibitions they contain, and to secure to all persons the enjoyment of perfect equality of civil rights and equal protection of the laws against State denial or invasion, if not prohibited, is brought within the domain of congressional power.

I do not believe anyone has any doubt as to the purpose sought to be accomplished by this amendment. It must have been the power to carry out that purpose which was to protect life, liberty, and property under just laws that was conferred on Congress. And that is, in effect, what the Supreme Court said in this case. There is in the language of the amendment no limit upon the means that Congress may employ for that purpose.

Mr. JOHNSON of Mississippi. Mr. Chairman, will the gentleman yield there?

Mr. VOLSTEAD. I can not yield. If I yield to every one who wants to ask me a question, I would never get through.

Mr. JOHNSON of Mississippi. That is not debating; that is shooting in the back.

Mr. VOLSTEAD. You realize that one could break up the whole discussion very readily by asking questions every minute.

Mr. BANKHEAD. But the gentleman occupies a peculiar position. He is the chairman of this great committee and as such——

Mr. VOLSTEAD. Oh, I occupy the same position as every one else does in a discussion such as this.

Mr. BANKHEAD. But the gentleman is the chairman of this committee.

Mr. VOLSTEAD. It is impossible to discuss a constitutional question with continual interruptions; there is no reason why I should not be treated as others on this floor. If the purpose of the amendment is not to be considered, but a literal construction given to it, the first section of the amendment would practically be waste paper, for then the Federal Government could only proceed against the State itself and could not reach its courts and officers. No such impractical construction has been placed upon it. Not only do the courts issue their writs and direct their judgments and decrees against courts and officers acting in obedience to State authority but they proceed against any State officer, though he acts in violation of his duty and entirely without authority from the State. This doctrine is firmly established.

The late case of Home Telephone & Telegraph Co. *v.* City of Los Angeles (227 U. S., 278) reviews the cases on this subject and reaffirms the rule. In this case Barney *v.* New York (193 U. S., 430) was overruled in so far as that case held that an officer acting without authority from the State could not be proceeded against. If it can be held that a person who has no authority from a State to do the act that is prohibited by this amendment can be punished for that very act on the theory that such act is still that of the State, it would seem fully as consistent with the letter and spirit of the amendment to punish those who usurp and assume the function of the State and thus prevent a State from doing its duty. The doing of that would simply be to aid the State in the performance of its duty, which evidently was one of the purposes for which Congress was given power to enforce. It is clear that if a State should so amend its laws that life, liberty, or property could not be protected within its borders Congress could not force the State to enact the necessary laws; and if a State failed to provide the necessary courts or officers to secure such protection the Federal Government could not compel the State to provide such courts and officers. No one, I venture to say, would propose a penalty against a member of a State legislature for failure to provide necessary laws, and no court could by any writ known to the law compel a legislature to act, nor could the courts or officers of a State be punished for failure to protect a person that the State did not authorize them to protect. Under such circumstances citizens of the United States could secure no protection under this amendment unless Congress could act. It is not an impossible or even improbable thing that I am suggesting. Only a few days ago the Supreme Court held void a statute of the State of Arizona by which it was attempted to deprive certain classes of persons of due process of law and the equal protection of the laws. In that case it was found possible to grant relief, but a statute could easily have been so framed that the Supreme Court could not have afforded such protection. If Congress is to be permitted to enforce the protection to citizens, it must have power to protect the individual not only against the action but also against the inaction of the State. It can not protect against inaction unless it can reach and punish the individual when the State fails to do so.

The Supreme Court does not, as I view it, follow the rule that is contended for by the opponents of this bill. In Simon *v.* Southern Railway Co. (236 U. S., 115) an action brought in the Federal court was sustained enjoining the plaintiff in an action in which a judgment had been obtained without due process of law from collecting that judgment. In that action no State court or State officer was involved. The action proceeded directly against a private person who was plaintiff in a judgment obtained in accordance with the State law, but which was held void because in violation of this amendment. A curious situation has arisen in a number of cases. The case of Ex parte

Young (209 U. S., 123) is a leading case. There an action was brought in a Federal court for an injunction against the attorney general of the State charging that as such attorney general he was about to enforce a State statute alleged to be void because in contravention of this amendment. It was contended that this action could not be maintained because the eleventh amendment to the Constitution prohibits action against the State. The court held that it was not an action against the State, but against Mr. Young as a private individual, and still retained jurisdiction of the suit for the purpose of enforcing this amendment. It is a good deal of a fiction to contend that a court is enforcing this amendment against a State where two individuals are litigating over the unauthorized act of a State officer, and neither the officer nor the State is a party or interested in the slightest degree in the result of the action. The Supreme Court directs its writs, judgments, or decrees in ordinary actions against the persons in the action. It does not limit its action to prohibition against the State or State action as such, but determines the merits of the controversy in a suit and directs the form of judgment to be entered against the persons to the suit.

Mr. LINTHICUM. Mr. Chairman, I make the point of order that there is no quorum present.

The CHAIRMAN. The gentleman from Maryland makes the point of order that there is no quorum present. The Chair will count. [After counting.] One hundred and three Members present, a quorum.

Mr. JOHNSON of Mississippi. Mr. Chairman, will the gentleman yield now?

Mr. VOLSTEAD. No. I have already stated that I can not yield.

When a State fails to punish those who commit mob murder it fails to afford due process of law and the equal protection of the laws. Aside from immediate police protection, which in most instances can not be given, the one method recognized and relied on by every government as the appropriate, the necessary, and effective means for protecting persons against lawlessness is the punishment of those who violate law. In that connection let me again call your attention to the case of United States *v.* Blackburn. The court there expressly held that a failure to arrest and punish persons known to the officers as guilty of a murder was a failure to afford due process of law and the equal protection of the laws. The punishment of crime is not so much for the correction of the guilty person as for the purpose of deterring others from committing like offenses. When a mob murder occurs and the perpetrators go unpunished it makes certain that others will become victims of like outrages. If the perpetrators of such murders were promptly and adequately punished, there would be no mob law in this country any more than there is in other civilized countries. To insist that the Federal Government has no other remedy than to punish the officers who fail to perform their duty, instead of punishing members of the mob who are the real offenders, is to insist that the Government shall perform its duty by doing an impractical and impossible thing. But aside from that the officers, unless they participate in the murder, can not be punished for the murder. They could in most instances only be punished for negligence, and in the vast majority of cases could not be penalized at all.

There is nothing in the language of the fourteenth amendment that prohibits action against individuals when the State makes default; that is, if Congress has power to enforce its plain purpose, and I can see no sense in refusing to apply to this amendment the familiar rule that it must be construed so as to carry out its purpose. The contention that such a construction is inadmissible because it would give the Federal courts jurisdiction of every criminal offense is an argument against a policy and not against the power of Congress. It is the function of Congress and not the courts to determine policies.

The argument is, however, fallacious on another ground. From a practical standpoint it would add but very little to the reach of this amendment as it is now being enforced. Under the present law a person charged with any crime can have the protection of this amendment by appealing from the highest court of the State to the Supreme Court of the United States. If, as I suggest, no action could be had under Federal law unless a State failed to punish, the law could only operate where public sentiment was such that due process and protection of law could not be secured. In the ordinary case the Federal Government would have no chance to act because the State would perform its duty. When, however, a community makes it impossible for its courts and officers to enforce law the protection that the National Government has guaranteed ought to be given, and I have no patience with the doctrine that justifies repudiation of our obligations upon a mere technicality.

There is no merit in blinking the fact that we are face to face with the situation that lynch law is the only law that functions under certain circumstances. The mob is the judge, the jury, and the executioner. Its acts are sanctioned by the weakness or supineness of the State. The fact that the mob does not consult statutes or measure the punishment it inflicts with the nicety of the ordinary court does not make it any the less a tribunal for the punishment of crime. The lawlessness of the punishment it inflicts should not be made a shield against prosecution. It can not be material that the mob does not claim to represent the State or that it has no authority from the State when it usurps and performs the functions that no one but the State can lawfully perform. The enforcement of the lynch law is not revolution against the State; but is, as the phrase goes, the act of the public taking the law into their own hands. While I do not believe that it makes any difference whether the mob has any authority from the State or not, I confess I can see no good reason why the mob should not be held to represent the State when it assumes to function for the State. Its action is the only administration of law when it puts a person to death as a punishment for a crime. It seems to me there is as much reason for holding its act to be the act of the State as there is for holding that an unauthorized act of a State officer is the act of a State. We punish such an officer upon the theory that he acts for the State; why not make the members of the mob subject to like punishment? The officer has no more warrant from the State for his action than has the mob.

The question of whether Congress can punish those who interfere with an officer of a State was carefully considered by the circuit court in United States *v.* Powell (151 Fed., 658). This case was affirmed by the Supreme Court because, as I construe the decision, it rests on statutes that are direct instead of corrective. Statutes that only protect against the invasion of the rights and privileges secured to citizens by the Constitution of the United States and not rights and privileges pertaining to citizens of a State that are only guaranteed to such citizens by the fourteenth amendment. In my view of the law the Supreme Court was right in affirming this case.

Mr. JOHNSON of Mississippi. Mr. Chairman, there are but 50 people present in the Chamber, and I make the point of order that there is no quorum present.

The CHAIRMAN. The Chair will count. [After counting.] One hundred and one Members present, a quorum.

Mr. VOLSTEAD. In conclusion, let me again call attention to the fact that all prior legislation under this amendment that has been held void was not in any way made to depend on any failure on the part of a State, but was direct and not corrective, and that whatever was said in those cases must be construed with reference to such statutes. It would seem that if Congress has power to carry out the purpose of this amendment it has and must have power to punish not only the officers of the State but also persons who prevent a State from performing its duty. It is too plain to require argument that such purpose can not be carried out in any other way. I confidently believe that the Supreme Court will eventually hold that Congress has such power and that we are justified in submitting the question to that court for its decision upon that point.

This amendment made every person born in the United States and subject to its jurisdiction citizens of the United States and of the State of his residence. This was done to confer upon him rights and privileges denied to him in the famous Dred Scott decision. It was adopted to place him under the protection of the National Government and to impose upon that Government the duty to see that he was not deprived of life, liberty, or property without due process of law, or denied the equal protection of the laws. The Government asserts the right to command not only the services but the lives of its citizens in case of war. Hundreds of thousands—yes, millions—of men were drafted in the late war. When these men returned to their homes they and those they hold dear were in many instances threatened with the fury and cruelty of lawless mobs. The Government that will not defend its defenders, that will not protect those whom it compels to face shot and shell to protect its interest, is a disgrace to the family of nations, and I hope that this Congress will help to wipe such a stain from our flag and carry out the purpose of those who drew and those who proposed this amendment.

Mr. MANN. Mr. Chairman, will the gentleman yield for a question?

Mr. VOLSTEAD. Yes.

Mr. MANN. I understood the gentleman to say, in effect, that so far as the constitutional power of Congress is concerned we have the power to pass a law to punish any crime.

Mr. VOLSTEAD. Provided you make it dependent upon whether the State fails to perform its duty or not.

Mr. MANN. I do not know how I am going to vote upon this bill, and I want to get some information. Do I understand it is contended by the gentleman that if some man commits murder down here and is not apprehended we have the power to pass a law to have the Government of the United States apprehend him?

Mr. VOLSTEAD. You would have to have Congress or a court first determine whether the State is refusing or is too weak or inefficient to have the man punished.

Mr. MANN. But I have stated the fact that he is not apprehended by the local authorities or by the State.

Mr. VOLSTEAD. In the case of lynching everybody in the community knows what has happened. As a rule the people remain there and there is no difficulty if you want to arrest anyone to have that done. In the case of murder, in a great many instances the murderer skips out, so you can not arrest him. It might be proper, in drafting an amendment of the kind I suggest to provide that a court should determine whether the State had failed to do its duty. But I believe if the State fails to do its duty we have the power to impose penalties.

Mr. MANN. Of course, constitutional power is the same, regardless of what the amendment is.

Mr. VOLSTEAD. Yes; but we must take into consideration what the circumstances are.

Mr. MANN. The Supreme Court must take into consideration the power of Congress to enact legislation.

Mr. VOLSTEAD. The manner of using the power depends upon the circumstances under which we exercise it.

Mr. MANN. The power of Congress does not depend upon circumstances.

Mr. VOLSTEAD. The right to exercise it depends upon the circumstances.

Mr. MANN. The power of Congress was fixed when the constitutional amendment became a part of the Constitution.

Mr. VOLSTEAD. That is true.

Mr. MANN. You have not changed the circumstances.

Mr. VOLSTEAD. You can not pass the same kind of a law and make it fit every case. You must adapt the law to the circumstances, so you do not exceed the power that is granted.

Mr. MANN. You could pass it if there had never been a lynching. There is no magic in the word "mob." I understand the gentleman rests his contention on the power to punish individuals; that the mob is a court acting for the State, and the State is responsible for them.

Mr. VOLSTEAD. That is one among other suggestions, but what I believe is this, that when the State fails to perform its functions the guaranty of the United States applies.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SUMNERS of Texas. I yield five minutes more to the gentleman.

Mr. MANN. The gentleman has plenty of time. I would like to ask this question: If we define the mob as five, of course we could define it as three; we could define it as one, could we not?

Mr. VOLSTEAD. No.

Mr. MANN. Why not?

Mr. VOLSTEAD. Because it would not be a mob.

Mr. MANN. We define the word "mob," and we could make it any number we please.

Mr. VOLSTEAD. The old common-law definition of a mob required at least three persons.

Mr. MANN. Suppose this case: It is very common practice now, I regret to say, in cities and countries alike, that four or five or six gentlemen—I use the term—drive up in front of a bank or a store, or maybe stop at the side of a street, and pull a revolver on somebody and ask him to "put up." Suppose there were five of them? Have we the power on the part of the General Government to go and punish, or to seek out, or indict those men?

Mr. VOLSTEAD. When the State fails, but we have got to make some showing that the State is in default.

Mr. MANN. In most cases the State fails and the men go off and we do not get them. Have we the power to do it?

Mr. VOLSTEAD. My opinion is that under the fourteenth amendment we have the power whenever the State fails to perform its duty.

Mr. MANN. I understand, then, that the passage of this bill is a declaration that Congress has the power to provide for seizure and punishment of any individual who commits any crime in any State at any time hereafter?

Mr. VOLSTEAD. Provided the State acquiesces or practically consents by its inaction, because then it endangers everyone in that community, because the effect is to deny protection of the laws.

Mr. MANN. I simply add to the proposition, provided the State does not convict him?

Mr. VOLSTEAD. Oh, no.

Mr. MANN. You think we have the power if the State does not convict him?

Mr. VOLSTEAD. I do not think that the question of conviction can be considered. Take, in the Frank case, while the mob was threatening the court and threatening to take that man out of the State court and lynch him, if the Federal court could have protected him by giving him a fair trial I think there is a clear intimation on the part of the Supreme Court that it would have held that it might do so if we had had a suitable statute, but there was no such statute.

Mr. MANN. As I get the gentleman now, his position is that if the State does not punish a man for committing a crime, wherever it is or whatever it is, we have the power to do it?

Mr. VOLSTEAD. You have my view of it, I believe; though your question would hardly indicate that you have.

Mr. MANN. That is what I think.

Mr. GARRETT of Tennessee. If the gentleman will yield, the section which deals with the imposition of fine upon the county and authorizes the Federal judge to levy the tax, I understood the gentleman to express the opinion was a constitutional proposition?

Mr. VOLSTEAD. I did. It is not a tax. The method of collecting it is the method of collecting a judgment now under the Federal law. You can get a mandamus to compel a judgment to be placed on the tax records to-day. That is simply a copy of existing statute.

Mr. GARRETT of Tennessee. That is, in a civil case?

Mr. VOLSTEAD. It is immaterial whether it is in a civil or a criminal case.

Mr. GARRETT of Tennessee. Where the judgment runs against the county. This is an assessment of a fine.

Mr. VOLSTEAD. Yes.

Mr. GARRETT of Tennessee. Of course, there are powers in the State which have been exercised and regulate the matter of assessment of taxes by a county, and the gentleman quoted the South Carolina statute, which imposes a fine upon the county authorizes the fixing of them. Does the gentleman see any distinction between the power of the State in that regard and the power of a Federal judge in that regard?

Mr. VOLSTEAD. When that judgment is entered it is in a civil action brought for the collection of that fine. The judgment is like any other judgment, and can be enforced even if we do not put that provision in this law for its collection.

Mr. GARRETT of Tennessee. But the gentleman's bill goes further.

Mr. VOLSTEAD. No.

The CHAIRMAN. The time of the gentleman from Minnesota has again expired.

Mr. KELLEY of Michigan. Mr. Chairman, will the gentleman give himself another minute? I would like to ask him a question.

Mr. VOLSTEAD. One minute probably will not be enough, but I yield myself a minute.

Mr. KELLEY of Michigan. Does the gentleman base the power of Congress upon the proposition that the Federal Government has jurisdiction whenever a State fails to prevent crime?

Mr. VOLSTEAD. Whenever a State practically acquiesces in the lawlessness.

Mr. KELLEY of Michigan. I say whenever a State fails to prevent crime.

Mr. VOLSTEAD. I think whenever a State fails to protect life, liberty, or property it is the duty of the Federal Government to see that it is done, and if it can not be done in any other way it may be done by punishing the individual at fault.

Mr. KELLEY of Michigan. Then your contention is practically that the Federal Government has jurisdiction over all crimes?

Mr. VOLSTEAD. Whenever there is a failure by the State to obey the fourteenth amendment it is made the duty of Congress to enforce it.

Mr. KELLEY of Michigan. And the county can not be fined unless the State fails?

The CHAIRMAN. The time of the gentleman from Minnesota has again expired.

Mr. SUMNERS of Texas. Mr. Chairman, I yield 15 minutes to the gentleman from South Carolina [Mr. DOMINICK].

The CHAIRMAN. The gentleman from South Carolina is recognized for 15 minutes.

Mr. DOMINICK. Mr. Chairman, I ask unanimous consent to revise and extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from South Carolina asks unanimous consent to revise and extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. DOMINICK. Mr. Chairman and gentlemen of the House, if there were any argument needed against the constitutionality of this bill and any argument that is sufficient to show its utter unconstitutionality, that was brought out just a few moments ago by the inquiry of the gentleman from Illinois [Mr. MANN] to the gentleman from Minnesota [Mr. VOLSTEAD]. That same question was asked before the Committee on the Judiciary, and it received a reply that I think will find lodgment in the minds of all fair-thinking lawyers.

Many cases have been cited here on the floor on both sides, but I am satisfied that if those who have made these arguments and cited these authorities were on the bench and the question of the constitutionality of this act came before them they would not decide in favor of its constitutionality upon the arguments and authorities which they themselves have submitted in this debate. I do not propose during the brief time that has been allotted to me to review those cases or to cite them. They have been cited time upon top of time here, and you are all familiar with them and with the principles they set out. Those same cases were cited before the Committee on the Judiciary by Col. Goff, the assistant to the Attorney General, who is, I understand, one of the ablest lawyers of the country and a man whose opinions are entitled to the highest respect. In the hearings before the committee, after many citations of authorities by Col. Goff, which he applied to his argument, Mr. REAVIS, the gentleman from Nebraska, asked Col. Goff what conclusion his arguments would lead to, and Col. Goff said:

It is a legislative fact, and I say that when the legislative department of our Government has determined the fact, the courts uniformly decline to go into the justification of the legislative motive, unless it is so very absurd that upon its face it would be in excess of authority. If the Congress of the United States, in view of the fact that a State has a law punishing murder, says there should be a Federal law punishing murder in order that there may be conceded to the people of that State an equal, vigorous, and speedy enforcement of the law and the protection of their lives and their property, then Congress would have the right, in the exercise of the correlative duty of protection, to do so. If the State is helpless for any reason to secure these rights—and the people are deprived of their enjoyment—is Congress justified in condoning the deprivation merely because of the absence of some formal action by the State?

Mr. REAVIS. Would you carry that further, to burglary, larceny, and assault and battery?

Mr. GOFF. Of course, the principle would carry us there. It would carry us there, not only under the broad, general terms of the Federal police power, but it would carry us there under the general power to maintain peace and to insure that peace which is known as the peace of the United States. If a State declined to maintain order under the law, could Congress justify a refusal to protect and enforce such rights as were violated if these rights were dependent on the Constitution of the United States?

Mr. REAVIS. Then, I gather from what you say, and I want to understand you, that under the fourteenth amendment Congress would have the right to enact legislation under the police power covering the crimes of the homicide, larceny, burglary, and embezzlement, which are purely State offenses?

To that question Col. Goff replies in the affirmative and answers yes. Later on in these hearings, discussing other features of the bill, Col. Goff made a statement, as follows:

I have not discussed that view of the bill, but have addressed my remarks rather to the other question, whether a Federal law creating the crime of murder could be passed under the fourteenth amendment.

Col. Goff used the same line of authorities that has been used here on the floor by the proponents of this bill, and yet under that line of authorities he was forced to admit, able lawyer that he is, that if you would follow his line of reasoning to the ultimate conclusion it would wipe out absolutely the State lines, and that the Federal Congress would have the power to class every crime on the calendar a Federal offense and place it under the jurisdiction of the Federal courts. Will anyone seriously contend that under the fourteenth amendment the Congress of the United States has the right to punish larceny and burglary and other such minor offenses, which have not been committed against the peace and dignity of the United States, but against the peace and dignity of the respective States? Their argument and reasoning lead them to this conclusion.

Oh, but they say, "We must give them equal protection, and the deprivation is a denial, and consequently we have the right to legislate." They even go so far, Mr. Chairman, in their arguments and in their reasoning as to set down as a fact that Congress by a mere legislative fiat can override the plain terms of the Constitution as laid down in the fourteenth amendment.

The gentleman from Minnesota [Mr. VOLSTEAD], who has just concluded his remarks, refers to a long line of authorities which he says were under the fourteenth amendment, and he says that the books are full of thousands of such cases, defining what is meant by due process of law and the equal-protection clause of the fourteenth amendment.

Yes, Mr. Chairman; the books are full of those decisions, but running all through that long line of decisions and permeating every single one of them you will find the old case of Barbour against Connolly, in One hundred and thirteenth United States, which has been affirmed and reaffirmed time after time. That case says, referring to the fourteenth amendment:

Neither the amendment, broad and comprehensive as it is, nor any other amendment, was designed to interfere with the powers of the State, sometimes termed its police power, to prescribe regulations to promote the health, peace, morals, education, and good order of the people.

That case lays down the principles governing the police power of the States under that amendment. It was the law when it was enunciated at that time and it is the law to-day; and a mere legislative declaration, writing into this act the statement that we claim it to be under the fourteenth amendment does not put it within that amendment or upon constitutional grounds. If we can do that in this act, if by legislative fiat we can make an act constitutional when it is in plain violation of the terms of the Constitution, we can do it in every case and as to every act that we pass.

Mr. Chairman, I have heard these arguments. I have read them and studied them, and while many of them cite authorities, yet I have noticed that in most instances the authorities are cited almost apologetically, and practically all of them admit that, at the most, the question is doubtful; but they say or infer that on the ground of expediency, and because of the great demand throughout the country for this legislation, and because of the great developments of the country in these days, and because of the many changes that have come, perchance when a case goes to the Supreme Court under this act, that court may pay no attention to the Constitution, but may consider this legislation, not in the light of its constitutionality but in the light of whether or not it is desirable or popular legislation.

I have heard some of our courts criticized at times for making "popular" decisions, when changes have been made in certain lines of decisions. Whether those criticisms are fair or unfair I know not, but I have seen some cases in which it seemed to me that some of the courts must have had their ears a little close to the ground when they were writing those decisions. The court will not do that in this case, and we ought not to expect and nobody does expect that a great judicial body like the Supreme Court of the United States will stultify itself on the ground of what you might call a present political expediency and declare constitutional an act which is clearly unconstitutional. This court will not hold that the platform of a political party is higher than the Constitution.

Mr. Chairman, the arguments that have been made and the authorities that have been cited by both sides all lead to the same conclusion—that this bill is absolutely unconstitutional. As the gentleman from Illinois [Mr. MANN] suggested a few minutes ago, if you define a mob as five persons you can define it as one. You talk about the necessity for this bill. You talk about the crying need for it and the crying shame of the 3,000 lynchings that have taken place in the past 30 years. You do not have the statistics before you as to the number of men who have been shot down, the number of men and women who have been killed by individuals, one or two or three or more. Have they not the right "to the equal protection of the law," as it is called here, just the same as the rapist or murderer who has been lynched?

It is true that it was not a mob who killed the man, but that man's life was taken unlawfully, and if the murderer is not apprehended, why not pass a bill making any kind of an unlawful killing a Federal offense, punishable in the Federal courts, and be done with it. If an act of Congress can stop the unlawful killing of a human being by a mob and has the constitutional authority to pass such an act, it can pass one against any unlawful killing, and in order to be consistent should do so. The number of persons who have been lynched will not compare with the number murdered or assassinated by one or more individuals and one is as much the ravishing of the law as the other. The human being, and his family, who has been murdered are as much entitled to "the equal protection of the law" as the one who has been lynched.

Mr. HARDY of Texas. Will the gentleman yield?

Mr. DOMINICK. I yield to the gentleman from Texas.

Mr. HARDY of Texas. Is it not a fact that in many large cities the newspapers are full of statements as to the existence of great bands of criminals, whom those cities fail to bring to justice? Therefore would not this law be a precedent for bringing those cities under the jurisdiction of the Federal Government?

Mr. DOMINICK. I have no doubt of that. There is a great deal of lawlessness going on everywhere and throughout the country.

The CHAIRMAN. The time of the gentleman from South Carolina has expired.

Mr. SUMNERS of Texas. Would the gentleman like more time?

Mr. DOMINICK. I would like about five minutes more.

Mr. SUMNERS of Texas. I yield to the gentleman from South Carolina five minutes additional.

Mr. DOMINICK. In this debate and in the hearings a great deal has been said about the South Carolina law. I am glad that finally there has been somebody, especially over on that side of the aisle, who could say something good for South Carolina and find some good in her. We are proud of our little State, and we think a great deal of her. South Carolina has that law on her statute books. It was put in our constitution in 1895, and it has been the law of the land since that time. Lynchings took place in South Carolina before the passage of that law, and lynchings have taken place there since them; and I have no doubt that if certain conditions and circumstances arise in the future there will possibly be other lynchings in South Carolina, just as there will be other lynchings in Ohio or Minnesota, or any other State, when the occasion and the necessity arises. The law of South Carolina provides that in the event of a lynching the family of the person lynched may bring suit against the county in which the lynching occurred and recover $2,000 damages. I think possibly three actions have been brought in South Carolina since that time under that law, and two or three of the cases went to the supreme court. The plaintiffs recovered the $2,000 and the supreme court sustained the constitutionality of the legislative act under which the suits were brought, and that is the law of the land in South Carolina to-day.

But I want to tell you something, my friends. My honest judgment, and it is the judgment of everybody else, I believe, in so far as lynching is concerned, is that that provision in the Constitution has no more to do in preventing it than if it were not there. If a mob aroused to frenzy by a heinous crime that has been committed and that mob apprehends the culprit of the deed, they are never going to stop to consider whether the county will be subject to a fine of $2,000 or $10,000 or $1,000,000 when they make up their minds to avenge a crime of the character that has been committed in my State or in your State. You can never stop it by legislation. We have not decreased lynching in South Carolina by legislation. It has been done more by enlightened public opinion. All lynching is repulsive to everybody. We have good officers, good sheriffs, and they take an oath when they go in to uphold the constitution of South Carolina and the Constitution of the United States, and to perform their duties according to law, and when these sheriffs get one of these prisoners, if they are able to get to him, he will do everything in his power, even to risking his own life, baring his own breast, to defend the prisoner when in his care. We always hear about those who are lynched, but we do not hear of the faithful officers who nearly every day and nearly every week are rushing off some culprit, who is threatened by a mob, to the State penitentiary or some place for safe-keeping. That is what we are doing to help enforce the law, and we are keeping it down by that kind of sentiment and that kind of work. [Applause.] I am satisfied that the passage of this bill, if it should become a law and is sustained, would not only not help conditions but if anything it would hurt them. We do not want any divided responsibility on this proposition. If the State is to look after this, let the responsibility rest on the State, and if the United States Government is to do it let them take the exclusive jurisdiction, and let the Federal officers look out for the enforcement of it. [Applause.]

The views of the minority of the Judiciary Committee are clearly, concisely, and briefly expressed and, in my opinion, are unanswerable.

They are:

This bill, in the judgment of the minority, is without constitutional warrant. It is definitely and directly antagonistic to the philosophy of our system of government, and within the limit of its effectiveness, if it should be held constitutional, would be destructive of that system.

If enacted and operative it would not add to the protection of person or the general efficiency of government, or strengthen the relationship between the Federal Government and the States. On the contrary, this proposed intervention of the Federal Government directed against local power, supplanting and superseding the sovereignty of the States, would tend to destroy that sense of local responsibility for the protection of person and property and the administration of justice, from which sense of local responsibility alone protection and governmental efficiency can be secured among free peoples.

This bill, challenging as it does the relative governmental efficiency of the States and the integrity of purpose of their governmental agencies, placing the Federal Government, as it does, in the attitude of an arbitrary dictator assuming coercive powers over the States, their officers, and their citizens in matters of local police control, would do incomparable injury to the spirit of mutual respect and trustful cooperation between the Federal Government and the States essential to the efficiency of government.

As a precedent, this bill, establishing the principles which it embodies and the congressional powers which it assumes to obtain, would strip the States of every element of sovereign power, control, and final responsibility for the personal and property protection of its citizens, and would all but complete the reduction of the States to a condition of governmental vassalage awaiting only the full exercise of the congressional powers established.

The time has come when we should think of the rights of the States and remember that under our form of government they are at least supposed to have some rights. Our Federal Government has been described as a sovereignty composed of sovereignties, but if we pass such legislation, with its consequent results, and lay down this principle and keep up this tendency of centralizing the powers of the Federal Government and depriving and divesting our States of their constitutional powers, it will not be long before our State legislatures will have no more powers than township commissioners, our State courts no more powers than justices of the peace or committing magistrates, and our governors only useful for entertainment and exhibition purposes.

MESSAGE FROM THE SENATE.

The committee informally rose; and the Speaker having resumed the chair, a message from the Senate, by Mr. Craven, its Chief Clerk, announced that the Senate had concurred in the following resolution with an amendment:

House concurrent resolution 37.

Resolved by the House of Representatives (the Senate concurring), That there be printed 50,000 additional copies of parts 1 and 2 of House Document No. 408, being the report of the Joint Commission of Agricultural Inquiry, in four parts, of which 10,000 shall be for the Senate, 30,000 for the House, 1,000 shall be for the Senate document room, 2,000 for the House document room, and 7,000 for the Joint Commission of Agricultural Inquiry.

The message also announced that the Senate had concurred in the House amendments to bills and joint resolution of the following titles:

S. 2708. An act to authorize the Secretary of War to transfer without charge certain surplus material of the War Department to the American Relief Administration in Russia;

S. 2776. An act authorizing the construction of a bridge over the Columbia River at a point approximately 5 miles upstream from Dalles City, Wasco County, in the State of Oregon, to a point on the opposite shore in the State of Washington;

S. 1099. An act to amend section 2372 of the Revised Statutes;

S. 2133. An act ceding jurisdiction to the State of Texas over certain lands or bancos acquired by the United States of America from the United States of Mexico; and

S. J. Res. 124. Joint resolution to amend Senate joint resolution 89, approved March 14, 1912, amending the joint resolution to prohibit the export of coal and other material used in war from any seaport of the United States, approved April 22, 1898.

The message also announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 2263. An act to amend the Federal reserve act, approved December 23, 1913.

ANTILYNCHING LEGISLATION.

The committee resumed its session.

Mr. VOLSTEAD. Mr. Chairman, I yield 10 minutes to the gentleman from Ohio [Mr. CHALMERS].

Mr. CHALMERS. Mr. Chairman, I had hoped to have more time on this subject. I consider it of vital interest to the welfare and permanency of the Nation. Lincoln said that "the Nation can not exist one-half slave and one-half free." Neither can the Nation exist one-half lawless. I fear the evil effects of the crime of lynching upon the political and moral fiber of the Nation. The human mind manifests itself along three general lines—that of the intellect, the sensibilities, and the will. The sensibilities are the mainspring of human action. When an individual participates in or is a spectator in a mob of lynchers some of the powers and factors of the sensibilities are destroyed and can never be restored. So I am approaching this subject from the moral standpoint and the standpoint of the good of civilization.

The lynching and burning at the stake of human beings must be stopped. This is essential to the saving of civilization. I

have been appalled at the record of the lynchings that have been reported and vouched for by the States and other authorities; the reports given out by some of the metropolitan newspapers, by Tuskegee Institute, by the National Association for the Advancement of Colored People, and by the governors and police authorities of many of the States.

I call your attention to the lynching of Mary Turner in Brooks and Lowndes Counties, Ga., in the summer of 1918. There is not in all the annals of human history so cruel, so barbarous, so inhuman, so revolting a crime as this lynching of Mary Turner. It included a list of some 10 or 12 colored people put to death by this fiendish mob in Georgia. I have read nothing, even in legendary history, in the records of prehistoric times, in the savagery practiced by the Indians of the West and the red men of the North, that will compare with the criminality of this disgrace to the State.

I also call your attention to the case of Henry Lowery, who was lynched within the year—to be exact, on January 26, 1921. The Memphis News announced that the lynching would be staged at a certain time and at a certain place, and the records show that this man was put to death by burning, chained to a stake, where a slow fire was kindled and that there were over 500 spectators. The sheriff who allowed him to be mobbed was said to have remarked that there was scarcely a man, woman, or child in the county that did not want to have him lynched.

I desire to call the attention of the opponents of this bill to the fact that Henry Lowery was not lynched for the crime of rape. There was a misunderstanding on the part of the farmer who hired him. A quarrel arose between him and his employee, and Henry Lowery shot the farmer, for which he ought to have been tried in a court of law and ought to have paid the penalty. Instead of that he was lynched, and the time and place of lynching advertised. He was taken into three different States. This horrible description of the barbarous lynching was published in the newspapers and sent broadcast into the homes of the community to be read by children and young people at the formative period of their lives.

In the early morning of a spring day of 1918 healthy, manly colored boys began to assemble in Washington Square, New York City. Thousands of them were formed in a military procession and marched up Fifth Avenue amid the cheering of the multitude. The places of business were decorated with the national emblem, and when they reached Murray Hill they were stopped in front of the Union Club, where the governor of the State descended, accompanied by his official retinue, and passed to this company of colored troops their colors and said to them that they should bring them back with honor.

The survivors of this company, some of them having paid the supreme sacrifice, came back to their country, bringing the colors with honor. They all offered their lives to save the world for democracy and to save the civil and personal freedom of every man, woman, and child in the United States. In the heart of hearts of these brave colored boys rested the hope that their acts of bravery would also free them and give them a little higher standing in the community in which they lived. They had the hope that while they were fighting to make the world safe for democracy and save civilization they might also win a little freedom for themselves. What has been the record? They were honorably discharged from the service, and within one year from the time they were discharged 10 of their number were lynched, not one of the 10 for rape. One of them was shot because he did not turn his conveyance out of the road in time to suit a company of white men who wanted to pass him. Another was lynched because an officer of the law attempted to arrest him while the officer was dressed in civilian clothes and the colored boy had on his Army uniform. When the officer laid his hands on the boy's shoulder and informed the boy he was under arrest the colored boy knocked the man down, saying that he should pay more respect to a military uniform. For this grave offense this boy was put to death by an infuriated mob to teach colored people that they must keep their place.

I am pleading with you to-day not only for justice for the black man, but that you must stamp out this crime of lynching, this travesty on civilization, or you yourselves, your children, and your children's children will pay the penalty in lower standards of living.

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman from Ohio [Mr. GAHN].

Mr. GAHN. Mr. Chairman, it was my privilege on April 25, 1921, to introduce in the House of Representatives a bill to prevent the crime of lynching and to punish those guilty of its perpetration. My bill was absorbed in the Dyer bill, under discussion, by the Judiciary Committee. It contained two distinct features: (1) The right to remove cases against persons accused of crime from the State to the Federal courts, where it is shown on account of race, nationality, or religion that accused is likely to be denied equal protection of the law; and (2) the forfeiture of $10,000 by the county wherein a lynching or mob murder takes place, together with the forfeiture by a county of such amount in which territory the mob may have operated.

The committee has seen fit to omit the first feature of my bill, but incorporated the second in this bill. Half a loaf being better than none satisfies not only myself but a great mass of citizens in my district and city whose relatives and people are jeopardized by the infernal and fiendish practice of mob murder and lynching.

I have listened intently to those gentlemen, Members of this House, who seek to justify this heinous and atrocious punishment meted to colored persons and others under the guise of State rights with impatience. It is beyond my powers of imagination to determine how any American can expect to absolve himself from a guilty conscience in arguing against this antilynching bill. They, in subterfuge, maintain it is unconstitutional.

For shame! Why, the very essence of our grand old Constitution is founded upon liberty and justice. In the revered Declaration of Independence it is declared that all men are, and of a right ought to be, free and equal. All are born equal; the qualities attendant upon birth are beyond any mortal control, and it illy becomes Members of this House to paraphrase our Constitution so as to justify their hearts' desire.

That desire is the perpetuation of the supposed right to lynch. It does not emanate from the largest part of our country, but is mostly confined to those living in certain sections. Those having and exposing that desire, I have noticed, are Representatives from that part of the United States whose constituents are anticolored and always have been. On examining the list of minority Members of the House you will find that not more than 20 represent States outside the so-called South. In the wonderful landslide of 1920 nearly every other one of the minority were elected with this anticolored constituency.

Their arguments teem with resentment that we should through this bill interfere with lynching in their States. They forget that the North, too, has a large colored population. If their conclusions that this practice is necessary to prevent atrocious assaults, why is it that in the Northern States no such practice is, with little exception, indulged in? True, there have been lynchings in nearly all States, but the Northern and Western States have been ever alert to stop it and to punish those indulging in it.

Of course, some of them say they deplore lynching in their States, and they further state that if let alone their States will eventually prevent it. If their speed of prevention is gauged by the past, unaccelerated, it will take a thousand years for them to make good their predictions.

The arguments and claims of the minority are contradictory. They would permit lynching to go on whenever and wherever their constituents, in a furiated mob assembled, demanded the life of some unprotected and, in many cases, innocent person who had aroused their anger and animal instincts.

The deplorable thing, too, is that these lynchings have occurred on the least pretext. If it were done as a punishment to avenge some serious offense there might be some plausability to their argument. But statistics show that of the total lynchings in the past 30 years but 28 per cent were for rape and attacks upon women. The others were solely on account of race prejudice. The shame is augmented by the fact that in many cases the victims were colored men who had fought for our flag.

Only yesterday the newspapers carried a story of a colored man in Toronto, Canada, whom the State officials of North Carolina desire brought back to that State to answer a charge of "inciting a riot." His brother has been lynched for the same offense, and now this very State desires further satisfaction in the life of this man. Think of a State allowing its offices to be used for such a purpose. Think of a colored man being lynched for inciting a riot. The chances are that the whites started the trouble and are now accusing this colored man. I hope the State Department will never permit him to be taken back to the doom awaiting him.

This shows as clearly as can be shown that those States and their white population have the lingering desire and hope that lynching may go on unmolested by the United States Government. Not only that, but talk to most any southerner and you will soon find out that the desire for the continuance of this practice is of long standing; raised and bred into them, so to speak.

We must not listen to the argument that these States do not permit lynching, that it is the fault of local officers and not the

State governments themselves. Because there are no laws in those States authorizing lynching does not prove such contention. Look at their election and franchise laws. All are so adroitly framed that the colored citizen is deprived of his elective franchise. If it were lawful the whites of those States would so draft their lynching laws.

Oh, they say public sentiment is changing in the South. Since when, and how much? Even though there has been some change, and though there were fewer lynchings last year, yet the potential desire to lynch is still rampant and liable to break out at any time. Let us have this law enacted. If the sentiment against lynching is what they say it is becoming, this law can do no harm. If it is not what they say, it will do a world of good.

Let us not forget the principles of our forefathers. Let us go forward, as they marched forward, even to battle for that which is right. Let us not be afraid of our Constitution; let us use it as our guide. It points the way; let us follow. Let us wrap its protection around those who may suffer at the hands of mobs. Let us see whether the fourteenth amendment can be observed and enforced.

Constitutionality? Since when did Members of this House fear so much that bills passed by it are to be prejudged unconstitutional? Opinions of the Attorney General's office hold that this bill is in pursuance of the Constitution. Eminent Members of this body, including the gentleman from Ohio [Mr. BURTON], show us that it is constitutional.

But what of it, either way? There is a tribunal established under that same Constitution to determine such questions. In the final analysis the Supreme Court can alone determine it.

Meanwhile we should do our duty. Fear not a rupture of the South. We will never have another Civil War. But we must not, we shall not, recant from that noble stand for which that war was fought. That war was fought to perpetuate liberty and justice. This bill insures those grand principles of justice for which so many lives were sacrificed. Their sacrifices shall not have been in vain.

Mr. VOLSTEAD. Mr. Chairman, I yield 10 minutes to the gentleman from Missouri [Mr. ELLIS].

Mr. ELLIS. Mr. Chairman, I propose to speak upon the policy of this bill. I want to address myself to some arguments that have been made against the policy of it.

Before proceeding with what I have prepared to say, I want to pay my respects to some of the remarks of the gentleman from Maine [Mr. HERSEY]. Attacking the policy of this measure, the gentleman proclaimed at the outset that the Republican Party owes no obligation to the Negro element in our citizenship. At once the ungenerous intimation was made over here that the speech had been written by the esteemed gentleman from Texas [Mr. SUMNERS] in charge of the opposition to this bill. I hasten to repel the suggestion. I absolve the gentleman from Texas. He has marked capabilities, but he is wholly incapable of a statement so shocking to the sensibilities of all of us as that. The Democratic Party has never assumed responsibility for the unhappy pitiable political plight of the Negro race in our citizenship; but neither the able gentleman leading the minority side against this bill, nor any other Democrat, will stand in his place in this debate and declare that even the Democratic Party is without obligation to the Negroes of this country. But the gentleman from Maine did not stop there. He interpreted the plank of his party's platform as rank hypocrisy. He argues that the Chicago plank against lynching was made to placate, not to pledge.

He says the Republican Party has not declared war on lynching; that no legislation was promised; that the Chicago plank simply means that to fool those who asked for legislation a commission is to be created to go about the country and implore lynchers not to lynch. In effect, the gentleman argues that what is needed is to launch a peace ship, to send out another Argonaut and "have the boys out of the trenches before Christmas."

Mr. Chairman, the people of the gentleman's constituency may yet learn something about the Chicago convention. They may yet learn that this plank in the Chicago platform was in response to a rising tide of public opinion; was born of public protest of the decent, law-abiding people in all parts of this great country; that the demand made upon that convention was that war be declared upon this evil; that Federal means be devised to eradicate lynching and save our civilization. I want to say to the gentleman that if his interpretation of the Chicago platform be accepted, if his advice to his colleagues on the majority side shall be followed, his party and my party will be guilty of a dastardly breach of faith and he and we will soon learn whether the Republican Party owes any obligations to the Negro voters and Negro people of this country. I commend to the gentlemen the study of the census of two years ago. From that study he may learn something about this race, the power of which he contemns and the rights of which he would ignore. I presume that there are few, if any, Negroes in the gentleman's district. Negroes have made some mistakes in their migrations, but I have not known that they have made the mistake of going there. But the gentleman may learn from the census that there are hundreds of thousands of Negroes in Kansas, Missouri, Illinois, Indiana, Ohio, and West Virginia; that in these States these people, as is the case in the Southern States, are contributing to an industrial development; that they are making progress in all the ways and along all the lines so eloquently portrayed by the gentleman from Illinois [Mr. MADDEN]; that they are to be found in great numbers where they are most needed in this country, on the farms, and in agricultural pursuits; that in the State of Missouri alone farm lands assessed at more than $16,000,000 are owned and farmed by Negro farmers.

Will the gentleman put this debate upon the lowest possible level, the level of mere party political expediency? Let me tell him something more for his enlightenment. In many communities, congressional districts, and some States of the area I have mentioned, Negro voters hold to-day the balance of power. Will the gentleman argue that the Republican Party owes no obligation whatever to these people? Shades of the immortals! Shades of Blaine and Reed and Hale and the rest of them—giants in their day in these legislative halls; lights in the counsels of the Republican Party! What is the matter with our friend anyhow? Is the gentleman preparing campaign material for Democratic use in the approaching campaign?

The gentleman in his speech makes special appeals over and over again to the Republican majority. Let me say to him that the best appeal he can make to the Republican majority is that they keep faith with the people, with all classes and conditions of people in this country.

Mr. Chairman, this legislative proposal has had the effect of a depth bomb dropped in our midst. The deeps of partisan and sectional feeling have been thrown into violent commotion. When a proposal produces such a result, one who has convictions in regard to it, and at the same time seeks to respect the sensibilities of his fellows in this body, is prompted to weigh his judgments and measure his words. Such a bill, however, demands straight thinking and justifies plain speaking. It will serve no useful purpose for either side of this Chamber to try to dodge responsibilities, conceal facts, befog the real issues, or undertake to create unreal issues. I agree with the gentleman from North Carolina [Mr. POU] that it serves no useful purpose in a debate of this kind to beat around the bush.

From the point of view of the gentlemen of the minority who have spoken against this bill, this proposal has been diabolically conceived, diabolically born, and will be diabolically matured into law by the diabolical partisanship of a diabolical majority. No one over here will have forgotten how the gentleman [Mr. SUMNERS] flouted us of the majority as a veritable mob—madness, rope, and all other accessories—but had the good taste to say it all with a smile. We, of course, can never know whether our other friends of the unspoken speeches, while indicting, prosecuting, convicting, and hanging the Republican Party for high treason have really smiled or, following an illustrious example, looked grim and hurled inkstands. But, Mr. Chairman, the spirit of this proposal is not the spirit of a mob. It partakes no more of the mob spirit than does the very determined opposition to the bill. Let us face the situation squarely. There are two reasons why we can not reason together calmly and patriotically in this Committee of the Whole House upon this measure. They should be frankly stated and frankly recognized. This bill comes here as a party measure—conceived of a declared party policy, born of the urge of an administration program. There is no more partisanship in it, there is probably less partisanship in this measure than there has been in any other of the distinctive party and administration measures that have been presented to this Congress. The policy of this measure, of the enactment of a law to suppress lynching, has emanated from a rising tide of popular sentiment the country wide and the country over. There has been for some years a growing and persistent demand throughout the country that the National Government tackle this national evil.

I will not discuss the evidence of this in detail, but if anyone will read the matter my colleague [Mr. DYER] has inserted in the record of this debate, he will be convinced not only of the demand but that the demand was quite as insistent and almost as general in the South as in any other part of the country. In 1920 the Republican Party was out of power. It was appealing to the American people to be put back into

power. As a part of that appeal to voters it engaged to grapple—held out assurance that a Republican Congress would grapple—with this monstrous evil. This bill is the effort of the Republican Party now in power to keep faith. Now, why and where does the shoe pinch? The shoe pinches because our brethren of the minority, fine gentlemen all of them, smart politicians, clearly see and realize that if this bill shall be perfected, shall be enacted into law, and shall work—shall be effective in suppressing in some substantial degree the lynching evil—the Republican Party will profit, just as a political party always profits that keeps faith with the people in doing things that ought to be done. But that is not all. It is just as clearly seen that if the Republican Party should make no effort, or if, making the effort, shall fail in this program, it will suffer loss, just as a party always suffers loss when it breaks faith or fails to keep faith with the people. So the spirit that is troubling the waters here is not the spirit of a mob; it is the spirit of the politician. The party responsible for what is done or what is not done is not to be stampeded by threats. Gentlemen of the minority, in the play of politics, may prance before us, call us names and apply epithets, we shall not be perturbed if only they do not forget to smile.

But, Mr. Chairman, they tell us in thunder tones that this proposal is unconstitutional. It may be, in little part or big part or altogether. As I said at the beginning, I am disposed to discuss the policy of this proposal. I shall be troubled neither by the constitutionality question nor by my duty under my oath with respect to the measure until it is perfected here. The people want something done, and so help me, so far as I am concerned, the opponents of this bill must marshal some other argument beside the old, pestiferous bugaboo of State rights. I demand to be shown that my National Government has not the inherent right and power to protect its citizens from mobs and to preserve its very life and conserve its civilization.

But there is another reason why the waters are troubled. They remind us that the platform plank announcing the policy of this legislation was written at the behest of the Negroes in our citizenship. That is absolutely true. Negro men and Negro women, associated together not to promote the welfare of a political party but to promote the welfare of their race, did appeal for the plank that was put into the Chicago platform. In God's name why should they have not appealed there? Is it not disclosed in this report, has it not been admitted, directly or indirectly, by all who have participated in this debate, that the indescribable cruelties, the barbarous iniquities of the lynching evil flame forth in peculiar, divest fury against that unhappy people? Ah, Mr. Chairman, here is introduced the consideration major in the minds of the opponents of this bill, the consideration which has been insinuated into the debate by every gentleman who has spoken on the minority side, the consideration which it is painfully manifest will divide this House upon a party line upon this bill. That consideration is the race question. Mr. Chairman, if this is to be characterized as a partisan measure it will be because the minority makes it so. If it be true, let it be recognized that the division upon this bill will reflect the respective attitudes, the opposing attitudes of the Republican Party and the Democratic Party toward a racial group within our citizenship. But, Mr. Chairman, I will not admit, for I do not believe, that the gentleman from Texas or others on that side are fair or just toward their constituencies. Their speeches do not reflect the best, the most influential, or the dominating sentiment of southern people either toward the Negro race or toward the policy of this bill. The correctness of the views of these gentlemen is not attested by leading southern newspapers, educators, religionists, jurists, and public men generally. However the politicians of the South may care or fail to care about the millions of the Negro race there, there is being shaped in the minds and purposes of far-seeing, far-thinking men and women of that section policies industrial, educational, cultural—yea, political—both for the immediate and the more remote destiny of that people. The point I make against the argument of these gentlemen is that they would make lynching an essential and would have us believe that by the people of the South it is thought to be an essential to policies toward that people.

Mr. Chairman, I want to say it in all kindness, for I have no other feeling than that toward these gentlemen. I have come to know the gentleman who spoke with such force and feeling here [Mr. SUMNERS] personally and to prize his friendship highly. But I can not interpret some of the arguments contained in these speeches, to which I have referred, against the policy of this bill to mean aught else or to have other significance than that to strike down lynching would be to deprive southern communities of a recognized and tolerated instrumentality for dealing with their Negro population. I can not believe that to be true. To believe it one must judge those communities by the baser elements which exist there, as they exist in communities elsewhere. I inveigh against such judgment just as the Negroes of this country inveigh against judgments upon the standing, character, and attainments of their race by reference to the weak, the criminal, or the degenerate among them.

Since this bill has been under consideration many of us—perhaps all of us—have had our memories refreshed by a newspaper account of a lynching which occurred during the year which just closed. Listen to a few sentences from the report of it:

> More than 500 persons stood by and looked on while the Negro was slowly burned to a crisp. * * * He suffered one of the most horrible deaths imaginable. * * * Chained to a log, members of the mob placed a small pile of leaves around his feet. Gasoline was then put on the leaves and the carrying out of the death sentence was under way. Inch by inch the Negro was fairly cooked to death. Every few minutes fresh leaves were tossed on the funeral pyre until the flames had passed the Negro's waist. Once or twice he attempted to pick up the hot ashes and thrust them in his mouth in order to hasten death. Each time the ashes were kicked out of his reach by a member of the mob.

Was such torture ever more brutally applied to a human being by savagest savages or most barbaric barbarians? The victim of this diabolical treatment had committed murder. Law disregarded, courts contemned, officers defied, the murderer in turn was murdered.

Where there had been one murderer there was now 500 murderers. Can anyone believe, will anyone argue here, that such a demonstration, such horrible indulgence of criminal impulses, could possibly serve or be held in any community to serve as a deterrent of crime? If there be one, I pity his mental processes, and I pity his judgment. I ask of anyone, if, indeed, there be one who may be disposed to be tolerant of lynching for any crime or under any circumstances, can you conceive of any evil in that or any other community the iniquitous roots of which could possibly sink deeper or spread more widely?

The direct output of that lynching, as it is of every lynching, was the murder of a criminal to avenge a crime. But what of the by-products? We are far too prone to judge the outlaw practice by the direct output—to stress the quick destruction of a criminal or a degenerate. But lynching is an expanding, self-diversifying evil. The hellish thing grows by what it feeds upon. It balefully spreads, ramifies, and breeds new iniquities. The direct output is horrible, merciless murder by infuriated, irresponsible mobs. The by-products have always been and always will be more far-reaching, more fraught with danger to society and to the body politic than the direct output. The animating, compelling spirit of the lynching mob stifles every dictate of the nobler humanities. It works utter demoralization of participants and onlookers. It lowers the moral standards of communities, breathes contempt of law, utter defiance of authority, and a reckless challenge of established order. Can any one of us persuade himself that even if infractions of private rights, however sacred, might be so deterred, a public wrong so fundamentally grave and menacing should be countenanced or permitted? The policy and doctrine of this measure is that to face such a menace to free institutions, to avert such danger, to stay such peril, the National Government should stretch every nerve, strain every ligament of inherent or delegated constitutional power. To that policy and purpose I heartily subscribe.

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman from California [Mr. SWING].

Mr. SWING. Mr. Chairman, I would not on any slight consideration inject the Federal Government into State activities, but it does seem to me that after a period of 30 years' trial under State laws and State officials, during which time there have been 3,000 cases of lynchings and no punishment, as far as I can find out, of the guilty individuals who participated in the lynching, the time has come to demand a change. It seems to me we are confronted with a condition that requires us to say that existing agencies for law and order have failed to work and that the State and local authorities now vested with the responsibility of enforcing the law are unable to function in the case of a lynching.

Mr. SUMNERS of Texas. Mr. Chairman, will the gentleman yield?

Mr. SWING. Yes.

Mr. SUMNERS of Texas. Does the gentleman think it would be a good idea for the Federal Government to inject its policy into the situation out there in California on the Pacific coast with respect to the Japanese and the Chinese?

Mr. SWING. I would say that if there were cases of lynching of the Japanese, I would agree. My State, I frankly confess, has not been an innocent State in the matter of lynchings, but I think that a great majority of those cases happened in the

days of '49, before law and order and courts were carried into the far West. Since law and order and the courts have been instituted as the instrumentality for the punishment of crime it seems to me that no fair man to-day can defend the act of lynching. Nor do I believe there are any who do, even in the South, and I refer to the South, not because the South is defending lynching. It is not. The best men are attempting to stamp out lynching, but the instrumentalities through which they are working are ineffectual for the purpose?

I think this is the the reason why they are ineffectual. Lynching, as we understand it, is mob violence. It is the thought of the community crystallized into action. The whole community has the feeling which a few men finally carry into action, but they would not have carried it into action if the whole community were not thinking the thing which they finally did. How can you expect the grand jury of a country to pass judgment upon its own neighbors when they as well as their neighbors and those who commit the deed are infected with the virus which brought about the act of lynching? How can you expect the local sheriff or the local judge, whose office is given by the votes of their neighbors, to turn around and take any drastic action against them?

Mr. UPSHAW. Mr. Chairman, will the gentleman yield?

Mr. SWING. Yes.

Mr. UPSHAW. Does the gentleman conceive how the result would be widely different with the Federal jury from what it would be with a local jury, both coming from the same section?

Mr. SWING. Yes; I do. The Federal district attorney and the judge are responsible to a different authority. They are not dependent upon the suffrage of the people of the community. The Federal grand jury is drawn from a much wider community than just the county in which the act is committed. That is the hope of the present law, that by a change of venue you can get a different set of authorities and a different community to draw your jury from—one that is not poisoned with the same virus which has poisoned the local community and brought about the very act of violence which the authorities are supposed to suppress.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. VOLSTEAD. Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. SIEGEL].

Mr. SIEGEL. Mr. Chairman, answering my friend from Georgia [Mr. UPSHAW], who just propounded a question as to what different results would be obtained under a Federal than under a State statute, by change of venue, I would say that I have only to point to the Williams case in his own State, where, by change of venue, the State authorities themselves were able to obtain a conviction.

Mr. UPSHAW. Mr. Chairman, will the gentleman yield?

Mr. SIEGEL. Yes.

Mr. UPSHAW. I answer the gentleman with all cheerfulness that that does not disprove my contention. The ideals of the people are the same. They know the suffering through which we have passed, and the result, so far as the verdict is concerned, can not be changed by a change of venue. Besides, Williams was tried in that county where he committed the crime and was convicted.

Mr. SIEGEL. My information is to the contrary; but I am always glad to yield to my friend from Georgia, if such be the fact. Let us take the State of Georgia. The number of counties in that State is very large in proportion to those in other States. The population in each county is small, comparatively, so that everyone in the county practically knows everyone else. There has been very little immigration into that State, probably about 2 per cent, as I get it from the census figures. It is a natural desire upon the part of friends not to convict friends, if they can avoid it. I have figures before me taken from the New York Tribune, which show that the State of Georgia has had the largest number of lynchings. I do not know whether the responsibility rests upon the courts or not, but we are not confronted with a theory; we are confronted with a fact, which is that despite all of the best sentiments throughout the State of Georgia and all that it has done to obtain respect for law, the lynchings have increased in number.

What is the proposed remedy under this bill? We all know that nearly every man and woman in the United States who stands for good citizenship is absolutely opposed to lynching. I know that to be the fact in the State of Georgia, as well as in every other part of the country. I am not discussing it from a sectional standpoint. It is my belief that if the sheriff of the county or any other person having in custody one who has committed a crime knows that he will be brought to trial in the Federal court if he fails to perform his duty, which court would be held away from the particular community in which the crime was committed, he would realize the responsibility of his position and uphold the oath he has taken to uphold the law.

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

Mr. SIEGEL. Yes.

Mr. WINGO. Does the gentleman favor subjecting to Federal control the 10,000 policemen of the city of New York?

Mr. SIEGEL. The Federal courts already have taken control under the eighteenth amendment.

Mr. WINGO. I beg the gentleman's pardon, but the eighteenth amendment is an amendment to the Constitution. My question is whether or not the gentleman favors placing the 10,000 policemen of the city of New York under Federal control for any purpose.

Mr. SIEGEL. They are under Federal control for the enforcement of the laws, assisting the United States marshal all of the time.

Mr. WINGO. Does the gentleman favor putting them under the control of the Federal courts?

Mr. SIEGEL. No; I do not. But in New York we make a distinction between the sheriff and the police department, which is not the case in other places.

Mr. WINGO. But they are both police officers.

Mr. SIEGEL. They are both police officers, but with a certain distinct line of duty.

Mr. WINGO. The sheriff is the police officer of the county.

Mr. SIEGEL. Not in New York City.

Mr. WINGO. The old sheriff was.

Mr. SIEGEL. Yes.

Mr. WINGO. The sheriff from time immemorial has been the chief peace officer of the particular subdivision. I want to ask the gentleman another question. As I understand, there were sixty and some odd lynchings last year in the United States.

Mr. SIEGEL. More than that, according to the report in the New York Tribune here. It was a large number.

Mr. WINGO. Say 160, just for illustration. What, according to the gentleman's idea, is the correct standard on this or any other crime—because lynching is not the only crime you are punishing; murder is not the only invasion of a man's constitutional right? Where does the dividing line come, where there are a certain number of crimes in the city of New York that are committed, and, as the opponents of this bill contend, those crimes are permitted by the State, what particular number would you establish as saying that whenever those crimes are committed would cause the Federal Government to step in?

Mr. SIEGEL. We are not establishing any particular number in this bill.

Mr. WINGO. I have not made myself clear. What particular number of crimes that are committed in a State would cause you to think made it necessary for the Federal Government to step in?

Mr. SIEGEL. I am not discussing the particular number of crimes——

Mr. WINGO. I am asking the gentleman for information.

Mr. SIEGEL. I do not stand by the question of a number. We know the Federal Government has had to step into a particular State and uphold the government of that particular State, namely, West Virginia. But that is not the question. It must be based on the last words of the fourteenth amendment:

> Nor deny to any person within its jurisdiction the equal protection of the laws.

I do not pretend for a moment that all the provisions of this bill are constitutional, according to my interpretation of the decisions of the Supreme Court.

Mr. WINGO. I am glad to hear the gentleman say that.

Mr. SIEGEL. It is my opinion that we can not hold a prosecutor liable, because he is the one that has to determine for himself whether there is sufficient evidence to be presented to the grand jury or not.

Mr. WINGO. I fear the gentleman thinks I am trying to get into a controversy with him.

Mr. SIEGEL. Oh, no.

Mr. WINGO. A good many men have raised this question in private conversation. What is the dividing line? In the failure of a State, as you contend, to afford protection, it is a denial of protection. To what extent must we go before the State loses its jurisdiction and the Federal Government, by the adoption of accretion or nonuser, or some of these other strange doctrines, assumes jurisdiction?

Mr. SIEGEL. It is the sole question of whether the Federal court will have jurisdiction to sustain the law under the first section of the fourteenth amendment.

Mr. WINGO. How many men were murdered by gunmen in New York last year that were not punished?

Mr. SIEGEL. Very few.

Mr. WINGO. Will the gentleman tell me how many women were assaulted within the District of Columbia and near-by villages in the last two years and the assailants were never punished? Would the gentleman favor the Federal Government stepping in there?

Mr. SIEGEL. One question at a time. First, let us have the editorial read, and I will then allude to the District of Columbia.

The CHAIRMAN. Is there objection to the gentleman having the editorial read in his time? [After a pause.] The Chair hears none.

The Clerk read as follows:

[From the New York Tribune, Jan. 10, 1922.]

CONTRASTS IN HOMICIDES.

Current statistics show extraordinary variations in the numbers of homicides in the chief cities and a remarkable parallel between the numbers of homicides and the numbers of lynchings.

Thus in Atlanta in 1920 lynchings were at the ratio of 40.9 to the 100,000 population, and in Savannah they were at the rate of 44 to the 100,000, and in Georgia in the last 35 years there were 528 lynchings. In Charleston homicides were at the rate of 36.5 and there were 121 lynchings in South Carolina. Memphis had 63.4 homicides to the 100,000, and Tennessee a total of 198 lynchings. In New Orleans the homicide rate was 16.9, and in Louisiana the number of lynchings was 289.

On the other hand, in Baltimore the homicide rate was only 7 to the 100,000, and the number of lynchings in Maryland was only 23. Cincinnati had 5.7 homicides, and Ohio had 20 lynchings. Milwaukee had a homicide rate of 3, and Wisconsin had only 5 lynchings. San Francisco's homicide rate was 7.6, and California's lynchings were 33. In New York City homicides in 1920 were 5.9 to the 100,000, and in New York State in 35 years there were only 2 lynchings. In Philadelphia the homicides were 6.2, and in Pennsylvania the lynchings were only 6. In Boston the homicide rate was 5.1, and Massachusetts had not a single lynching.

In the face of such figures is it impossible to ignore a very direct relationship between the lynching habit and the commission of homicide. New York City has a mixed and largely turbulent population, and has more homicides than it should have. Yet it has, in proportion to its population, only about one-seventh as many as Atlanta. And in New York State there have been only 2 lynchings in 35 years, while in Georgia, with a far smaller population, there have been 528. Such a contrast explodes the claim that lynching is a crime deterrent.

The CHAIRMAN. The time of the gentleman has expired.

Mr. VOLSTEAD. I yield two minutes more to the gentleman.

Mr. HAWES. Will the gentleman yield for a brief question?

Mr. SIEGEL. I have one question to answer, asked by my friend from Arkansas [Mr. WINGO].

Mr. WINGO. I understood the gentleman's editorial was intended to be an answer, and that the mathematical ratio mentioned there determined jurisdiction.

Mr. SIEGEL. Now the gentleman is not serious.

Mr. WINGO. I thought that was the question.

Mr. SIEGEL. The gentleman asked me about New York, and the editorial answered the fact as to the proportion of lynchings in other States.

Mr. WINGO. Will the gentleman tell me what in his opinion is the proportion of crime that causes the State to lose jurisdiction and gives it to the Federal Government?

Mr. SIEGEL. There is one question that has got to be determined, and that is what is meant by denying a person within the jurisdiction of the State the equal protection of the law. I will say for the benefit of the gentleman that there have been some six hundred and odd cases under the fourteenth amendment which have come to the Supreme Court of the United States. There have been only 35 or 36 cases which did not involve the question of property rights. In these cases the court divided along two lines. In the cases where evidence was brought before a jury in the State court to the effect that equal rights and privileges were not granted, the Federal court took jurisdiction.

In the other case where it was offered it was a mere expression of opinion; the Federal court declined to assume jurisdiction. It seems to me the only case that could be referred to in regard to the whole question is the case that the gentleman from Virginia [Mr. MONTAGUE] so ably discussed yesterday, and that is the case of Strauder *v.* West Virginia (100 U. S., 203). I am not saying that there is any authoritative decision in the Supreme Court holding that this proposed law is constitutional or not. I have searched in vain for a case squarely determining the question.

Mr. Chairman, it is interesting to note the history of the fourteenth amendment. It was first introduced in the House by Thaddeus Stevens, on December 5, 1865. Just previous to that, on March 3, 1865, the Freedman's Bureau was created. The civil rights act was adopted on April 9, 1866. Then came the Ku Klux act, which was passed April 20, 1871, in the second session of the Forty-first Congress. It was intended thereby to enforce all of the provisions of section 1 of the fourteenth amendment.

On March 1, 1875, the civil rights act became a law (U. S. Stat. L., vol. 18, p. 335). Originally the measure was introduced by Charles Sumner, but it was not until Benjamin F. Butler took charge that it became a law. It was proposed thereby to wipe out the color line in the South and give to the Negro equal privileges in public conveyances by land and by water and in all hotels. The Supreme Court of the United States held that it was only a guaranty for the protection of individuals from the invasion by the States themselves. It was thus rendered of no effect as far as defending one citizen against the activities of his fellow citizens.

Three times did the Supreme Court of the United States pass on this question: In 1875, when the decision of United States *v.* Cruikshank (92 U. S., 542) was rendered; again in 1883, when the Civil Rights cases were decided (109 U. S., p. 3); and later, in 1906, a decision was rendered in Hodges *v.* United States (203 U. S., p. 1). The deductions to be made from the decisions so far is to the effect that the only time when use can be made of the amendment is when there is proof that there is discrimination solely on the ground of race or color. There is no presumption that the discrimination is on that ground. The party aggrieved must present convincing proof to that effect. Everyone knows that it is practically impossible to prove what was running through the minds of the officials when acting. The surprising feature of the whole fourteenth amendment is that when enacted it was intended to protect personal rights. As I previously stated, in a little over 600 cases which have come up to the Supreme Court of the United States, about 565 involved the question of property rights. The balance involved the question of liberty or personal rights of the individual.

That the Federal Government should, if the Constitution permits it, have some jurisdiction to protect individual residents of the United States is not to be denied.

Something must be done to eradicate the desire to violate and to take the law into one's own hands. No excuse can be offered for the lynching of 64 women, 11 white and 53 colored, between the period of 1889 to January 1, 1921. Certainly it can not be claimed that the charge of rape was behind these lynchings. One has but to take a glance at the figures of lynchings, which are as follows, and see at once the necessity of the passage of some legislation along these lines. They are for the benefit of the country at large:

State.	Number of lynchings, 1889–1918.	Number of lynchings, 1918–1921.	Total lynched.	Number of women lynched.
Georgia	387	43	429	6
Mississippi	373	32	405	12
Texas	335	19	354	6
Louisiana	313	13	326	4
Alabama	276	16	292	7
Arkansas	214	17	231	5
Florida	179	23	201	2
Tennessee	196	3	199	1
Kentucky	169	2	171	4
South Carolina	120	8	128	4
Oklahoma	96	3	99	2
Missouri	81	4	85	.....
Virginia	78	2	80	.....
North Carolina	53	10	63	.....

The gentleman from Arkansas [Mr. WINGO] made some inquiries in regard to crime in the District of Columbia. The following letter is self-explanatory.

The population of the District of Columbia on January 1, 1920, was, according to the census of 1920, 437,571. The population of the city during the fiscal year ended June 30, 1921, was about 415,000, on account of the number of Government employees who have been discharged.

For the information of the House I insert the following letter:

DISTRICT OF COLUMBIA,
METROPOLITAN POLICE DEPARTMENT,
Washington, D. C., January 4, 1922.

Hon. ISAAC SIEGEL,
House of Representatives, Washington, D. C.

MY DEAR CONGRESSMAN: In response to your communication of the 3d instant, I give below statistics requested for the fiscal year ended June 30, 1921:

Arrests for felonies	2,618
Arrests for misdemeanors	53,974
Total	56,592
Males	51,911
Females	4,681
Native born	52,809
Foreign born	3,783

Very truly, yours,

DANL. SULLIVAN,
Acting Major and Superintendent.

DEPARTMENT OF STATE,
Washington, December 20, 1921.

Hon. ISAAC SIEGEL,
House of Representatives.

SIR: I have the honor to acknowledge the receipt of your letter of December 13, 1921, in which you state that you understand that there are a number of cases pending in which requests have been made by foreign Governments that compensation be paid to the family of aliens who have been killed in the United States, and request that you be furnished with a statement of the facts regarding such cases so that you may refer to them in urging the passage of H. R. 13, entitled "A bill to assure to persons within the jurisdiction of every State the equal protection of the laws and to punish the crime of lynching."

The bill to which you refer apparently relates to cases which involve the murder by a mob or riotous assemblage of persons within the jurisdiction of the several States. I beg to state that there are no cases pending before the department concerning which representations have been made by foreign Governments with regard to the payment of indemnities to the relatives of aliens who were killed under such circumstances. Representations have been made, however, by the Japanese Government with regard to the payment of indemnities to the relatives of Tatsuji Satio, a Japanese subject, who on May 16, 1916, was killed at San Geronimo, Mexico, by American soldiers, and to the family of Torahachi Uratake, who was killed in November, 1915, at Schofield Barracks, Hawaii, through the gross carelessness of an American soldier. Both of these cases have on more than one occasion been brought to the attention of Congress. The facts concerning the death of Tatsuji Saito are set forth in House Document No. 194, Sixty-fifth Congress, first session, and in House Document No. 1108, Sixty-fifth Congress, second session. The facts in the case of Torahachi Uratake may be found in House Document No. 785, Sixty-fourth Congress, first session.

As of possible interest to you in considering the provisions of the bill in question, I may state that the British ambassador at Washington, in a note of October 25, 1921, made inquiry of the department with regard to the assault committed upon the person of Rev. Philip S. Irwin, a British subject, on July 17, 1921, at Miami, Fla. This matter is being given consideration by the department.

I have the honor to be, sir,
Your obedient servant,
For the Secretary of State: HENRY P. FLETCHER,
Undersecretary.

Mr. SUMNERS of Texas. Mr. Chairman, I yield one minute to the gentleman from Tennessee [Mr. BYRNS].

Mr. BYRNS of Tennessee. Mr. Chairman, the gentleman from Alabama, Judge JOHN R. TYSON, was compelled to leave the city a few days ago on account of very important business. He had prepared an argument in opposition to the pending anti-lynching bill, which he had hoped to deliver in person, but was prevented from doing so on account of being called away. We all know that Judge TYSON is a great lawyer and that he served with great distinction and ability on the bench in his own State of Alabama as circuit judge and as associate justice and as chief justice of the supreme court. I have read this argument, and to my mind it is one of the ablest constitutional arguments I have read in opposition to this bill, and it fully sustains the splendid reputation of Judge TYSON as a great lawyer and a distinguished jurist. I ask unanimous consent that I may be permitted to insert it in the RECORD.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent that he may insert Mr. TYSON'S remarks in the RECORD in the manner indicated. Is there objection?

Mr. CONNALLY of Texas. Reserving the right to object, does the gentleman approve the sentiments expressed?

Mr. BYRNS of Tennessee. I most certainly do.

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

The speech is as follows:

Mr. TYSON. Mr. Chairman and gentlemen of the committee, the title of this bill is—

To assure to persons within the jurisdiction of every State the equal protection of the laws and to punish the crime of lynching.

Conformable and germane to the title, the bill seeks to invoke the police powers of the Federal Government for the suppression of and punishment of murder.

The first section seeks to extend the guaranty of the fourteenth amendment, prohibiting the State from denying to any person within its jurisdiction the equal protection of the laws to the violent acts of five or more persons acting in concert for the purpose of depriving any person of his life, without authority of law, as a punishment for or to prevent the commission of some actual or supposed public offense.

The second section undertakes to define or, rather, to declare that the failure, neglect, or refusal of any State or governmental subdivision thereof to provide and maintain protection to the life of any person within its jurisdiction against a mob or riotous assemblage shall be deemed a denial of the equal protection of the law within the guaranty of the amendment.

The third makes it a felony for any State or municipal officer charged with the duty or possessing the power or authority as such officer to protect the life of any person that may be put to death by any mob or riotous assemblage, or who has any such person in his charge as a prisoner, and fails, neglects, or refuses to make all reasonable effort to protect such person from death, or any such officer charged with the duty of apprehending or prosecuting any person participating in such mob or riotous assemblage who fails, neglects, or refuses to make all reasonable efforts to apprehend or prosecute to final judgment under the laws of such State all persons so participating in the mob or riotous assemblage; and also punishes any person participating in a mob or riotous assemblage who takes from the custody of any State or municipal officer a prisoner charged with the commission of a public offense and puts such prisoner to death or who participates in obstructing or preventing any State or municipal officer in the discharge of his duty to apprehend, prosecute, protect, or punish any person suspected of or charged with any public offense and puts such person to death.

The fourth section fixes the punishment, on conviction, of imprisonment in the penitentiary of any person who participates in any mob or riotous assemblage by which a person is put to death.

The fifth section imposes a penalty upon the county in which the death occurred, by a mob or riotous assemblage, of $10,000, recoverable in the United States court, for the use of the family, if any, of the person put to death; if he had no family, then for the use of his dependent parents, if any; otherwise for the use of the United States. It also makes it the duty of the United States district attorney to prosecute the claim against the county, and confers jurisdiction upon the court by appropriate processes to enforce the collection of the judgment.

The sixth section makes any and all counties liable if the person put to death is transported through them after his capture and before being put to death.

The constitutionality of this bill I challenge as being beyond the power of Congress to enact into a law.

THE STATES HAVE NEVER SURRENDERED THEIR RIGHTS TO PUNISH MURDERERS UNDER THEIR OWN LAWS.

It differs in no material respect from others, save in one particular, that relating to State or municipal officers, which have been declared unconstitutional by the Supreme Court of the United States.

I shall first discuss that portion of the bill which seeks to punish the individuals who may be guilty of the acts denounced as not being within the guaranty afforded by the equal protection clause of the fourteenth amendment. The attempt to punish the individuals is the invocation of the exercise of the police powers by the Federal Government never delegated to it by the States. The bill is an invocation of the exercise by Congress of its power of legislation upon subjects which are exclusively within the domain of State legislation, an attempt to create a code of municipal laws for the regulation of private rights and not to provide modes of redress against the operation of State laws and the action of State officers, executive or judicial, when acting under State authority. I do not wish to be understood as asserting that positive rights are not secured by the amendment, but they are secured only by way of prohibition against State laws and proceedings. And while Congress undoubtedly has the power to carry such prohibition into effect by legislation, such legislation must be predicated upon some supposed State law or State proceeding and directed to the correction of their operation and effect.

It is State action and not individual lawlessness, however heinous or revolting, over which jurisdiction is conferred by the amendment upon Congress to correct by legislation.

The power or authority conferred upon Congress by the amendment is to enact restraining legislation upon powers exercised by the States denying to persons equal protection of the laws. The amendment originated no new privileges or immunities, no new right of life, liberty, or property, and no new process of law. It does no more than to guarantee rights already existing under the Constitution. It confers upon Congress no authority to enact general legislation securing the rights of life, liberty, and property, but to enact only such legislation as may be necessary to counteract such laws as the States may enact, which, by the amendment, they are prohibited from enacting and enforcing.

The amendment is not an affirmative, positive, original grant of power to the Federal Government, nor does it confer upon Congress the power of enacting original legislation over privileges and immunities, life, liberty, or property. To repeat, it is prohibitory only, and the prohibition runs against the State and not against individuals. It differs in this respect from other grants of the States found in the Constitution, such as the right to regulate commerce with foreign nations and among the several States, to coin money, to declare war, and similar grants. Those are affirmative grants of power, and Congress, for their regulation and enforcement, has jurisdiction to enact original, affirmative legislation of every kind, including the exercise of the police power where necessary to their enforcement. The grant by the States of those powers was a surrender by them

of all power to legislate upon those subjects, conferring exclusively upon Congress that right. The States never surrendered their right to govern and regulate the rights of life, liberty, and property and to punish, under their own laws, murderers. If that power exists in the States it can not exist in the Federal Government. And if the States have surrendered that power by the adoption of the fourteenth amendment, then Congress has the exclusive right to fix the punishment which should be imposed upon murderers, and if upon murderers, upon robbers, thieves, burglars, embezzlers, forgers, bigamists, adulterers, and every other person who may commit a criminal offense.

If, by the adoption of that amendment, the States surrendered their rights to protect the life of persons without their jurisdiction, and to punish the persons who may put any one of them to death, then the States are without power "to establish a code of municipal law regulative of all private rights between man and man in society." And the constitutional guaranty by the United States "to every State in this Union a republican form of government" was annulled by the amendment. That such was not the intention of Congress when it proposed and submitted the fourteenth amendment is clearly shown by its refusal and rejection, during the consideration of the amendment, this proffered clause: "Congress shall have the power to make all laws which shall be necessary and proper to secure to the citizens of each State all the privileges and immunities of citizens in the several States and to all persons in the several States equal protection in the rights of life, liberty, and property." Had that clause been adopted and ratified by the States instead of the one that was adopted, containing the prohibition that "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction equal protection of the laws," Congress would have had the power to enact affirmative legislation, original power to make laws touching all rights pertaining to immunities, privileges, life, liberty, or property, to establish a code of municipal laws regulative of all private rights between man and man. But instead of stripping the States of their power or the rights pertaining to the life, liberty, or property of the individual, the clause containing the prohibition quoted above was adopted and ordained, the effect of which was to grant to Congress only the right of "vetoing, correcting, restraining, and nullifying laws and State action denying the rights" guaranteed by the amendment. Had that proffered clause been adopted, the Supreme Court of the United States would not have declared unconstitutional, as it did, the act of Congress punishing as a criminal offense the act of two or more persons—

who conspire or go in disguise upon the highway or on the premises of another for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the law or of equal privileges or immunities under the law; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws.

It would not have said in its opinion condemning that statute as being unconstitutional that the equal protection clause in the fourteenth amendment—

does not add anything to the rights of one citizen as against another. It simply furnishes an additional guaranty of any encroachment by the States of the fundamental rights which belong to every citizen as a member of society. The duty of protecting all its citizens in the enjoyment of an equality of rights was originally assumed by the States, and it remains there. The obligation resting upon the United States is to see that the States do not deny the right. This the amendment guarantees, and no more. The power of the National Government is limited to this guaranty.

Nor would the court have said in Virginia *v.* Rives (100 U. S., 313), and repeated in United States *v.* Harris (106 U. S., 629)—

these provisions of the fourteenth amendment have reference to State actions exclusively, and not to any action of private individuals.

Nor would the court have said in the Cruikshank case:

The very highest duty of the States, when they entered into the Union under the Constitution, was to protect all persons within their boundaries in the enjoyment of those inalienable rights with which they were endowed by their Creator. Sovereignty for this purpose rests alone with the States. It is no more the duty, or within the power of the United States, to punish for a conspiracy to falsely imprison or murder within a State than it would be to punish for false imprisonment or murder itself. The fourteenth amendment prohibits a State from depriving any person of life, liberty, or property without due process of law, but this adds nothing to the rights of one citizen as against another. It simply furnishes an additional guaranty of any encroachment by the States upon the fundamental rights which belong to every citizen as a member of society.

The court was there speaking with reference to the act of Congress which made it a felony for two or more persons to band or conspire together, or go in disguise upon the highway or upon the premises of another, to violate any provision of that act, or to injure, oppress, threaten, or intimidate any citizen, with intent to prevent his free exercise or enjoyment of any right or privilege granted or secured to him by the Constitution or laws of the United States or because of his having exercised the same.

Nor would the court have held in the Civil Rights cases (109 U. S.-P., 3) that the act of Congress making it a criminal offense for any person to deny the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water, theaters, and other places of public amusement to citizens of every race and color, regardless of any previous condition of servitude, was unconstitutional. Had the court conceived that the fourteenth amendment conferred upon Congress the jurisdiction to enact direct, affirmative police regulations, excluding the rights of the State in adopting and ratifying the fourteenth amendment, it would not have held that—

The fourteenth amendment is prohibitory upon the States only, and the legislation authorized to be adopted by Congress for enforcing it is not direct legislation on the matters respecting which the States are prohibited from making or enforcing certain laws or doing certain acts, but is corrective legislation, such as may be necessary or proper for counteracting and redressing the effect of such laws or acts.

Nor would the court have used this language in that opinion:

It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject matter of the amendment. It has a deeper and broader scope. It nullifies and makes void all State legislation and State action of every kind which impairs the privileges and immunities of citizens of the United States, or which injures them in life, liberty, or property without due process of law, or which denies to any of them the equal protection of the law.

Speaking of the fifth section of the amendment, which gives Congress the power to enforce it, the court says:

To enforce what? To enforce the prohibition. To adopt appropriate legislation for correcting the effects of such prohibited State laws and State acts, and thus to render them effectually null, void, and innocuous. This is the legislative power conferred upon Congress, and this is the whole of it. It does not invest Congress with the power to legislate upon subjects which are within the domain of State legislation, but to provide modes of relief against State legislation or State action of the kind referred to. It does not authorize Congress to create a code of municipal law for the regulation of private rights, but to provide modes of redress against the operation of State laws and the action of State officers, executive or judicial, when these are subversive of the fundamental rights specified in the amendment. Positive rights and privileges are undoubtedly secured by the fourteenth amendment; but they are secured by way of prohibition against State laws and State proceedings, affecting those rights and privileges, and by power given to Congress to legislate for the purpose of carrying such prohibition into effect; and such legislation must necessarily be predicated upon such supposed State laws or State proceedings and be directed to the correction of their operation and effect.

The court further said:

Until some State law has been passed or some State action, through its officers or agents, has been taken adverse to the rights of citizens sought to be protected by the fourteenth amendment, no legislation of the United States under said amendment, nor any proceeding under such legislation, can be called into activity; for the prohibitions of the amendment are against State laws and acts done under State authority. Of course, legislation may and should be provided in advance to meet the exigency when it arises; but it should be adapted to the mischief and wrong which the amendment was intended to provide against; and that is, State laws or State action of some kind adverse to the rights of citizens secured by the amendment. Such legislation can not properly cover the whole domain of rights appertaining to life, liberty, and property, defining them and providing for their vindication. That would be to establish a code of municipal law regulative of all private rights between man and man in society. It would be to make Congress take the place of State legislatures and to supersede them. It is absurd to affirm that, because the rights of life, liberty, and property, which include all civil rights that men have, are, by the amendment, sought to be protected against invasion on the part of the State without due process of law, Congress may therefore provide due process of law for their vindication in every case; and that, because the denial by the State to any person of the equal protection of the law is prohibited by the amendment, therefore Congress may establish laws for their equal protection. In fine, the legislation which Congress is authorized to adopt in this behalf is not general legislation upon the rights of the citizen, but is corrective legislation; that is, such as may be necessary for counteracting such laws as the States may adopt or enforce, and which, by the amendment, they are prohibited from making or enforcing, or such acts and proceedings as the State may commit or take, and which, by the amendment, they are prohibited from committing or taking.

Speaking further to the power of Congress to legislate on the subject of the violation by private persons of rights secured by the amendment, the court says:

Civil rights, such as are guaranteed by the Constitution against State aggression, can not be impaired by the wrongful acts of individuals, unsupported by State authority, in the shape of laws, customs, or judicial or executive proceedings. The wrongful act of an individual, unsupported by any such authority, is simply a private wrong, or a crime of that individual; an invasion of the rights of the injured party, it is true, whether they affect his person, his property, or his reputation; but if not sanctioned in some way by the State, or not done under State authority, his rights remain in full force and may presumably be vindicated by resort to the laws of the State for redress. An individual can not deprive a man of his right to vote, to hold property, to buy and to sell, to sue in the courts, or to be a witness or a juror; he may, by force or fraud, interfere with the enjoyment of the right in a particular case; he may commit an assault upon the person, or commit murder, or use ruffian violence at the polls, or slander the good name of a citizen; but, unless protected in the wrongful acts by

some shield of State law or State authority, he can not destroy or injure the right; he will only render himself amenable to satisfaction or punishment, and amenable therefor to the laws of the State where the wrongful act was committed. Hence, in all those cases where the Constitution seeks to protect the rights of the citizen against discriminative and unjust laws of the State by prohibiting such laws, it is not individual offenses, but abrogation and denial of rights, which is denounced, and for which it clothes the Congress with power to provide a remedy. This abrogation and denial of right for which the States alone could be responsible was the great seminal and fundamental wrong which was intended to be remedied. And the remedy to be provided must necessarily be predicated upon that wrong. It must assume that in the cases provided for the evil or wrong actually committed rests upon some State law or State authority for its excuse or perpetration.

Speaking to the legislative act which the court had under consideration, the court further said:

The law in question, without any reference to adverse State legislation on the subject, declares that all persons shall be entitled to equal accommodations and privileges of inns, public conveyances, and places of public amusement, and imposes a penalty upon any individual who shall deny to any citizen such equal accommodations and privileges. This is not corrective legislation; it is primary and direct; it takes immediate and absolute possession of the subject of the right of admission to inns, public conveyances, and places of amusement. It supersedes and displaces State legislation on the same subject, or only allows it permissive force. It ignores such legislation and assumes that the matter is one that belongs to the domain of national legislation. Whether it would not have been a more effective protection of the rights of citizens to have clothed Congress with plenary power over the whole subject is not now the question. What we have to decide is whether such plenary power has been conferred upon Congress by the fourteenth amendment; and, in our judgment, it has not.

In order to emphasize that the fourteenth amendment confers no power upon the Congress to legislate on the subject of the violations by private persons of the rights, either civil or criminal, secured to those persons whose rights are violated and to which they have an unqualified right of enjoyment, I quote again from Harris's case (106 U. S., 644):

A private person can not make constitutions or laws, nor can he, with authority, construe them, nor can he administer or execute them. The only way therefore in which one private person can deprive another of the equal protection of the laws is by the commission of some offense against the laws which protect the rights of persons, as by theft, burglary, arson, libel, assault, or murder.

The principles declared in the cases quoted from establish beyond all controversy that the provision of the bill under discussion condemning individuals for the acts mentioned in the third paragraph of the bill and those of the fourth paragraph, fixing the punishment for those acts, are beyond the delegated power granted to Congress by the fourteenth amendment and are therefore unconstitutional.

CONGRESS IS WITHOUT POWER TO PENALIZE COUNTIES.

I shall next discuss the legislative power of Congress to penalize counties.

Counties are creatures of State legislation and possess no powers other than those conferred by the State. They can neither sue nor be sued unless the right is conferred by State legislation; and where the right to be sued is conferred, that right is limited to those cases ordained by the State legislation defining the causes of action on which they shall be liable. At common law counties were never liable for the torts of its officers committed outside of the scope of their authority. The relation of principal and agent does not exist between counties and their officers and therefore the maxim respondeat superior has never had any application. The assumption by the bill to penalize counties necessarily carries with it the implied power that Congress may supersede the sovereign power of the State and impose a liability upon counties, where none exists, either at common law or under State legislation. It even goes further than this. It carries with it the power of Congress to create counties and to prescribe, notwithstanding State legislation to the contrary, their liabilities for all causes of action which Congress may originate. This is bound to be true, otherwise the liability imposed by the bill upon counties could be defeated by State legislation and the provision of the bill penalizing them, rendered abortive and ineffective. It would be a non sequitur to say that Congress has the power to fix a liability but is without power to create the status against which that liability may be enforced.

Indeed it would be an absurdity to say that Congress may fix a liability upon a county but is impotent to create the right of suability to enforce that liability and to make a county respond to the liability created, though the law of its creation may provide otherwise. If Congress has the power to create counties which are no more than political subdivisions of States, it would have the power to create county officers, prescribe their qualifications, duties, and liabilities. Furthermore it would have the right to exercise the powers of State sovereignty and to supersede the exercise of those powers by the State. It would have the power to reduce the States to mere Provinces, to destroy their autonomy, and to deprive them of all sovereign power.

IT IS STATE ACTION AND NOT NONACTION THAT IS PROHIBITED BY THE AMENDMENT.

I shall next discuss the power of Congress to exercise authority over "State or municipal officers charged with the duty to protect the life of any person that may be put to death by any mob or riotous assemblage" by their "failure, neglect, or refusal to make all reasonable effort to protect such person from death," notwithstanding State laws may punish such officers for such failure, neglect, or refusal, and notwithstanding their acts may be in violation of the laws of the State or its political governmental subdivision.

I have the honor to represent, in part, a State whose constitution creates the office of sheriff and makes him one of the executive officers of the State, charged with the duty of enforcing its laws and containing the provision that—

Whenever any prisoner is taken from jail or from the custody of any sheriff or his deputy and put to death or suffers grievous bodily harm, owing to the neglect, connivance, cowardice, or other grave fault of the sheriff, such sheriff shall be impeached—

And, if impeached—

and thereupon convicted, he shall not be eligible to hold office in this State during the time for which he had been elected or appointed to serve as sheriff.

Is it possible that under the prohibitive grant of the fourteenth amendment Congress has the power to supersede and nullify that constitutional provision? If it has, then it has the constitutional authority to compel State officers to perform their duties, and if it has that authority, it has the power to prescribe those duties, and in the exercise of that power it is unfettered and unlimited by State legislation, and when exercised the States are powerless to prescribe the duties of their officers and to punish them for a failure to perform those duties. The authority for the exercise of such power by the Congress appears to be predicated upon the language used by Mr. Justice Strong in the case of Ex parte Virginia (100 U. S., 340). That language is this:

A State acts by its legislative, its executive, or its judicial authorities. It can act in no other way. The constitutional provision—fourteenth amendment—therefore must mean that no agency of the State, or of the officers or agents by whom its powers are exerted, shall deny to any person within its jurisdiction the equal protection of the laws. Whoever, by virtue of public position under a State government, deprives another of property, life, or liberty without due process of law, or denies or takes away the equal protection of the laws, violates the constitutional inhibition; and as he acts in the name and for the State and is clothed with the State's power, his act is that of the State. This must be so or the constitutional prohibition has no meaning. Then the State has clothed one of its agents with power to annul or evade it.

The quotation is far from supporting the contention that a State acts when one of its executive officers "fails, neglects, or refuses" to discharge the duties imposed upon him by the laws of his State or does an act in violation of its laws. By no process of reasoning can it be said of an executive officer who does not act at all that his failure to act is an act "in the name or for the State." That that great court understood that the language employed and quoted meant that to bind the State by an act of its executive officer the act must be "in the name and for the State," in pursuance of the laws of the State and not in violation of them, is clearly shown by the language employed in the Civil Rights cases, where it is said:

The prohibitions of the amendment are against State laws and acts done under State authority.

And, further, in speaking of the wrongful acts of an individual, unsupported by State authority, the court denounces such acts as being—

simply a private wrong or crime of that individual—

And which—

if not sanctioned in some way by the State, or not done under State authority, his rights remain in full force.

Speaking further of the attempted deprivation of the rights of a citizen by the act of an individual, the court said:

Unless protected in the wrongful act by some State law or State authority, he can not destroy or injure the right; he will only render himself amenable to satisfaction or punishment; and amenable therefor to the laws of the State where the wrongful acts are committed.

In Barney *v.* the City of New York (193 U. S., 431) proceedings were instituted to enjoin the city of New York, the board of rapid transit commissioners, a State agency, and certain individuals, not officially connected with the city or the State, from doing certain acts in violation of the laws of the State of New York. The proceedings were not against the officers of the city or the members composing the board of commissioners. In other words, the complainant sought to bind the city and the board by the unlawful acts of city officers who were not made parties to his bill, on the theory that the city and the board of commissioners were bound by their unauthorized and illegal acts to the alleged injury of the complainant. The trial court dismissed the bill. On appeal to

the Supreme Court of the United States the opinion was by Mr. Chief Justice Fuller, concurred in by all the members of the court, and after quoting the extract from the opinion of Ex parte Virginia, which I have heretofore set out, and showing the holdings of that court in other cases, he says:

In the present case defendants were proceeding not only in violation of provisions of the State law but in opposition to plain prohibitions.

The decree of the lower court was affirmed.

In the great case of Ex parte Young (209 U. S., 123) the court had under consideration the original application for leave to file a petition for writs of habeas corpus and certiorari in behalf of Young, petitioner, as attorney general of the State of Minnesota. Young had been fined for contempt of the Circuit Court of the United States for the District of Minnesota. He, in justification of his refusal to obey the order of that court, entered in a certain cause, not necessary here to mention, disclaimed any intention to treat the court with disrespect, but believing that the decision of the United States court in the action, holding that it had jurisdiction to enjoin him, as attorney general, from performing his discretionary official duties, was in conflict with the eleventh amendment of the Constitution of the United States, he believed it to be his duty, as such attorney general, to do the acts for which he was adjudged to be in contempt. In other words, Young set up the fact that he was acting for the State of Minnesota as one of its executive officers and that the proceeding in which he was enjoined as attorney general was a proceeding against the State of Minnesota. The court, after reviewing many cases brought against State officers to prevent the commission of wrongs by them in the attempted enforcement of unconstitutional State statutes, said:

The act to be enforced is alleged to be unconstitutional, and if it be so, the use of the name of the State to enforce an unconstitutional act to the injury of complainants is a proceeding without the authority of and one which does not affect the State in its sovereign or governmental capacity. It is simply an illegal act upon the part of a State official in attempting by the use of the name of the State to enforce a legislative enactment which is void because unconstitutional. If the act which the State attorney general seeks to enforce be a violation of the Federal Constitution, the officer in proceeding under such enactment comes in conflict with the superior authority of that Constitution, and he is, in that case, stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct.

And this is bound to be true, otherwise individuals wronged by executive State officers acting in the name of the State, without authority of law, would be without remedy to enforce in the courts the injuries inflicted by such wrongs. If the acts of such officers were the acts of the State and the State bound by those acts, then the injured party would have no recourse, for the reason that the eleventh amendment of the Constitution of the United States prohibits the exercise of the judicial power of the United States over—

any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State—

and for the further reason that the citizen of a State never had the right to institute and maintain a suit against his own State without its consent.

The cases are too numerous to here enumerate, in which the Supreme Court of the United States has recognized and enforced the rights of the citizen against State executive officers, who, under the use of the name of the State, were attempting to inflict injury to those rights.

After a most diligent search and careful examination of the decisions of that court I have been unable to find any case, when properly analyzed, opposed to the principles announced in the cases cited and quoted from, except some expressions which are obiter dictum, in the case of Home Telegraph & Telephone Co. *v.* Los Angeles (227 U. S., 278). That was a suit instituted by a bill filed in the United States district court of California seeking injunctive relief against the city of Los Angeles and certain of its officers to prevent the enforcement of an ordinance adopted by the city establishing telephone rates, which were alleged to be so unreasonable that their enforcement would bring about the confiscation of the property of the complainant. The trial court refused to grant the preliminary injunction, entertaining the opinion that no jurisdiction was disclosed by the bill, and on the filing of a formal plea to the jurisdiction of the court, dismissed it. The plea alleged that the suit did not really or substantially involve a dispute or controversy properly within the jurisdiction of the court, as the constitution of the State of California provided that—

no person shall be deprived of life, liberty, or property without due process of law—

and that complainant, though a resident of California, had never invoked the jurisdiction of the State court to enforce that constitutional provision. It will be noted that no question was raised as to the suability of the city or as to whether the suit should have been brought against the executive officers of the city to prevent their enforcement of an unconstitutional law, acting in the name of the city or the State. The only question presented by the plea, which was sustained by the trial court, was whether the fact that the constitution of California guaranteeing due process of law, as does the fourteenth amendment, deprived the United States court of jurisdiction. In the determination of that question it was wholly unnecessary to express an opinion upon the question as to whether the acts of State officers, acting in the name of the State, in attempting to enforce an unconstitutional law, represented the State in its sovereign or governmental capacity. Indeed, the question as to whether the acts of the executive city officers of Los Angeles, acting in the name of that city, represented the city in its governmental capacity, was not raised.

It is therefore clear that the language used in the opinion with respect to those questions, if opposed to what was said in Ex parte Young and in Barney's case, quoted above, was dictum pure and simple. Besides, the criticism indulged in of the opinion in the Barney case was wholly unwarranted, in addition to being dictum. In the Barney case the city of New York and the board of commissioners, a State agency, were proceeding in defiance of State laws, while in this case the city of Los Angeles and its officials were acting under an ordinance of the city ordained pursuant to and under the authority of State laws and not in violation of them. This clearly distinguishes the two cases, and there is in reality no conflict between them.

Furthermore, the acts complained of were affirmative, positive acts, and not a mere failure, neglect, or refusal to act.

Moreover, the opinion really and in fact placed the decision of the court that the jurisdiction of the trial court could be maintained by the application of—

the established principle that the exercise of municipal legislative authority, under the sanction of the State law, is the exertion of State legislative power within the purview of the contract clause of the Constitution (Art. I, sec. 10) declaring, "No State * * * shall pass any * * * law impairing the obligation of contracts."

It is therefore manifest that the opinion in that case does not commit the court to the announcement of principles so utterly at variance with those declared in the Civil Rights cases and in others, firmly establishing the principle that the fourteenth amendment does not confer upon the Congress the primary power to enact direct, affirmative, general legislation regulative of the private rights between man and man, which rests alone with the States in the exercise of their sovereignty and exclusively within the domain of State legislation, to supersede State legislation by taking the place of State legislatures, as is attempted by this bill. Nor can the opinion possibly be construed as committing that court to the interdiction of that well-established principle of law, fully recognized by that court, that neither a State nor any of its political governmental subdivisions through which it functions is liable for torts committed by public officers.

This exemption is based upon the sovereign character of the State and its agencies and upon the absence of obligations and not upon the ground that no means for a remedy has been provided. The Government—

Said Mr. Justice Story—

does not undertake to guarantee to any person the fidelity of the officers or agents whom it employs, since that would involve it in all its operations in endless embarrassment, difficulties, and losses which would be subversive of the public interests.

To commit the court to holding in the Los Angeles case that a State or any of its political governmental subdivisions is bound by the unauthorized or illegal acts of its officers would be to commit that court to the holding that a State or its political subdivision would be liable for the injuries so inflicted and that liability enforced by the courts if the State was suable.

CONGRESS IS WITHOUT POWER TO PRESCRIBE THE LIMITS OF THE OPERATION OF THE AMENDMENT.

I have been wondering ever since I read this bill if its authors, in constructing it, entertained the notion that the Congress possesses the power to either narrow or enlarge the limits of the fourteenth amendment or if it has the power to prescribe the orbit within which that amendment may be operative. It would appear that some such view was entertained by the attempt found in the second paragraph of the bill to extend the guaranty of the equal-protection clause of the amendment to the "failure, neglect, or refusal" of the State or its governmental subdivisions "to provide and maintain" protection to the life of any person within its jurisdiction against a mob or riotous assemblage composed of five persons or more, and impliedly refusing such protection to the life of a person against a mob or riotous assemblage composed of four, three, or two persons.

Do the authors think the lynching of a person is less criminal, less heinous, and less revolting and intolerable when done by four, three, or two persons, or for that matter by one, than when done by five? If not, then why not extend the guaranty of protection to life against all unjustifiable violence resulting in death? Certainly the number who engage in the unlawful act, or the instrumentalities employed, can not make the crime less criminal or less injurious to the rights of the murdered man or woman, or reduce those rights to a degree by which he or she is afforded no protection under the amendment.

The attempt to classify mob violence resulting in death so as to bring it within the operation of the protection afforded by the amendment is a bald usurpation of power and can no more be exercised than can the power to punish murder or other common law crimes. There is just as much reason in support of such a classification as there would be in support of a classification predicated upon the character of weapons used in depriving the murdered person of his life. It would be just as logical, and quite as righteous, to extend the protection of the guaranty to the life of the man or woman whose life is taken by the use of a rifle and to deny the protection to one whose death was produced by the use of a knife, pistol, or ax.

And the attempt to extend by legislation the equal-protection clause of the amendment to the nonaction of a State or governmental subdivision in the enforcement of laws punishing murder, by whomsoever and under whatsoever circumstances committed, is as equally a culpable usurpation of constitutional power.

It is State action and not nonaction that is prohibited by the amendment, and it is only State action of a peculiar character over which the Congress has the power of control by legislation.

ATTORNEY GENERAL'S OPINION THAT BILL IS CONSTITUTIONAL ERRONEOUS.

It is indeed regrettable that the honorable Attorney General, before expressing his opinion to the Committee of the Judiciary of the House, and permitting his opinion and that of his assistant to be made a part of the report of that committee on this bill, did not give a more thorough consideration of its constitutionality. Had they examined the opinions of the Supreme Court of the United States more carefully they would not have made the mistake of predicating their opinion that the bill is constitutional upon cases dealing with legislative acts prescribing police regulations for the enforcement of affirmative grants of power by the States to the National Government, and applying the principles announced by the court in those cases in support of the constitutionality of this bill. They would not have cited and quoted from the case of Hoke *v.* United States (237 U. S., 309), as sustaining the constitutionality of this bill, where the question presented was the power of Congress to enact what is known as the "white slave traffic act," passed in pursuance of and incidental to the power conferred to regulate interstate commerce, had they observed the distinction between the principles applicable to an affirmative exclusive grant of constitutional power and the principles applicable to the exercise of a negative or prohibitive power.

Had they given that consideration to the grave questions presented by the bill to which they are entitled they could scarcely have failed to see that the power granted by the fourteenth amendment of the equal protection of the laws is prohibitory and confers upon the Congress merely the power of "vetoing, correcting, restraining, and nullifying bad laws and action of the States denying the rights" guaranteed.

It would be extremely unfortunate for Congress, during the period when the National Government is expending millions of dollars to enforce the laws of the country and its executive officers are strenuously engaged in the suppression of lawlessness, to itself commit, if possible, a greater crime by refusing to enforce the Constitution, which its Members solemnly swore to support.

Woe to the political future of any Representative of the people in this House who indicates by his vote for this bill his willingness to disregard section 4 of Article IV of the Constitution:

> The United States shall guarantee to every State in this Union a republican form of government—

And to—

> make Congress take the place of State legislatures and to supersede them.

Let us understand and appreciate that the Constitution is, to us, no "covenant with death," no "agreement with hell," but the supreme law of the land, and is entitled to our most loyal support.

Mr. SUMNERS of Texas. Mr. Chairman, I yield one minute to the gentleman from New Jersey [Mr. PARKER].

Mr. PARKER of New Jersey. Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

The CHAIRMAN. The gentleman from New Jersey asks unanimous consent to revise and extend his remarks. Is there objection? [After a pause.] The Chair hears none.

The gentleman from New Jersey is recognized for one minute.

LEGISLATION SHOULD BE CONSTITUTIONAL AND EFFECTIVE.

Mr. PARKER of New Jersey. Mr. Chairman and gentlemen, when a man comes from a district which contains a host of good people, of the very best, who think that the United States can do everything; when it contains, as is the case in my own district, much more than the ordinary majority of colored people, who think that the United States can protect them everywhere and administer justice in every State, it is a solemn duty—and I have sworn to perform my duty under the Constitution and to support that Constitution—to remember that Abraham Lincoln said:

> No man who has sworn to support the Constitution can conscientiously vote for what he understands to be an unconstitutional measure, however expedient he may think it.

[Applause.]

Abraham Lincoln was in many respects a practical politician as well as a statesman. He knew how to watch and to wait. He knew how to act under the Constitution when he thought action would be effective, and to wait until it should be so. But Abraham Lincoln was not one of those politicians who believed in the devilish motto that you may do evil that good may come. [Applause.] And I owe it to my people and to the people of the United States that, in the face of this awful prevalence of crime, whether murder or lynching or rape, or whatever it may be, I shall not try to give to the people a stone instead of bread, green goods instead of a real bill that is worth something. [Applause.]

THIS BILL IS NEITHER.

I shall have something to say to gentlemen on the other side if I have time, but I fear that this bill, where it is not unconstitutional, is absolutely ineffective. I do not remember the exact words of the gentleman from Minnesota [Mr. VOLSTEAD] in speaking about punishing the officer, but in effect he said it was practically a sham in that particular. He did not use that word.

THE FOURTEENTH AMENDMENT.

The Constitution, in the fourteenth amendment, says:

> No State shall deny to any person within its jurisdiction the equal protection of the laws.

I emphasize certain words: "State" means a State. "Deny" means an affirmative act, or one that can be inferred from a course of conduct. "The equal protection of the laws" refers to the equality of all persons before the law.

IT DOES NOT COVER INDIVIDUALS.

No provision of the Constitution has been subject to more construction by the courts. I shall not cite phrases. It is more important to know exactly what was done; it is better understood.

In the Slaughterhouse cases the Supreme Court determined that the amendment was not intended to apply to individuals or to take away the local self-government of the States, but that it was a prohibition against the States doing certain things—not an interference with their government.

In the Civil Rights cases (109 U. S., 37) it was held that although Pullman cars and railroads and inns and public amusements were public in their nature and filled a public want, they were carried on by individuals, and that those individuals could discriminate by their regulations between different people substantially as they pleased, so long as they afforded them the proper attention.

NOR LYNCHERS.

Then came the Harris case (106 U. S., 629), one of lynching. From the indictment it appears that three or four people were badly beaten by a mob and one Wells was killed, and the indictment was under an act which provided a penalty for conspiracy to deprive a man of his equal rights and the equal protection of the laws by going on the highways. It was a statute against a mob and people forming a mob. The Supreme Court of the United States in that case held that this could not be punished by the United States; that it was a crime against the State, and must be punished by them.

Years afterwards, in 1904, Powell and Riggins were indicted in Alabama for joining in a lynching, and Judge Jones, of Alabama, was of the opinion, as argued here, that the fourteenth amendment had been extended and that it could be used to punish the members of that mob. (134 F. R., 409.) Riggins was convicted. Powell went to the Supreme Court, and the Supreme Court, having just decided the Hodges case (203 U. S., 1), which was a conspiracy to keep people from having the right to go to work, wherein they had affirmed the old doctrine, immediately repeated it in the Powell case, and said that

lynchers could not be held by the United States under the fourteenth amendment (212 U. S., 564), and thereupon not only Powell but Riggins was released. Powell had already been discharged by Judge Jones under the Hodges case above mentioned (151 F. R.). The Government appealed to the Supreme Court of the United States. They alone were heard. The other side did not appear, and the Government was turned down and the indictment held bad.

Mr. Chairman, I do not know how to find a stronger line of decisions settling the law, that this bill is absolutely unconstitutional and a sham and a gold brick, so far as indictment of the lynchers is concerned; and we can not vote for the bill on that part of it.

Mr. CLOUSE. Mr. Chairman, will the gentleman yield for a question?

Mr. PARKER of New Jersey. I can not yield unless I can get more time; I have only one more minute.

The CHAIRMAN. The gentleman declines to yield.

IT WOULD BE INEFFECTIVE AS TO THE SHERIFF.

Mr. PARKER of New Jersey. The case as to an officer is different. My contention, if I have time to make my contention, is that no matter what statute is passed upon that subject, it would be ineffective, because no jury, Federal or otherwise, will indict or convict a sheriff who has had a gun put at his head and is simply a weakling. They will not hold that he is a criminal because he is a coward. [Applause.]

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. PARKER of New Jersey. I would like to have some more time.

Mr. SUMNERS of Texas. I am sorry I have not any more time.

Mr. PARKER of New Jersey. Will the chairman of the committee afford me more time?

Mr. VOLSTEAD. I regret I can not.

Under the leave to extend his remarks, Mr. PARKER of New Jersey submits the following:

THE AMENDMENT BINDS THE STATE AND ALL ITS OFFICERS.

The fourteenth amendment is no sham.

It made unconstitutional a host of State laws, and hundreds of pages in the Digest deal with the cases under that amendment.

It has made void hosts of laws and municipal regulations which discriminated against persons as to their life, property, or privileges.

It applies to every State agency, legislative, executive, judicial, or municipal.

Where a judge in Virginia had the power to select the juries and refused to select any colored men on those juries, his persistent denial of their right to jury duty was held a crime under a United States statute forbidding such denial.

He was convicted and the conviction was affirmed in the Supreme Court. (Ex parte Virginia, 100 U. S., 339.)

Where a California municipal officer had the right to license laundries and refused to license any Chinaman, and Yick Wo was convicted for keeping a laundry without a license, the Supreme Court held that conviction void. (Yick Wo *v.* Sheriff, 118 U. S., 356.)

ACTING IN THEIR JURISDICTION.

These were cases in which the State officer, within his authority under the State law, denied the equal protection of that law.

The officer was acting fully within his authority and committed no crime against the State, and his action therefore was the action of the State, and treated as such under the fourteenth amendment.

On the other hand, where the officer breaks the State law and criminally violates his duty under that law, his action may be held not to be the action of the State, but his individual action. (Barney *v.* N. Y., 193 U. S. 430.) The case cites other distinguishing acts done ex virtute officii from those ex colore officii—those done by virtue of the office from those under color of office.

NOT PERHAPS WHEN THE OFFICER GOES OUTSIDE OF HIS DUTY.

The sheriff may be held responsible to the State and not to the United States.

This bill fails to recognize this distinction.

It attempts to make it an act of the State for the sheriff to violate his oath of office, break the State law, and to fail to exercise reasonable care of his prisoner, although in such case his action is not the action of the State but is an express violation of official duty. Perhaps it may be held by the Supreme Court that this action is not that of the State and not covered by the fourteenth amendment.

It is to be noted also that the fourteenth amendment does not refer to carelessness, but to the affirmative act of denial such as was shown by the judge in Virginia and the license officer in California.

The fourteenth amendment does not refer to all acts which take away the protection of the laws but a denial of equal protection; that is to say, discrimination.

A CONSTITUTIONAL ACT.

In my judgment an act would be constitutional which provided as follows:

"If any State, through any of its officers or agents, shall deny to any person within its jurisdiction the equal protection of the laws, such officer or agent shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment not exceeding five years, or by a fine of not exceeding $5,000, or by both such fine and imprisonment."

This is in the words of the Constitution and as broad. It would leave to the court under the facts of each case to determine whether the act was an official act and that of the State or an individual act that was not that of the State.

The distinction in each particular case would be absolutely clear.

BUT NOT EFFECTIVE.

But even if this part of this bill should be held constitutional, it would be ineffective and injurious.

At present governors who respect the law remove a sheriff instantly who proves himself a weakling in the presence of a mob.

That sheriff is only a weakling and may not be a criminal when he has not the energy and courage to stand up against a gun, but he is not the best man to be sheriff.

But he is less likely to be removed if such removal would prejudice a trial in the United States court.

The practical thing, however, is that no jury is likely to indict or convict a man as a felon because he had not the courage to face a mob.

This would be especially true where the prosecution is not by the sentiment of the neighborhood, but under an outside statute overthrowing the laws of the State. This provision would be worthless in practice.

THE UNITED STATES CAN NOT PENALIZE THE COUNTY.

The only other section of this bill gives to the next of kin of the person who is killed by a mob a right to recover $10,000 from every county in which he was seized or taken by that mob.

It makes the locality guarantee the absolute execution of the laws.

The State may make the locality responsible because the State created that locality and controls it. The United States has no such power.

The criminal acts of an individual or a mob are not acts of a State for which it or its counties can be held responsible under the fourteenth amendment.

THE AWFUL GROWTH OF CRIMES OF VIOLENCE.

It is an awful fact that the United States has more crimes of violence than most civilized countries.

Abraham Lincoln's first essay on political matters was directed against lynching, then prevalent in Illinois.

Murders in the last few years have increased frightfully.

Robberies have extended to the mails and all our large cities.

The automobile has taken the place of the horse, and good roads have made escape easy.

Perhaps the greatest growth in these crimes has been in the very matter in which the United States has attempted to take charge—in bootlegging, liquor stealing, and a host of crimes that we never knew before.

Thousands of cases under the prohibition amendment already fill our courts and have choked the administration of justice and the voice of the law.

Harm can come out of this legislation.

The race issue is an awful thing. It is almost as awful to tell any community that they can rely on justice being done elsewhere and need not maintain order.

THE HISTORY OF LYNCHING.

It has not been suggested that lynching has grown in the United States with its population.

It has diminished as fast as civil government has become settled.

It was once the universal punishment for the horse thief who was found with the goods, when there were no sheriffs and no courts near by.

It has been common when some bad man has killed the sheriff and has been chased as an outlaw.

It is now too common when an outrageous crime has been committed and when suspicion has fallen, however unjustly, on a particular man.

Lynching comes largely because there is distrust of the courts and of jury trial.

Many States have degraded the jury and the courts, so that it is often impossible to secure an intelligent jury, because no one can be sworn who has read the newspapers and formed an opinion.

The judge is sometimes forbidden to charge the jury on the admitted facts and to tell them what they really have to decide.

Successive appeals are provided which delay the execution of the sentence, and the most technical objections are allowed to upset the verdict of a jury before whom the case has been thrown in an undigested mass.

As a result in such communities the law is not thoroughly respected as sufficient for the punishment of outrageous crime. For enforcement of the law it is a sad fact that in many parts of the United States they need to return to a real trial by court and jury where the court has power to state the evidence and advise the jury what is the real issue of fact and upon what principles of law their verdict should be based, and to the limitation of appeals, so that the sentence and its execution shall follow promptly upon the verdict without captious appeals or frivolous delays.

IT DEMORALIZES THE COMMUNITY.

The most awful part of lynching is its effect upon the community. It trains men as murderers.

That community is taught to despise the law and to seek private vengeance, which often hits the wrong man. It is abominable in every way.

I once knew a case. A desperado shot the sheriff's deputy; the alarm went through the countryside and the town was soon filled with horsemen coming in with their rifles. Almost all the colored people in the town ran away for fear. The mob broke open the jail, killed a poor colored prisoner who had nothing to do with the riot, and then rounded up the town, making the colored boys dance by shooting entirely too near their legs. A company of soldiers came promptly and restored order, while a posse chased the outlaw to the swamps and he was killed fighting.

THE LOCALITY MUST CURE IT.

There is nothing so bad as the blind and heartless cruelty of a mob. It was that cruelty which shocked the world in the French Revolution, when the cry was raised, "To the lamp post." But France had to be left to work out her own salvation, as every community must be left to make and carry out the law and punish crimes.

Ireland has proved that this can not be done by courts run from outside of the community. In the last few months houses were burned and men and women killed in spite of 100,000 soldiers.

Dr. Francis Lieber used to say that liberty depended upon local self-government and not upon a republican form of government; that France had a republican form of government, but that every mayor was appointed from Paris.

We have tried government from Washington in the Indian Territory. It was not good.

I once saw the dead body of an Indian marshal there on the road who had been shot down by bootleggers whom he had tried to arrest.

Law and order can come only from the sentiment of the community, which will educate itself and will develop law and order if the unit of that community is small enough and is given power to take care of itself.

The right of trial in the county by a jury of his peers is the foundation of English liberty and of the American liberty which has proceeded from it. We should not trust anything else, and perhaps rather see disorder than czarism or bolshevism.

The Constitution of the United States recognizes our form of government—an indestructible union of indestructible States. We have sworn to uphold the Constitution. I should be glad if every voter was sworn to uphold the Constitution.

THE TENDENCY TO CENTRALIZATION.

Some few of us have tried to be consistent in our opposition to the tendency which exists here to centralize our Government and get away from the old-fashioned local self-government of city, town, and county and trial by jury, and have opposed government by a central police by whatever name called.

The House and country are to be congratulated on the constitutional arguments which have been now made on this bill. We could wish that the men who made those arguments had been more consistent, and that they could have joined us in opposing the invasions lately made by the United States of the reserve powers of the States.

Those invasions have been manifold. United States statutes have established United States control of common roads, United States police in agriculture, United States responsibility for damage done by floods, even by rivers entirely within the State, United States health and quarantine bureaus in all States, and it is proposed to regulate birth by United States institutions.

Many of the gentlemen who now so earnestly support and applaud local State government were among those who voted to invade the State's control of its own suffrage. Others voted for an amendment to give the United States concurrent—really dominant—police power over the manufacture and sale of liquor, establishing a double jurisdiction in the courts under State or United States laws with reference to all the details of that difficult subject.

This last invasion has been made constitutional by the eighteenth amendment, but its results are already evident in contempt for law here, there, and everywhere.

CONCLUSIONS.

It is not right for anyone who believes in an indestructible Union of indestructible States to take the first step in putting jurisdiction in the United States over all crimes against persons and property on the ground that such crimes deny to the persons injured the protection of the law, or that the States deny protection because they can not always give it.

It would not be right to do so if the Constitution permitted such legislation.

It is still more wrong when the Constitution does not permit.

We should not present the people with an unconstitutional bill which will be held void or which will prove ineffectual.

Let us legislate according to the Constitution.

Let us trust the people of each State. They are good people everywhere and are fit to govern themselves, and should be allowed to do so, subject to the restriction that the State shall not deny to any person the equal protection of the law.

They must be trusted to punish any individual, whether in or out of office, who violates his duty to his State and injures anyone else.

Gentlemen say we should pass this law, even if we believe it unconstitutional, because its effect will be good. I stand with Abraham Lincoln. I stand with him, the friend of the colored man, the friend of man, and the lover of the Constitution.

The passage of this bill will do no good. It may only raise again the race issue, and the result of raising that issue has always been disastrous to the honest, law-abiding colored people of the South.

Justice will never be had unless undivided responsibility is put somewhere.

That responsibility is now and remains with the States. We must hold them to it.

It is absolute folly to relieve them in any way of that responsibility.

Such a folly would be a legislative crime.

THE REPUBLICAN PLATFORM AND PRESIDENT HARDING.

This course was not recommended by the Republican platform, which only asked the Congress to take the matter into consideration.

> We urge Congress to consider the most effective means to end lynching in this country, which continues to be a terrible blot on American civilization.

It was not recommended by President Harding, who asked that a commission be appointed to investigate the matter, composed of representatives of both races. In his speech of April 12 he said:

> Somewhat related to the foregoing human problems is the race question. Congress ought to wipe the stain of barbaric lynching from the banners of a free and orderly, representative democracy. We face the fact that many millions of people of African descent are numbered among our population, and that in a number of States they constitute a very large proportion of the total population. It is unnecessary to recount the difficulties incident to this condition, nor to emphasize the fact that it is a condition which can not be removed. There has been suggestion, however, that some of the difficulties might be ameliorated by a humane and enlightened consideration of it, a study of its many aspects, and an effort to formulate, if not a policy, at least a national attitude of mind calculated to bring about the most satisfactory possible adjustment of relations between the races, and of each race to the national life. One proposal is the creation of a commission embracing representatives of both races, to study and report on the entire subject. The proposal has real merit. I am convinced that in mutual tolerance, understanding, charity, recognition of the interdependence of the races, and the maintenance of the rights of citizenship lies the road to righteous adjustment.

Publicity of the real facts will bring the remedy in the States. The United States can only muddle if it try to meddle.

Mr. SUMNERS of Texas. Mr. Chairman, how much time was used by the gentleman from Mississippi?

The CHAIRMAN. Three minutes.

Mr. SUMNERS of Texas. I beg your pardon, Mr. Chairman. You have a mighty fast clock there. I was keeping time on that.

The CHAIRMAN. The Chair is informed by the time clerk that the gentleman used three minutes.

Mr. SUMNERS of Texas. Mr. Chairman, I yield one minute to the gentleman from Kentucky [Mr. GILBERT].

Mr. GILBERT. Mr. Chairman and gentlemen of the committee, it seems to be conceded by the great majority of those who have given this question study that this bill is unconstitutional in many of its provisions. I go further than that, and say that in my humble opinion this bill is unconstitutional in its entirety. It is subversive of the very principles upon which our Government is founded. But aside from that, even if it were constitutional, it is in some of its provisions vicious and indefensible.

I was unable to get time to address the committee, so I ask indulgence of the committee for unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman asks unanimous consent to extend his remarks in the RECORD. Without objection, it is so ordered.

There was no objection.

Mr. SUMNERS of Texas. I yield to the gentleman from Louisiana [Mr. SANDLIN].

Mr. SANDLIN. Mr. Chairman and gentlemen of the House, one coming from the section of the country from which I come and realizing the evil effects and the great injustice of the legislation proposed by this bill finds it difficult to discuss it dispassionately. However strenuously the proponents of this measure may deny that this bill was introduced in response to the demands of a certain class of political agitators, remembering the witnesses who appeared before the committee in advocacy of this measure and the press reports with reference to it and the arguments made in support of it on the floor of this House, we are convinced this measure is a political one, pure and simple.

In my humble opinion it is unfortunate at this time in our Nation's history, when there are so many questions, both national and international, disturbing the people, such as railroad rates, demoralized condition of the farming industry, the unemployment situation, lack of foreign trade, and innumerable others, all pressing for solution and upon which the people are demanding that immediate action shall be taken by this Congress, with a view to early solution and relief, that this uncalled for, unconstitutional, vicious, and ineffectual legislation should be considered.

The constitutional phase of this bill has been so ably and thoroughly covered by the Member from Texas [Mr. SUMNERS] and others that it would seem to be unnecessary to dwell on this point. I am sure that no lawyer in this body would be willing to stake his reputation as an authority by asserting that this proposed measure is constitutional.

The title of the bill now under consideration reads as follows:

To assure to persons within the jurisdiction of any State the equal protection of the law and to punish the crime of lynching.

The title is misleading. Properly the title should read thus: "A bill to provide accident insurance on the lives of persons who have committed or are about to commit a crime, payable to the family of the criminal."

In this proposed legislation a mob or riotous assemblage is defined as an assemblage of five or more persons who put to death a person who has committed or is about to commit some crime against society. Hence, according to the terms of this bill, four persons or a less number, acting in concert and doing the selfsame act, would be held guiltless. This provision, to say the least, is ridiculous and can not appeal to the judgment of any fair-minded legislator.

I would call to your attention and earnest consideration the sections of the bill that would penalize the county or parish in which a person is put to death at the hands of a mob or riotous assemblage in the sum of $10,000, and which goes further and would penalize a county or parish through which the victim of a mob might be transported.

If legislation of this kind is constitutional, there can be and will be no limits to which the Congress can go with kindred measures of this kind. We will be called upon, and can not consistently refuse, to pass legislation controlling and directing the officials of the States in the enforcement of all their criminal laws.

No one is deceived by the arguments of the proponents of this bill that it is not initiated and pressed for political purposes, nor directed at any particular section of this country, for it is only too apparent that the contrary is true.

I feel sure that some of the advocates of this measure are entirely misinformed with reference to the race question in the South. They have taken the statements of political agitators and proceeded on the wrong theory, and are absolutely ignorant of conditions as they really exist, magnifying infrequent and exceptional cases, totally ignoring the general amity prevailing there between the races. If I should desire to inform myself upon the matter of the conditions existing in the western part of this country with reference to the differences, if any, that exist between the white people there and the Japanese or Chinese, or upon any other matter which affected their welfare and happiness, I would not be governed by statements of those thoroughly unacquainted with that great section and her splendid people; rather would I take the advice of the Members of this House from that section, the real representatives of the sentiment and intelligence of that splendid section and her great people.

The people whom I have the honor to represent are willing that a great question like the race question should be left to the best judgment of the white citizens of any other section affected, and earnestly demand the same rights for themselves.

It would be ridiculous for Congress to say that in the city of New York, because of the fact that 500 murders were committed there in a single year, that it should pass a law penalizing the State and municipal authorities for allowing this condition of affairs to exist. We must leave the solution of such a problem as this to the people and the officials of the State of New York.

I dare say there is more misinformation in the matter of the race question than on any other question which has engaged the attention of the country since the establishment of the Government. We people down South who have had to deal with the Negro, in slavery and in freedom, have profited by our experience, and we understand better how to cope with the situation than do the people of any other section, however honest and conscientious some of them are in devising schemes to perfect amity between the white man and the black man.

My people, civilians and officers, understand the problem with which we are dealing and how best to meet and solve it. We are not novices; we handle in a practical, common-sense way, and the light that guides us is the light of knowledge and experience. We have learned because we live in close, intimate touch with the situation, and are not guided in our actions by theorists and agitators, many of whom are influenced by their provincial prejudice and ignorance, and by political considerations. Narrow and narrowing, these self-appointed guardians of the consciences and the well-being of my people, white and black, would sow discord among the races, and we who must live there would reap a whirlwind of disorder, chaos, and bloodshed.

Leave us to solve this problem, the most momentous one which has confronted any people in any age, as best we may. We must be left unhampered in working out a solution. The man who does not live in the South can not understand nor even begin to appreciate the conditions confronting the people of that section. We are patient and forbearing with the black man, we who have known him long and intimately. The Negro is safeguarded in his property rights by the laws and the courts. He is not accorded social equality with the white race, and he never will be. If let alone by ignorant or vicious agitators, the Negro in the South would not aspire to this abortive condition.

People of the North who have not lived among the Negroes do not understand the situation in the South. I have talked with a number of people of this class who came South to live. After living there for a time they gain some knowledge on the subject, and in many instances have said they thought the people of the South should be commended for the just and equitable treatment which they found the Negro received at the hands of the native southerner. The northern man who all his life has been led to believe that the people of the South were unjust to the colored race and comes there with preconceived ideas of what the correct attitude should be, is quickly disillusioned. In many, very many instances, such a man is not at all tolerant of the shortcomings of the black man and becomes his foe rather than his friend. Having been taught to believe that the only essential difference between the two races is in the color of their skin, he expects the Negro to measure up to a standard to which the laws of nature and of nature's God has not called him. He is unprepared for what he encounters, and as a consequence loses all his patience and self-restraint, and oftentimes assumes an attitude of antagonism which the southern white man would never think of taking, because he knows the faults and frailties of the inferior race, and excuses and condones his

shortcomings. The northern man, ignorant of the barriers which forever preclude the two races living on terms of social and political equality, would crown him as a martyr; enlightened as to the vast difference between the white man and the Negro, he quickly becomes impatient and intolerant, and crucifies him because he does not comprehend and appreciate his peculiar, but natural, inferiority. The pendulum swings all the one way or all the other. He is ready, first to crown, then to crucify. The middle course, the one which my people have adopted, and which means counsel and advice, patience, forbearance, and toleration is the only one which should be followed. This is the policy pursued by my people, and all fair-minded and just men must acknowledge that those who understand this subject should be left free to work it out along the lines that experience has shown to be the better way.

I make my appeal to the fair-minded and patriotic men of the East, the West, and the North to join hands with the men of the South and put to rout the proponents of this unnecessary, unconstitutional, harmful, and dangerous measure.

Why, Mr. Chairman, if this measure is placed on the statute books of this country it is going to weaken local responsibility and will be an encouragement to the viciously inclined. By the growth of a healthy public sentiment mob law is greatly on the wane in the South, but enact this bill and there will be a lessening of the efforts to check and abate it. The citizen will feel that the matter has passed out of his hands since the Federal Government has intervened, and will look to the Government to control and punish. He will feel that the United States has usurped his functions in this regard. Local officials will take much the same view and will not be so keenly alive to their own individual responsibility. The imposition of a penalty on a county or parish will not deter the members of a mob. The criminally inclined will draw surcease from the provisions of this bill. Gaining the impression that the power of the National Government will save him from the wrath of the mob, he thus is encouraged to commit the unspeakable crime. Instead of making for law and order, it will be but a breeder of disregard for law, and encourage the brute to seek to gratify his unholy propensiites, imagining himself secure because a law has been placed on the statute books which penalizes the county where a lynching occurs and imprisons those who dare lay hands on him.

The Constitution of the United States declares that "the 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." This proposed measure plainly violates this provision of the Constitution of the United States and aims at the destruction of local self-government.

In conclusion, Mr. Chairman, let me say that I deplore the rapid change in our Government from a democracy to a bureaucracy, and unless we turn about and retrace our steps the people of this country will soon awake to the realization that they have no local self-government and are living under a centralized form of government, with their everyday actions directed and controlled by Federal agencies. If demands for legislation of this character are acceded to by the Congress, there will be no limit it will not be urged to go and which it can consistently refuse to grant. Let me, then, appeal to Members of this House, regardless of the section from whence you come, to stand together and resist and defeat this assault upon the Constitution and the inherent rights of the States guaranteed to them by the provisions of that immortal document. [Applause.]

Mr. VOLSTEAD. Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman and gentlemen of the House, I believe that Abraham Lincoln would turn in his grave if he thought that 60 years after the emancipation proclamation a Republican House would hesitate to pass legislation to protect colored people from being deprived of their lives without due process of law, and I fail to follow the logic or the political tactics of my Republican colleagues who try to pretend that this legislation is not aimed at special sections of the South. The spirit of Abraham Lincoln still lives and the Federal Government is obliged to take cognizance of the hideous plague of lynching and provide a penalty so drastic as to render it dangerous for future mobs to indulge in.

Mr. UPSHAW. Will the gentleman yield?

Mr. FISH. Yes.

Mr. UPSHAW. There is no reference whatever to colored people in this bill.

Mr. FISH. That is the exact point, and I will say to the gentleman from Georgia that the reason for this bill, and in my mind the sole justification for the bill, is that his State and a few other States like his own fail to prosecute the lynchers.

Mr. UPSHAW again rose.

Mr. FISH. Does the gentleman want to ask me a question?

Mr. UPSHAW. Yes.

Mr. FISH. Proceed.

Mr. UPSHAW. I just want to ask the gentleman if he realizes that there has never been a lynching in Georgia in which there has not been an effort on the part of the State to punish the lynchers? And I wish to say further that the editorial just read from the New York Tribune does not bring out the fact that Georgia has had a thousand times greater provocation for lynching than New York has had.

Mr. FISH. I will ask how many men have been convicted for lynching in the State of Georgia?

Mr. UPSHAW. I do not know exactly how many men have been convicted.

Mr. FISH. Has a single one been convicted?

Mr. UPSHAW. Yes; a number of them.

Mr. FISH. And sent to jail?

Mr. UPSHAW. Many of them have.

Mr. FISH. I think the gentleman is mistaken.

Mr. BANKHEAD. Yes; and sent to the penitentiary, too, in Alabama.

Mr. FISH. The State of Georgia has an average of 10 lynchings a year, whereas the State of Virginia has no more lynchings than the Northern States, and in each case in the State of Virginia the lynchers have been prosecuted and convicted. It is only for your State of Georgia and others like her that we are obliged to enact Federal legislation to enforce the fourteenth amendment. [Applause.]

I will say, furthermore, to the gentleman from Georgia that it would be far more profitable for a certain Member of the Congress of the United States who declared that American soldiers have been lynched in France and have been hanged without being convicted by court-martial in the American Expeditionary Forces—it would be far more profitable, I say, if that man who made those infamous charges would investigate lynchings in his own State instead of besmirching the record of the American Expeditionary Forces. [Applause.]

Mr. UPSHAW. Will the gentleman yield?

Mr. FISH. I regret that I can not yield any further.

The CHAIRMAN. The gentleman declines to yield further.

Mr. FISH. I can not remain silent on this question. I would be untrue to those colored men of this country who paid the supreme sacrifice, and especially to men of my own command who gave up their lives to make the world safe for democracy, if I failed to advocate the passage of the antilynching bill. Let me tell you something that perhaps you Members of the House do not fully appreciate, and that is that the colored man who went into the war had in his heart the feeling that he was fighting not only to make the world safe for democracy but also to make this country safe for his own race. [Applause.] I wish also to testify to the loyality, fortitude, and bravery of the colored soldiers which compares favorably with any soldiers in the allied armies or our own. Gentlemen, consider the appalling fact that there have been men who wore the uniform lynched by citizens of Georgia. Some of them were innocent, indeed, because only 20 per cent of those who have been lynched were lynched for the crime of rape. I can say further to the gentleman from Georgia, how can he defend the fact that even women have been lynched in the State of Georgia.

Mr. UPSHAW. Will the gentleman yield?

Mr. FISH. No; the gentleman can answer in his own time. I am not a lawyer and do not intend to go into the legal points of the bill, but I have had political experience enough to know that it will be contested and disputed on constitutional grounds to the very end. It will be up to the Supreme Court finally to pass on the constitutionality of the antilynching bill and not the eminent constitutional lawyers of the House.

I have sworn to support the Constitution of the United States, and on that account, if for no other reason, it would be my sacred duty as a Member of the House of Representatives to vote for a drastic antilynching bill to protect the rights and lives of American citizens everywhere in the United States and put an end to lawlessness, which threatens the administration of justice. Who can tell, if lynching is not suppressed, when it will spread to take in the unpopular employer or capitalist and even public officials while enforcing the law?

My distinguished colleague, Mr. ANSORGE, of New York, representing a constituency of nearly half a million people, of whom 100,000 are colored men and women, has clearly pointed out the fact that members of a lynching mob in the South are seldom apprehended, rarely prosecuted by the local or State authorities, and almost never convicted.

Of all the dastardly and cowardly crimes lynching is the worst because the lynchers are armed to the teeth and the

victim is generally an unarmed person in the custody of the sheriff or local official. The mob is composed of cowardly ruffians, and unless drastic legislation is passed and enforced the spirit of lawlessness will run riot throughout the country. As for me, I do not think the bill is drastic enough; it should provide for machine guns in all county jails where lynching is rampant for use against mobs who attempt to substitute their desires for the orderly process of the law and thereby subvert our Republican form of government.

The advocates of this bill do not believe that its passage will solve the racial question, but they believe that it is a step in the right direction. Personally I advocate the creation of a commission to examine into the economic and political status of the colored people and report back to the House a comprehensive plan for the betterment of their condition and assure them equal protection and equal opportunity under the law.

Mr. BRAND. Will the gentleman yield?

Mr. FISH. I will.

Mr. BRAND. Has the gentleman any information in regard to the first lynching that occurred in Georgia?

Mr. FISH. There have been lynchings there for 50 years.

Mr. BRAND. Has the gentleman any information as to when the first lynching occurred in Georgia?

Mr. FISH. I do not know when the first occurred.

Mr. BRAND. The first lynching which ever occurred in Georgia, so far as I can gather, was in 1865. A Negro man raped a white woman in Gwinnett County. He fled for protection to Lawrenceville, where a company of Federal soldiers was stationed. When learning the facts, they took him in custody and hanged him in the courthouse square. The lynchers were partly from your own State and other States north of the Mason and Dixon line.

Mr. FISH. It is the exception that proves the rule. There have been lynchings in Georgia for 50 years, and it exists to-day, so that colored citizens are forced to come to Congress and ask for protection of their lives. And if you Republicans fail to pass the bill, you will spread discouragement among the colored people throughout the land who have been given to understand that the Republican Party was going to do everything in its power to provide that the colored citizen should have equal rights under the law and that his life will be protected everywhere in the United States. The colored citizen will not only be disappointed and discouraged, but he will believe that Congress has turned a deaf ear to his plea for simple justice, if some of you wavering Republicans fail to support the bill for disputed constitutional reasons. The rejection of the bill will close the door of hope and do much to aggravate the racial problem.

This is meritorious legislation, legislation which we have promised to the colored people in our party platform. We owe it to ourselves and to those colored people who fought in our Army and to their kin; we owe it to our party, to tell the people in the South that the antilynching bill is aimed against special counties and States in the South, and if they can not and will not enforce the laws, if they will not prosecute the lynchers, then the Federal Government will do it for them.

Mr. BANKHEAD. Does the gentleman think he is interpreting the act of the Republican Party in that?

Mr. FISH. The Republican Party has written it into its platform and it has no apology to make for the antilynching bill.

Mr. CONNALLY of Texas. Will the gentleman yield?

Mr. FISH. Yes.

Mr. CONNALLY of Texas. The gentleman does not approve of the mob in East St. Louis. Would not the gentleman favor an amendment to this bill so that it would include the riot like that in East St. Louis where 25 or 30 people were killed?

Mr. FISH. I would favor some amendments to this bill. I understand that quite a few believe that the bill should be amended. In my opinion, however, many Members of the House are wasting their time discussing the bill from a constitutional point of view before the provisions of the bill are perfected by amendments.

Mr. CONNALLY of Texas. Does not the gentleman understand that this bill would not punish the mob in East St. Louis that killed a number of colored people?

Mr. FISH. In that case men were prosecuted and convicted. I think six white men are now in jail for having taken part in that riot. I ask the gentleman is there a single white man in the State of Texas now in jail who took part in any lynching? [Applause.]

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. VOLSTEAD. Mr. Chairman, I yield 10 minutes to the gentleman from Washington [Mr. MILLER].

Mr. MILLER. Mr. Chairman and gentlemen of the committee, there have been long and able arguments on the constitutionality of this bill, likewise on the policy of Congress in enacting this legislation. It may be a pleasant diversion to depart from the constitutional argument and refer to some of the wonderful speeches made on the bill. In this connection, my attention is drawn to a speech on the antilynching bill delivered by the gentleman from Texas [Mr. BUCHANAN] when the rule making the bill in order was under discussion. I am sorry the gentleman is not on the floor of the House at this time. This was on December 17 last, and the address may be found on pages 458 to 468 of the CONGRESSIONAL RECORD of that date. The speech contains some features that are usual and some that are unusual; usual because, like some others on the same subject, it contains little, if any, information, and unusual because the speaker justifies lynching and defies Congress to enact any legislation that will prevent or tend to lessen the evil. He also bemoans the Nation's fall from greatness, prophesies the ultimate collapse of people's rights under the Constitution, and looks into the future with all the bewailing of the old-time, worn-out Democratic alarm. Gentlemen, have you read it? Have you analyzed or attempted to analyze it? Have you spent any time on it? Have you paid any attention to it? I doubt that anyone has given it any thought whatever.

It is not my part to search out the unusual and the grotesque. I have even less disposition to follow up inaccuracies, to dispute strange and unseasonal conclusions, or even indulge in controversy with one who indirectly advances the astounding argument that because the Constitution does not affirmatively prohibit lynching therefore it is to be recognized as one of the permanent institutions of the country. That it shall abideth now and forever, world without end. I have no time to dispute with or even disturb the mental peace of one who reaches such a happy and comfortable conclusion, placing its foundation not only on the Justinian Code and the Magna Charta, but all other laws of God, man, and nature, including the Constitution of the United States of America. As one of the interpreters of the Constitution, as one who gives the innermost thoughts of the framers, as they struggled to weave our fundamental and basic law, the gentleman from the Lone Star State stands out at once as truly original. I commend his treatise if you are not particular about historical accuracy. Some of his sentences are rather twisted, the periods a little snarled, the meaning somewhat obscure, but still he sails over what he called "unmuffled waters." Here is one academic gem, tossed out when discoursing under the head of "Constituent character." Listen to this, and I quote from page 461, left-hand column, near the top:

> But the purest and truest patriotism was the ruling passion and the doubts and misgivings and adversities of centuries of failure gave the nerve and caution essential to the success which was the crown of rejoicing sure to adorn the brow of consecration and unfading immortality.

[Laughter.]

It has been suggested that buried somewhere in this Macaulay-like passage is the true idea which later developed into the constitutional right to hang "niggers." No, gentlemen, it is not a quotation from Dr. Einstein's treatise on gravitation. It is original with the gentleman from Texas. Dr. Einstein has nothing so abstruse.

Now, here again, you students of English diction! Listen to this companion piece handed out while discoursing under the head of "Government spirit and doctrine," and I quote from the same page, column on the right:

> The Constitution with its provisions insisting on individual rights and local self-government, with manifestly necessary and appropriate limitations, led irresistibly to the question of how to apply the specifics of the great system to secure and perpetuate the benefits of the inspired prescription.

[Laughter.]

This is also original. It is like some of Walt Whitman's poetry—either great stuff or nothing at all; some say it is neither and some say it is both. But, anyway, we are led to believe that the framers of our Constitution worked in this atmosphere with the doors locked and the windows closed. [Laughter.]

We all marvel at the ease with which some men grasp great subjects. We stand amazed in the presence of one who masters the intricate and involved things of life, which have so long bothered the little mind of man. We are all now refreshed and made comfortable by the harmoniously assembled details of how the Constitution was brought into being, all gathered, clarified, and rectified by the gentleman from Texas. It is difficult to appreciate that the world has so long stood in doubt. And it is all about hanging colored folks in the South! Is a measure tending to prevent or lessen lynching in the South an inter-

ference with personal liberty? Seems so, from the gentleman's argument. Even more, lynching seems to have something of a Biblical basis. Under the subhead "Individual liberty and responsibility of divine origin" the learned gentleman goes on to say that the ideals written into the Constitution hailed from Mount Sinai, were embodied in the Decalogue, were written on the tables of stone, and were taught by the Mosaic law. It is interesting to observe some of these events were rather far apart. Is it possible that the gentleman is proceeding along the theory that acts not expressly prohibited are permissible? Are we to understand that since these ideals of which he speaks are collectively woven into the Constitution and that lynching is not expressly ruled out that, for that reason, lynching is after all not forbidden by divine law? But the gentleman continues:

> The God-given Ten Commandments are not intended to be collective or in the plural number.

The only inference from this weighty suggestion is that when two or more are gathered together and go out lynching a poor devil no admonition of the Ten Commandments is disturbed, nor is there in the act aught that is violative of the teachings of Holy Writ. [Laughter.] This brilliant idea may grow on the gentleman to such an extent that in subsequent reversions and extensions we may be prepared to find positive affirmative divine sanction. [Laughter.] This when the whole world knows, and every human being brought up in our Christian civilization must know, that lynching is forbidden by every law of God and man written or spoken since the world began! [Applause.] Strange doctrine this, wonderful discovery. The more I read the gentleman's address, the more I am profoundly impressed with the thought of how much time has been wasted on the organization of our courts of justice.

In another part of his address the gentleman sort of shifts gear, so to speak, and enters into something of a feeble denunciation of lynching, coupling up, however, this modest protest with a forceful reference to the enormity of the black man's crimes. Then, further, as if apologizing for even this gentle reference he comes forth by saying "not a spot on earth can be located where the infuriated multitudes will not override every barrier to avenge the pitiless horror," thereby uttering a challenge to the law-making power of the Government and defiance to our civil institutions.

Who is there in the name of God who condones the black man's crime against womanhood? It is unthinkable that there should be such. White men and black men alike condemn it. My God, gentlemen, where are your courts? What are they there for, if not to give speedy trial and swift justice? Is it not the character of punishment for crime whereof the accused has been convicted that is shocking the people of the Nation. We give you our approval of the severest penalty—whatever your statutes provide, but the Nation, its people, would be failing in its duty should it not put forth every endeavor to see that every man, white, black, yellow, or red, has a trial in conformity to law. What has aroused and horrified the people, and I am using the word "people" advisedly, is that human life is taken without the semblance of trial, in which the guilt or innocence of the accused is determined. [Applause.]

We as a Nation know too well the efficacy of the orderly administration of justice. Those communities in which lynchings are of frequent occurrence must learn now that the patience of liberty-loving America is about exhausted. There are no "ifs" and "ands" about it. This bill, amended or unamended, will pass, and those communities can take the consequences or leave them alone. The decision is up to them. [Applause.]

There never was a case of mob violence but that every personal safeguard, constitutional, legal, and moral, was overridden with heartless impunity. There never was a case of lynching but that every law, so carefully woven into our civil fabric was defied and every element of orderly, organized government for the time was overthrown. [Applause.] Courts and public officials and sometimes State executives make formal protest, but on the whole these protests were becomingly modest and dealt with the offending community with a sort of gingerly sensitiveness.

All the American people ask is that every offender shall be indicted and tried according to the law of the land, as you have made it, and that if innocent, he be set free, if guilty he be punished according to its provisions; or, in other words, that the personal safeguards in the Constitution, set forth in the Bill of Rights, shall abide without reference to geography. To this demand the East, West, North, and South must yield, we all hope gracefully and becomingly. Hurling defiance at an act of Congress or a pending act has somehow an ancient ring, but all that is a part of the history of the past. We are now living in an advancing age, and let us hope in a better-poised age, the gentleman from Texas notwithstanding. [Applause.]

But the ill-tempered outburst of the gentleman's speech comes when he approaches what might be termed the political angle. Of the bill he says, "Its political spirit is partisan greed," "its political principle is sectional hate," and one would think there is no help in us; "that they—the Republican Party—are devoid of respect for the Constitution, as they have often been," and so forth; that—

> it is impossible to avoid the conclusion that desperate political fear has driven the Republican Party into their hateful temper of the "bloody-shirt" régime—that disgraceful and shameful reconstruction era of "spoils and persecution."

Strange voice this, of the gentleman from Texas, crying out in the wilderness. And then, bracing his feet, he lunges out this charming and touching sentiment:

> Coming down, Mr. Chairman, to the spiritual merit of this Dyer bill and its kindred measures, which constitute the summum malum of the entire dastardly budget of unpatriotic wickedness leveled so unscrupulously at the heart of the Nation, the astounding fact is that such a practically impossible proposition could even have a day in court.

Presently, as if Zion is repenting of its wickedness, he comes down to earth and habitation with the soothing and comforting assurance that "we have no antipathy to our colored population." Tenderly, fatherly sentiment! [Laughter.]

But his speech is singularly out of place in Congress. Better would it have been for him had he not made it. It may sound all right in Texas, but it is out of tune here—another sweet bell out of tune. I can see the gentleman down on his native heath, in the busy and crowded marts of Cat Springs and Driftwood, or perhaps out amid the multitudes of String Prairie, or over in that other great glowing city of Mud, almost celestial in beauty and repose, standing on his tiptoes and "letting 'er fly" before an admiring constituency. [Laughter.] Or, farther over in his district, down in "that fair land of flowers and flowery land of the fair," at the delightfully poetic city of Jonah—the name is good to be heard of by white men but enough to scare a "nigger" to death—holding his admirers in wondering amazement of how he told them right to their faces where the grand old Republican Party was to "head in." [Laughter.] O, my worn and weary brother, the grand old Republican Party has heard worse things than that since it came into being. It has heard them since ere the little morning stars sang together, and it may and probably will hear more of them before its star is set. Lincoln heard the same thing in his day. He who stood in matchless majesty in life, and now stands consecrated in death, he heard the same unkind things said of him. But, brother, do you know that the light of his seemingly inspired life will glow in transcendent, celestial beauty as long as the sea and the sky are blue? [Applause.]

His immortal emancipation proclamation was the "summum malum" of its times—"the entire dastardly budget of unpatriotic wickedness leveled so unscrupulously at the heart of the Nation." "With malice toward none, with charity for all, with a firmness in the right as God gives us to see the right"—nobler words never fell from the pen of man—these, I suppose, were founded in "sectional hate," and were a part of "the dastardly budget of unpatriotic wickedness of its time." [Applause.]

I do not want to be offensive in this address. I do not mean to be, but if I should be, I would then be on a par with the gentleman from Texas. Whether he intended to be really offensive, I do not know, neither do I care, but we can all read his address and judge for ourselves. As an exhibition of bitter partisanship, as a specimen of narrow sectional prejudice, as an illustration of an apparently unsatisfied hatred of the Republican Party, the address of the gentleman stands without a rival since I have been a Member of this body. Democrats of his brand are all gone but him. Really, I did not know there were any of them left. I had thought they had all gone along with the passing of the buffalo and the long-horned steer. [Laughter.] But it seems there is at least one left—one of those "rock-ribbed and ancient-as-the-sun" kind, who, like poor Rachel of old, still grieves over her lost children and refuses to be comforted because they were not. The speech of the gentleman is just about as much out of place in this day and generation as a sod house on Fifth Avenue. [Laughter.] One would think the Republican Party is the double-distilled quintessence of deviltry, if the gentleman means what he says.

But the gentleman can wave his puny little hands and chatter his full; the grand old party will go right along its way and about its business as if this deluge of the gentleman from Texas had never come. [Applause.] It will brush these little rantings aside as the busy housewife brushes the idle cobweb from the ceiling—and there is a similarity between the two. [Applause.]

Really his address sounds more like an order sending shock troops into action at a Democratic rally. [Laughter.]

If the gentleman was not taking himself so seriously, this address of his would be really funny. The supposedly Latin quotations are off the text, most probably of the home-grown variety, while the combinations of metaphors, similes, and other figures of speech are just about as illuminating as the dark of the moon. The diction is somewhat twisted, snarled: His Lord Chesterfield advice takes on a peculiar slant, but enough can be gained from a careful reading to get the idea that somehow he does not like the Republican Party, nor does he particularly like this antilynching bill. [Laughter.] But, after all, it makes little difference whether the gentleman likes or does not like this bill, and it makes no difference whatever whether he likes or does not like the Republican Party. His political opinions are his own; he is welcome to them. So far as I can see, nobody else wants them. He can hide them under a tin cup or shout them to the wind. He can take any stand he wants in Texas, if he can get away with it, but when he comes upon the floor of the House of Representatives in advocacy of lynching, challenging and daring Congress, he must expect some one to rise up and say, "Here is the sole, surviving remnant of the species." [Laughter.] People fix their estimate of men by what they say; especially is this true of Members of Congress. The public is not slow in cataloguing a man, if he says anything worth while. I have seen no estimate of the gentleman; so far as I know there has been no cataloguing. He has just been overlooked, left alone, as saying nothing worth while. [Applause.]

Mr. SUMNERS of Texas. Mr. Chairman, I yield one minute to the gentleman from Maryland [Mr. GOLDSBOROUGH].

Mr. GOLDSBOROUGH. Mr. Chairman, I ask unanimous consent to revise and extend my remarks in the RECORD.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. SUMNERS of Texas. Mr. Chairman, I yield five minutes to the gentleman from Virginia [Mr. WOODS].

Mr. WOODS of Virginia. Mr. Chairman, I would be false to my conception of the duty we in this body owe to the country and to the cause of good citizenship were I to indulge unnecessarily in the expression of any sentiment here that would either arouse or perpetuate any sectional or class or racial hatred. We are one country, and no man is justifiable at this day in doing or saying anything to disturb that unity. If doubt existed in the minds of any as to this unity, surely it was removed by the spectacle of the Spanish-American War and the recent World War when we saw the sons and grandsons of the men who followed Lee keeping step with the sons and grandsons of those who fought under Grant, united under one flag, fighting for one common cause, and that cause the great cause of humanity.

It would serve no good purpose at this remote date to call in question the wisdom of that movement which established the fourteenth amendment and thrust upon the Negro, wholly unprepared for them and without his asking, the duties and obligations of citizenship. Suffice it to say, it was done—mistakenly done—when the bitterness of the then recent strife was still unforgotten and when the minds of men of the North were in no proper frame to enact maturely considered constructive legislation. Without animosity, but recognizing the inflamed conditions, I may say that such legislation was enacted that the Confederate States might drink to its dregs the cup of their humiliation.

The Confederate soldiers—my father among them—as they approached the ballot box to register their wisdom, their counsel, their patriotism, their voice, so sorely needed by their war-wasted Commonwealths, were waived aside as if they were lepers and had to cry out "unclean," unfit to approach that ballot box surrounded, as it was, by the newly enfranchised Negro, the carpetbagger, and the scallawag—"apostate for the price of his apostasy"—and this, too, when the only crime of these forbidden was that in courage and in patriotism they had responded to the call of their States in the hour of need. By this procedure you of the North, doubtless to your present regret, taught the Negro to estimate lightly the individual virtues and accomplishments and qualifications of suffrage citizenship and to depend not upon cardinal virtues but to look to the Federal Government to supply not only his needs but his desires as well. You taught him that his advancement would come by governmental donation rather than as a result of his own industry, thrift, and individual merit. He felt that as suffrage had come to him without either his asking or his qualification, he could cease work and the emoluments of office would take care of him. That delusion was not dispelled until the intelligent patriotism of the Southern States struck down these false standards of citizenship set up by their carpetbagger constitutions and established as a prerequisite of citizenship the merits of intelligence, frugality, patriotism—either individual or inherited—and a willingness to contribute to the education of the children of the land, as the price of suffrage. We have taught our people to look upon suffrage citizenship as a thing to be achieved. I submit to you in all seriousness the question, Which plan is the better calculated to develop a worthy citizenship? Which plan holds out to the Negro, even, the greater incentive to worthy achievement, and which plan will more likely bring to the States due appreciation of the obligation—they having made suffrage citizenship a thing to be achieved or merited—they owe to jealously guard and protect the citizenship and to give to every class of citizenship equal protection before the law?

I submit that the Southern States, by their action, have taken a long step forward toward a higher citizenship. They have shown not only a disposition but an ability to work out these problems. They realize their obligation and recognize that the responsibility is theirs. We of the South are glad to have your tolerance and your sympathy, and your moral support, but with equal earnestness we insist that you leave the solution of this and all kindred questions to the common sense, courage, and patriotism of the southern people—that patriotism which has made glorious the history of this country—and we solemnly promise you that we will solve this and all kindred questions to the honor of your section and ours and not to the ruin or disgrace of either.

The proponents of this bill are taking a step backward. They are overturning the very spirit and philosophy upon which this governmental institution was founded. That philosophy and spirit found its essence in the simple, well recognized principle that that Government is best which is nearest the people, that that Government is best which leaves the administration of the so-called "police powers" to the States. This bill, commonly known as the "antilynching bill," would be described more accurately if designated—from the standpoint of its effect rather than from its purpose—as a "bill to override the Constitution of the United States, to foment race hatred, and to revive sectional animosity." If it were possible to put an end to lynching by a lawful act of Congress, none would support such legislation more earnestly than we of the South. I realize as fully as you do that when, without trial, men "swing up" the man they "swing down" the law. Not a Member on our side of the House has raised his voice in defense of this brutal and cowardly crime. The sentiment of our best citizens deplores its existence. I saw the aftermath of one mob in my home city in Virginia. A colored man had been arrested for a most brutal assault upon an elderly woman for the purpose of robbery. On account of the extreme brutality the community was greatly inflamed. The spirit of the cave man was asserting itself, and rising even above the law. To protect the accused, who had been placed in jail, from the curious and threatening mob that was forming around it, the mayor went to the extent of calling out the local military company.

The mayor was a Confederate soldier. He had led his company in Pickett's charge at Gettysburg. Two-thirds of them never returned from that gory field, and though his charge did not succeed and later on the cause that he fought for was denominated the "lost cause," yet he and his comrades—my own uncle among them, whose body still fills an unmarked grave there—on that summer day, made a mark in history that will survive as long as the language of valorous deeds shall be read among men. I mention this simply to show that that mayor did not lack the element of personal courage; that he did not fail in a firm resolve to discharge the duty that the law placed upon him. He stood at the front steps of the jail until he was shot and wounded, and when the mob tried to batter in the doors of the jail the military company fired upon it, killing 12 men, some of them innocent bystanders. The prisoner was spirited away to a place of supposed safety, yet five or six hours afterwards, in the early morning hours, he was taken and lynched by the mob. I submit to you that the authorities of Virginia made a bona fide and determined effort and sacrifice to give to that prisoner the protection that the law afforded. What else could have been done? Were not the sacrifices sufficient? And yet under this bill that community and that old State—whose very graves make her still glorious—would be penalized $10,000, and her faithful officials haled before a Federal court for trial under a Federal law enacted by a remote body. In the past 13 years Virginia has had, I believe, according to the records, only six lynchings. There is nothing in the hearings to show whether the persons lynched were in custody or not. There is nothing whatever to show but that the State made every effort not only to prevent lynchings but to bring the lynchers to prompt trial, and yet it is proposed by this measure to deprive Virginia, and it is but one of 48 States,

of its right—its constitutional right, if you please—to exercise its own police powers and to regulate in any way it deems most effective its domestic affairs. I would remind you that the mobs formed in the South are different apparently from those formed in the North in that the animus of the mob in the South is directed against the individual, while in the North it is directed toward the race.

The last lynching that occurred in Virginia was one of two young Negro tramps who had brutally beaten to death and robbed an inoffensive and very respectable aged colored man. The lynchers, I am told, were white men—at least one has been tried and convicted for it—who doubtless had a kindly feeling for this old colored man. That lynching is more prevalent in our section of the country than in the North is not because our people are less law-abiding than yourselves. If true, it is due solely to the fact that they have greater and more frequent provocations to yield to the impulse of mob passion.

Will this bill, if enacted into law and upheld by the Supreme Court of the United States—if the unexpected should happen—make less frequent the commission of these crimes which incite lynchings? Will it give to the creature of bestial instinct, drunk with lust, a false sense of security? Will it cause an infuriated mob to forego its vengeance, or will it serve only to intensify the mob's vindictiveness and strengthen its determination? Keeping in mind that the mainspring of the mob is defiance of law, to anyone possessing even the slightest knowledge of human nature, the answers to the foregoing questions are obvious. The best that the majority can hope for from the passage of the bill is to keep within the party fold a while longer those Negroes of the North who have of late shown a tendency to waver in their Republicanism. But for every colored vote which you retain you will suffer the loss of two white votes, the votes of men and women, North as well as South, who resent the attempted invasion of State rights—on the part of some; and I do not believe even on the part of a majority of that side of the House and the partisan exploitation of a problem which calls for profound study and careful handling. Is it not wiser to follow the suggestions, if I correctly interpret them, of the President, whom we all recognize as a man of most generous impulses, to appoint an impartial commission to study and carefully investigate this problem and make recommendations as to the best method of relieving the conditions which we all deplore?

I appeal to the patriotic men on that side to adopt such a course, which I am satisfied will accomplish good results and certainly can do no harm.

The bill in its first section defines a mob as five or more persons. Therefore, so far as the provisions of this bill go, four men, however brutal in their methods and purposes, are immune from punishment. Four can lynch with impunity, so far as this bill is concerned. The third section provides for punishment in the Federal court of the officer failing, neglecting, or refusing to protect his prisoner, matters which should more properly be left to the State court; and the fourth and fifth sections provide punishment for those participating in any mob, penalizing the county in which the lynching takes place to the extent of $10,000, which shall be paid to the family or heirs of the person lynched, and even extends so far as to provide that if the lynched person is carried through even the slightest portion of any county, and without even the knowledge on the part of such county officers or a single citizen of the county, that county must forfeit $10,000, and this without any opportunity whatever on the part of the county to prevent such conduct.

THE PROPOSED LEGISLATION UNCONSTITUTIONAL.

The proponents of the measure claim its constitutional warrant is found in the fifth clause of the fourteenth amendment, providing in substance:

> * * * Nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction equal protection of the law.

And in section 5 Congress is given power to enforce by appropriate legislation the provisions of this amendment. It will be noted that the inhibition applies to the States and may extend to political subdivisions of the States as well as to officials as representatives of the State, but by no enlargement of its construction could it be held to extend to the acts of individuals in the State. Its purpose and meaning was to prohibit the States from taking affirmative action, by statute or otherwise, to deny equal protection of the laws to all classes of its citizens. It never was intended and has never been construed to give to the Federal Government the right to supplant the States in the exercising of their "police powers" and of control over the domestic affairs of their people. The effect of this bill is to deprive the States of that power.

The Supreme Court of the United States has repeatedly held that no such power is given to Congress by this amendment. No argument has been advanced here to seriously contend that this measure is within the scope of the Constitution. The fact that it is unconstitutional ought to deter us from its passage, regardless of the fact that it is inexpedient and will be ineffective.

We can not do better than in this instance follow the advice of Abraham Lincoln, who at Cooper Union in 1860 said:

> No man who has sworn to support the Constitution can conscientiously vote for what he understands to be an unconstitutional measure, however expedient he may think it.

President Harding, in his message, has said recently, speaking of this question:

> Some of the difficulties might be ameliorated by a humane and enlightened consideration of it, a study of its many aspects, and an effort to formulate, if not a policy, at least a national attitude of mind calculated to bring about the most satisfactory possible adjustment of relations between the races and of each race to the national life.

President Wilson in one of his messages called attention to the conditions existing, but his appeal, and, as I understand, President Harding's, is an appeal to the public conscience on this question, calling for profound study, but nowhere recommending action such as this by Congress. The Attorney General does not personally approve its validity. One of his assistants, Mr. Goff, if I correctly understand him, claims that Congress can determine as a "legislative fact" that citizens are being deprived of equal protection of the law, and Congress may, therefore, pass an act punishing murder in the States. The Assistant Attorney General was asked:

> Would you carry that further to burglary, larceny, and assault and battery?
>
> Mr. GOFF. Of course, the principle would carry us there.

Lynching is but murder; and if, as Mr. Goff says, we can by Federal statute punish the crime of lynching perpetrated by individuals composing a mob, there is no escape from the conclusion that by Federal statute we can extend the jurisdiction of the Federal Government into all the States and against all crimes affecting life, liberty, or property of citizens of the various States. The result would be to flood the States with a swarm of carpetbagger, pie-eating Federal officers to punish every crime known to the law.

The Supreme Court, in Sixteenth Wallace, as early as 1873 said in discussing the effect of this amendment:

> * * * When the effect is to fetter and degrade the State governments by subjecting them to the control of Congress in the exercise of powers heretofore universally conceded to them of the most ordinary and fundamental character, when in fact it radically changes the whole theory of the relations of the State and Federal Governments to each other, and of both of these Governments to the people, the argument—illustrating what could be done under such a power, as I have undertaken to illustrate what could be done under this bill—has a force that is irresistible in the absence of language which expresses such a purpose too clearly to admit of doubt. We are convinced that no such results were intended by the Congress which proposed these amendments, nor by the legislatures of the States which ratified them.

In the United States against Cruikshank case, decided in 1875, Ninety-second United States, 542, which arose under the act of 1870, known as the enforcement act, the act prohibited two or more persons from conspiring together with intent to violate the act, or intimidate any citizen from exercising and enjoying the right secured to him by the Constitution and laws of the United States, making the action a felony. Cruikshank and his associates were tried in the District Court of Louisiana for violation of this act and convicted. The Supreme Court, however, held that the fourteenth amendment does not undertake to create any additional guaranty as among the citizens of the States, the court using this language:

> The fourteenth amendment prohibits a State from denying to any persons within its jurisdiction the equal protection of the laws; but this provision does not, any more than the one which precedes it, * * * add anything to the rights which one citizen has under the Constitution against another. * * * Every republican government is in duty bound to protect all its citizens in the enjoyment of this principle if within its power. That duty was originally assumed by the States, and it still remains there.

Also the case of United States *v.* Harris (106 U. S., p. 629), a lynching case. The mob had taken the prisoners away from the deputy sheriff, and Harris and 19 others were indicted for taking the prisoners from the custody of the officers and beating and wounding them. The indictment was drawn under section 5519 of the Revised Statutes, similar in some respects to the provisions of the bill under consideration. The court said in passing upon the validity of this statute, which had been passed by Congress:

> It is, however, strenuously insisted that the legislation under consideration finds its warrant in the first and fifth sections of the fourteenth amendment. The first section declares, "* * * nor shall any State

deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

This case is apparently on "all fours" with the principles embodied in this bill, and it is sufficient to convince any fair-minded man that this bill is brought under the condemnation of the Supreme Court of the United States.

To the same effect and upholding the same principles is the case arising in Virginia and decided by the Supreme Court. (Virginia v. Rives, 100 U. S., 313.) All of these cases hold that the object of the Federal amendment was to prohibit the States from passing any law affirmatively denying to one class of citizens equal protection of the law. Nowhere can it be shown in any case that the scope of the amendment has been extended so as to apply to acts of mere omission on the part of the States. In the Rives case the judge had by affirmative action excluded Negro citizens when he made up his jury list. This amounted to a denial of a right to them—if you please, an affirmative denial—by an agency of the State government of a legal right.

In the "Civil Rights cases," decided in One hundred and ninth United States, page 3, the court, speaking of the fourteenth amendment, says:

It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject matter of the amendment. It has a deeper and broader scope. It nullifies and makes void all State legislation and State action of every kind which impairs the privileges and immunities of citizens of the United States or which injures them in life, liberty, or property without due process of law, or which denies to any of them the equal protection of the law. * * * To adopt appropriate legislation for correcting the effects of such prohibited State laws and State acts and thus to render them effectually null, void, and innocuous. This is the legislative power conferred upon Congress, and this is the whole of it. * * * It is absurd to affirm that because the rights of life, liberty, and property—which include all civil rights that men have—are by the amendment sought to be protected against invasion on the part of the State without due process of law Congress may therefore provide due process of law for their vindication in every case, and that because the denial by a State to any persons of equal protection of the laws is prohibited by the amendment, therefore Congress may establish laws for their equal protection. This is not corrective legislation; it is primary and direct; it takes immediate and absolute possession of the subject of the right of admission to inns, public conveyances, and places of amusement. It supersedes and displaces State legislation on the same subject or only allows it permissive force. It ignores such legislation and assumes that the matter is one that belongs to the domain of national legislation.

The court holds that such attempted invasions of the constitutional functions of the States by Congress is void.

In the case of James v. Bowman (190 U. S.) by Mr. Justice Brewer the foregoing authorities were reviewed and approved, and it was again declared that Congress has no power under these amendments to protect one citizen of a State against wrongs committed against his person or property by another citizen.

The Riggins case has been cited under sections 5508 and 5509 of the Revised Statutes. Riggins and his coconspirators took Maples, a Negro, from the custody of the sheriff and National Guard troops in Alabama and hanged him. The indictment charged that the act was done because Maples was a Negro, that it was done to deprive him of his rights to trial, and so forth. The court denied Riggins a discharge on his habeas corpus, proceedings instituted on the ground that the charge under which he was held constituted no offense against the laws of the United States, and on the theory of that case, upholding the statutes mentioned, the bill under consideration seems to have been drawn. The foundation upon which it is built, however, is one of sand. The same judge later in the Powell case, reported in 151 Federal Reporter, page 648, Powell being jointly indicted with Riggins for the same offense, reversed his decision on the Riggins case and discharged Powell, indicted for the same offense. The Riggins case was a lynching case similar to other lynchings where the person lynched is taken from the custody of the sheriff by a mob. After the Riggins opinion was handed down, however, and before the court had passed upon the Powell companion case, the Supreme Court of the United States in the case of Hodge (203 U. S., 1) overruled the decision followed by the lower court in the Riggins case, and clearly held that no power resides in the Federal courts to punish any citizen of a State for acts of violence committed against another. The Government appealed the Powell case in which the lower court, deciding the Riggins case, had reversed itself and the Supreme Court held that there was no power in the Federal Government by statute to punish such offense, and affirmed the lower court's decision in the Powell case. (212 U. S., 564.)

My time is limited and I refer only to section 5 of this act, which provides for the imposition of penalties upon counties in which lynchings occur and upon those through which the intended victim may be carried to execution. We may search in vain for any warrant in the Constitution by which the Federal Government may tax States or any political subdivision of a State.

If the Federal Government can impose penalties upon counties it can impose penalties upon States and, carried to its logical conclusion, it can therefore impose penalties that can not be borne by the States and thus entirely deprive the States of existence. If it can fine or imprison the sheriff of a county for acts of omission of this character, it can fine and imprison the governor or the legislators of a State and thus entirely deprive the States of all power.

I can not conceive of greater violence to the Constitution than the provisions of this bill make possible. I quote from Cooley on constitutional limitations:

In the American system the power to establish the ordinary regulations of police has been left with the individual States, and it can not be taken from them, either wholly or in part, and exercised under legislation of Congress. Neither can the National Government, through any of its departments or officers, assume any supervision of the police regulations of the States. All that the Federal authority can do is to see that the States do not, under cover of this power, invade the sphere of national sovereignty, obstruct or impede the exercise of any authority which the Constitution has confided to the Nation, or deprive any citizen of rights guaranteed by the Federal Constitution (p. 831).

It is unnecessary to cite further authorities. They are all one in upholding the rights reserved to the States by the Constitution, in regulating their "police powers," their domestic relations, and the conduct of their citizens as individuals. In fact, this power was so fully recognized and understood that the proponents of effective Federal legislation on prohibition required a constitutional amendment.

THE SINCERITY OF THE PROPOSAL DOUBTED.

This bill is put forward by the Republican Party, though many Members of that party here will not vote for it, and many of the strongest arguments that have been made against it have come from the Republican side of the House. Practically no Democrats are supporting it. On the part of some, though I would not say all, it is a bold attempt to hold in line the Negro vote in the border States.

Just how much sincerity is behind the proposal may to some extent be indicated by the recent attitude of the Republican Party in Virginia toward the Negro. Its State convention deprived the Negro of participation in the State convention held at Norfolk, though for years that race had furnished the votes upon which Republican officeholders fattened in that State. That convention's State platform declared against the Negro purely for reasons of political expediency, just as this bill for the same reason is put forth. Can it be doubted that the national Republican committee approved this policy?

The Lynchburg News of November 11, 1921, in an editorial, states with reference to that convention's candidate:

When Henry W. Anderson suggests, as he did in his address in Lynchburg, that there are trees available for Negroes who aspire with prospect of success to public office in Virginia, he virtually says, "Give the Negro the right to vote, as the Republican Party advocates in its platform, and upon which platform I plant myself solidly, and the promises of which platform I solemnly pledge myself to carry out, if elected, but if by exercising the right of suffrage we give him the Negro in these 21 counties in which he outnumbers the whites elects one of his own race to office, why lynch him."

It is not contended that this is the exact language of the Republican candidate, but only an interpretation of his speech as given by a highly respectable newspaper. This, however, is not the attitude of Virginia, as has been very clearly shown by the decisive majority recently registered against the Republican candidate. How different from this position is the attitude of the dominant party of Virginia in its effort to see that justice is done toward all its citizens.

I cite only one or two instances. For years in Charlottesville, Va., where the Negro Republican vote outnumbered the white Republican vote, the electoral board had followed the custom of appointing as a representative of the minority one colored judge of elections to serve with two white Democratic judges. A colored judge was appointed as early as 1868. After his death his son succeeded him. One of these judges was probably worth one hundred and fifty to two hundred thousand dollars. There was never any complaint raised as to their intelligence, fairness, or conduct in office of any of these colored judges. Just prior to the late State election for the first time the "lily white" Republicans asked that these Negro Republican judges be removed and white Republicans be substituted for them. Of the four, the electoral board substituted two white Republicans in two precincts, but retained the two Negro Republican judges in two wards where the Negro Republicans were largely in the majority in the party. The claim was made that the Negroes were not Republicans, though the evidence showed that they voted for the last presidential candidate and that they were Republicans.

As evidence that the courts of Virginia are not swayed by prejudice or factional party considerations, I quote the court's opinion from the December Virginia Law Register, pages 617 and 618:

Upon the foregoing state of facts this thought presents itself to the court: Is this really a question of judicial relief from a wrong or is it political demagoguery to influence ignorant voters on the race question? When the Negro vote was large, did the white Republicans ever try to repudiate it? If there were now enough Negro voters to carry the State Republican, would this request be made to oust these men? If so, no question of politics is involved. But if the motif of this proceeding is politics and not justice, a court of law could not take jurisdiction. This court will assume as a presumption of law that petitioner is not trying to use this proceeding for political purposes. * * * They claim to be Republicans now. So the issue is whether a man's own volition or that of others makes him a Republican. If the "Lily White" convention can keep the colored man from voting for Republican candidates, then, indeed, is he out of that party. But of all the law quoted none has yet been cited to this effect.

The issue is now reduced to the simple question of whether the Negro shall per se be discriminated against. Whatever others may do, the courts of this State never have and never will do this. * * * And the action of the electoral board in appointing Inge and Coles (Negro judges of election) violates no law or principle of law or justice, in the opinion of the court.

As an evidence of the fair treatment received by this class of citizens in Virginia controlled by the Democratic Party I give the figures furnished by the State auditor, showing that Virginia for State purposes collects from its Negro citizens from capitation taxes $113,482.85, from real estate $80,583.57, from personal property and income $42,902.64. The total from all sources collected from Negro citizens is $236,969.06. The amount expended for State Negro institutions, public education of Negroes, and so forth, is: State institutions, $680,353; public schools, $1,600,000; estimated expense of Negro criminals, $260,000; total, $2,540,353. Notwithstanding this does not include the amount collected from the counties and appropriated to the education of the Negro children, it will be seen that the State is spending on its Negro citizens about $11 for each $1 collected from the people of that race.

I submit to this body that with such a showing on the part of Virginia—and I have no doubt the same showing can be made by the other Southern States—it can not be successfully contended that there is any disposition whatever among the best sentiment of these various States to be unjust toward any class of their citizenship. This attitude so clearly shown ought not be disturbed by Federal legislation. The responsibility which we recognize as ours and which we are discharging and will continue to discharge in good faith should not be divided. Any attempt on the part of the Federal Government to interfere with these conditions, to divide this responsibility, or to hinder the people of the South in the just solution of this and all kindred questions, peculiarly theirs, will be met with disfavor, if not, indeed, with resentment, on the part of the South. We have made citizenship dependent upon merit and thus given incentive to all classes.

The best people of the two races in the South are in the main in accord as to the best methods of handling the problem. The southern white man is to-day the Negro's best friend. He has a deeper appreciation of his good qualities and more genuine sympathy for his weaknesses. You had as well here and now recognize the fact that frugality, patriotism, and intelligence will remain the test of citizenship in the South, and this further fact had as well be recognized now and always—never to be forgotten—you may write it on your parchments, you may grave it with your pen of iron upon the rock, that just as true as patriotic, united intelligence is the only human power that can not be withstood, just that true is it that united, patriotic intelligence will rule the South.

I know the temper of my people. When you override or trench upon the Constitution in favor of a particular class you are sowing to the wind.

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman from New York [Mr. LONDON].

Mr. LONDON. Mr. Chairman, I ask unanimous consent to revise and extend my remarks in the RECORD.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. LONDON. Mr. Chairman, I am sorry that I have not the time to analyze this painfully complex subject. I deny to the State the right to inflict capital punishment. I deny that society as a whole is justified in taking human life. I certainly deny that right to the individual or to the mob. Every manifestation of passion, hatred, or violence which results in the destruction of human life is abhorrent to every civilized man. I wish this subject were not discussed either as a partisan or as a sectional subject. Since the war particularly, since human life has become cheap, and since young men of refinement have been taught to bayonet and kill their fellow men, mob violence has spread throughout the country and mob action has become a national curse. It is no longer a sectional question. Nor does the colored race only suffer. Only two days ago it was reported that in the State of Louisiana a mob captured a lawyer who came to defend unpopular defendants, members of the I. W. W. Whether they were I. W. W. men or whether they were not does not matter. It is not a crime in itself to be a member of that body. It is a form of industrial organization with which certain people disagree. A mob kidnaped and maltreated a lawyer, an officer of the court, engaged in the sacred duty of defending men in distress. The mob consisted in all probability of respectable gentlemen, of gentlemen of property.

As a Socialist, believing that the only salvation of the human race is love, guided by intelligence, and that the only process of human civilization should be obedience to the collective expression of an enlightened will, through the duly chosen representatives of the people, I repudiate every form of mob action.

Now a word as to the police power of the Nation. The expression "police power" is improperly interpreted by those who would give a narrow interpretation to the Constitution. The State has become a mere nominal unit of the Nation. The United States to-day is a Nation. It is not a confederacy of States. It is not an American league of nations, a league of 48 sovereign States. Industrial evolution, inventions, the economic course of society have obliterated State boundary lines. The city of Jersey City, in the State of New Jersey, is more a part of the city of New York, in the State of New York, than is Buffalo, although separated technically by State lines. State lines have disappeared. The National Government has such police power as is necessary to effectuate the purposes for which the National Government has been organized and for which it exists. The Nation can, if it desires, punish murder. It can, if it desires, punish mob action. The Nation which assumed the power to enter every home in every State of the Union and conscript every young man, can reach every criminal who deprives an American citizen of elementary rights guaranteed by the American Constitution and by every tenet of civilized society. [Applause.]

That power can not be denied. That power exists outside of the fourteenth amendment. That amendment, designed by its framers for the protection of the helpless, the submerged and unfortunate colored man, has by crooked lawyers been employed to serve for the protection of corporate interests. It has never been used to protect human life or human dignity.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LONDON. Will the gentleman give me two minutes more?

Mr. VOLSTEAD. I yield two minutes more to the gentleman.

Mr. LONDON. Neither the fourteenth nor the fifteenth amendment is being enforced for the benefit of the Negro.

I look upon the colored man as my weaker and younger brother. I owe him the duty of defending him. He is in a minority. He did not come to the United States of his own free will; he was brought to the United States by force. We should right the wrongs of the past; the sins, not only of the slave owner of the South but of the slave importer of the North. We owe to the Negro our love because of the martyrdom to which we have subjected him. He is not responsible for the carpetbaggers of the reconstruction period. He does not want to dominate nor can he dominate.

Americans are all democrats, but that does not prevent most American people from joining secret societies. There is the one place where everybody has a chance to be higher than somebody else. It is in the secrecy of the lodge room that the humblest man in the full splendor of the regalia of his office becomes the supreme commander of the invisible empire of the inscrutable frog pool. In any event, it is quite a pleasure to think oneself superior. In those sections where the colored people constitute the great majority of the workers and where they have no political rights that their masters are bound to respect, there is in addition to the inevitable tendency of a stronger race to keep down a weaker one the desire on the part of the ruling class to keep the working people in a state of helplessness.

The illiterate and ignorant white worker does not realize that every time the colored worker is deprived of his political, civic or economic rights a blow is being struck at the entire laboring class. Fortunately, the American organized labor movement is beginning to take a more fraternal attitude toward the colored man.

It is rather significant that the largest number of lynchings of colored people occurs in the States where there is the largest illiteracy among the native whites.

I am not sure that this bill is effective. I would like to see it amended. I am a little afraid of politicians. The gentleman

from New York [Mr. FISH] is not a politician. He is young in politics, and he has told more of the truth about the bill than the other people on the Republican side. I would hate to see the Negro made the football of politics. No greater misfortune could be visited upon a racial minority.

I want a real antimob bill. I want an effective antilynching bill. I have often wondered why the United States, this most glorious experiment in the building of nations, has not exercised a deeper influence in stimulating democratic thought in other countries. The prediction of Thomas Paine, made after the American Revolution, that by the end of that century every country in Europe would become a republic was not realized. The glory of the United States was dimmed by the shadow of slavery up to 1860. Since then the world's view of America has been obstructed by the lyncher and by the leader of the mob.

No local sentiment, passion, or prejudice should be permitted to defy the legal rights of the humblest citizen. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. SUMNERS of Texas. Mr. Chairman, I yield to the gentleman from California [Mr. LEA] such time as he may desire.

Mr. LEA of California. Mr. Chairman, the antilynching bill is presented under a claim that its enactment would give further security to human life.

The question before us is not whether there shall be a law to punish lynching. Such a law is on the statute books of every State in the Union. Under the theory and practice of our Government for more than 130 years such offenses have been within the sole jurisdiction of the State. The question is whether or not we shall duplicate the State function by conferring the same power upon the Federal Government as to this class of crimes.

Ours is a Government of divided sovereignties. It is founded on the theory that all rights were originally vested in the people of the various States and that the Federal Government has been delegated only those powers that are essential and appropriate to the exercise of national functions. It was designed that all other powers should remain with the States. Each of these sovereignties, the State and the Nation, was designed to remain separate and supreme within its jurisdiction. This distinction was not founded on any idle or merely scholastic or abstract theory. It was deliberately adopted as part of our system of government by the framers of the Constitution after a profound study of the history of governments. They recognized that if the Republic is to endure to serve mankind, it must be guarded against the autocracy of centralized government as well as against the disintegration that would come from irresponsible, unorganized, uncontrolled powers.

Following out this plan of organization, the duty and responsibility of preserving the security of the lives and bodies of our citizenship, as well as protecting them against the whole category of domestic crimes, was made the function of our State governments. A brief number of crimes not included in State functions were defined under the Federal statutes and penalties provided for such offenses against the national sovereignty.

The general plan of our Government was wisely designed to avoid duplications of jurisdictions and functions. The State and Federal Governments were designed each to perform its separate essential function, coordinating and cooperating. It was readily perceived that the duplication of functions of these two sovereignties meant conflict, discordant functioning, and that each would be weakened by inharmony with the other.

The bill wholly fails to recognize the wholesome wisdom of the separation instead of the duplication of the State and Federal functions established under our plan of government. These features of the bill, as well as the inaptitude of its purposes, will be readily disclosed by examination of its provisions:

(1) It duplicates what should be the sole function of the State. It provides for the trial and punishment of offenses in the Federal courts that are already punishable under the State laws and in the State courts.

(2) Under its provisions the prosecution and punishment or acquittal of offenses in the State courts would not bar another prosecution and punishment in the Federal court. Such a plan is repugnant even to a most crude sense of justice.

(3) It seeks to punish mob murder, but only in those cases where the life of the victim has been taken "for the purpose" of punishing or preventing an "actual or supposed" offense committed by the man who is lynched. It provides no penalty for the crime against those victims of the mob who have committed no crime, "actual or supposed." This act makes the protection of the criminal of higher concern to the Federal Government than the protection of the victim of a mob whose innocence is unquestioned. It authorizes a prosecution against those who lynch the guilty man, but provides no prosecution for those who lynch the man unquestionably innocent.

(4) It makes the officer of the State who fails to perform his duty in apprehending or prosecuting a member of the mob guilty of a felony unless such member of the mob is held for prosecution in the Federal court. Thus in two cases, in each of which the officer has equally failed to do his duty, he is punished in one and not in the other, depending on whether or not some one else unrelated to him has subsequently caused the member of the mob party to be prosecuted in the Federal court. Such a scheme of making an officer punishable for a criminal act, dependent not upon the inherent character of the act but solely upon the conduct of other persons, subsequent to its commission, and for which the officer is in no way responsible, has heretofore been a stranger to our system of criminal law.

(5) This bill would make each county in which a lynching occurs or through which the party lynched has been transported by the mob, regardless of the knowledge of the county or its officers, and without regard as to how blameless the county may be, responsible in damages in the sum of $10,000 for each person so lynched or transported through such county. Such sum may be recovered on suit against the county by the Federal Government. The bill attempts to authorize a levy of execution "on any property of the county to satisfy such sum." Under the terms of this bill, if held constitutional, the Federal Government might sell the courthouse of a county in satisfaction of such a judgment.

The $10,000 so recovered is to be paid to the family of the person lynched. Thus, under these provisions, we see the innocent, law-abiding people of a community mulcted for $10,000 to be paid the relatives of the victim of the mob, regardless of the viciousness of the offense the lynched man has committed, regardless of his value to his surviving relatives, and regardless of the worth or character of such relatives.

This $10,000 penalty is exacted, not of the guilty lynchers, but of the innocent taxpayers of the county. It is, in substance, a guaranty or an insurance policy in favor of every person in the Nation for $10,000, payable in case he is lynched, provided he was lynched "as a punishment for or to prevent some actual or supposed public offense." The insurance is not payable if he is unquestionably the innocent victim of a mob and not connected with any actual or supposed crime.

No human government has ever heretofore reached that stage of efficiency in the enforcement of preventive criminal law when it could give a financial guaranty to its citizens against the criminal acts of wrongdoers. It would seem if we desire to embark upon such a scheme of crime insurance, we should begin by writing our policies in favor of innocent victims rather than in favor of those whose own repulsive crimes provoke mob violence. The orphan child and the widowed mother, dependents of innocent victims of mobs and other vicious crimes, should make a stronger appeal to our humanity and sense of justice than the relatives of victims who are usually perpetrators of vicious crimes.

Lynching is a crime under the law of every State in the Union. No system of criminal law in any State recognizes the justice or right of the mob to take a human life. The only necessity urged for this bill is the claim that the Federal Government will more effectively than the States prosecute lynchers. Local sentiment, it is charged, sympathizes with or condones the mob, rendering State prosecutions impossible or ineffective. Therefore import prosecutors and export the accused for trial.

In other words, the demand for this bill proceeds on the theory that the Federal Government shall be the censor of State conduct; that the Federal Government, with the superior virtue of a superman, shall approve what is good in the State government, condemn what is bad, and stand like a colossus with a club over the State, punishing it when it fails to meet the standards of virtue prescribed by the Federal Government. Not only does this bill threaten to punish State officials from governor to constable, who fail to perform their State duties as determined by the Federal Government, but it also holds subdivisions of the State liable to penalties, regardless of their knowledge or participation in any wrongdoing. This is an impossible conception of the relations of our Federal to our State Governments. A Federal Government that can command and penalize officers and subdivisions of the State can tyrannize over and destroy the liberty of the State government and its people.

The courts of the United States are inadequate to handle general criminal cases. The court system of the United States was never designed to take over the enforcement of domestic crimes generally. There are only 86 district courts in the United States.

These courts, comparatively few in number, are largely located remotely from vast numbers of our population. The Federal Government has neither the jails nor a number of officers sufficient or intended to provide the machinery for enforcing generally the criminal law. For nearly a thousand years Anglo-Saxons have believed that the accused is entitled to a jury trial in the county where the crime is alleged to have been committed and where his witnesses are available.

The constitutions of most States guarantee that right and prohibit the trial elsewhere, except by consent of the accused. For over eight centuries the establishment of this right has been haled as one of the greatest triumphs in the struggle of men for liberty and justice. This bill in substance discards that rule of just procedure. It proposes going back to the old system of tyranny in ancient days when men were dragged from their homes to remote places for trial, away from their acquaintances and friends, and largely deprived of the benefit of favorable witnesses.

The State criminal-law system has provided more than 3,000 courts, distributed over the United States, where men are properly tried for domestic offenses near the places where the offenses are committed. It is to these State courts we should leave the prosecution of the offenses defined by this bill.

As a precedent this bill is bad. A power that can be employed by the Federal Government for the punishment of one kind of mob violence to-day can be exerted for another to-morrow. The power that usurps a State function as to one crime can be applied to many and to all crimes.

It does not qualify or mitigate the viciousness of the principle embodied in this legislation that it is invoked for a purpose that may appear humane or just. All encroachments upon the liberties and rights of men have been made under a pretense of serving the higher good. A wrong thing done for a good purpose can have no sanction of law. It is based upon the same theory upon which the mob defies law.

In assigning separate functions to the two great sovereignties of our Government, the Nation and the State, it was not intended that one should be the censor of the other. The power to define and punish crimes reserved to the State included the power to act unwisely as well as wisely. If the right of the State to perform its functions is dependent on whether or not in the opinion of the Federal Government such functions are wisely or unwisely, successfully or unsuccessfully, performed, then the original reservation of such power to the State is a mere nullity—a form without substance.

This legislation is proposed primarily as a plea in behalf of the colored man. It is legislation that involves race prejudice and the tendency of which, if enacted, will be to accentuate race prejudice. To a considerable extent its enactment would be accepted by a large portion of the colored people of the Nation as a threat or punishment directed at the white people of the South by the people of the other sections of the country. In this situation colored people of criminal inclinations are likely to find an incentive and a license to commit offenses that they did not feel before.

The people of no State in the Nation are predominantly criminal or unjust. One State may travel the road of progress more slowly and falteringly than another, but no intelligent well-wisher of the future of the Republic would for that reason suggest that such faltering State should be deprived of its functions.

The large population of colored people in the South have given the white people of that section one of the most trying problems ever presented to the white race. It is the peculiar problem of the South. Officious interference by the Federal Government and other States will only accentuate the problem without contributing to its solution.

The lynching problem is not alone the problem of the South. Since 1885 lynchings have occurred in each of the 48 States of the Union, with six exceptions.

In the 32 years from 1889 to 1920, inclusive, 3,095 persons were lynched in the United States. The average number lynched per year for the first 16 years of this period was over 128. The average number lynched per year for the last 16 years was less than 65. The largest number lynched in any one year during the last 16 years was 83, while the largest number lynched in one year of the preceding 16-year period was 208, in the year 1892. Thus 30 years ago we passed the peak of the lynching period. Gradually the States, supported by public sentiment, have improved conditions. We have made substantially a 50 per cent progress toward eliminating lynching in the last 20 years. Ten Houses of Congress have come and gone. The pressing need for this legislation, if it ever existed, has largely passed away.

If it is desired to superimpose the Federal Government on the States in the enforcement of the criminal law, other fields of criminality now make a much stronger appeal. The Judiciary Committee recently reported to the House that during the last 10 years, while lynchings have been decreasing, "criminal business in the United States district courts has increased over 800 per cent." On the 1st day of last July 55,769 criminal cases were pending in the United States district courts. Over 9,000 homicides per year are now being committed in the United States. A wave of murder, highway robbery, and grosser crimes is sweeping over the country. The percentage of such crimes in our land is far beyond that of other civilized countries. Our States are failing unquestionably and ignobly to give that security of human life that is the ideal and aim of government. If the remedy for State failure is Federal interference and a duplication of State crimes by Federal statutes, then the method of this bill points to the remedy for our appalling record of crime. But no man is so foolish to suggest that such is the remedy. Neither is it the remedy for lynchings. The remedy for State failure is not Federal interference but State improvement.

In voting against this bill I have no thought that its defeat would retard the progress of the colored man or deny him justice. The race sensitiveness exists. It is not the creature of law, nor can it be eliminated by law. The black man has the same right to justice as the white man. The distinctions of race that separate him from his white neighbors can not be wiped away by decree of Congress. If that could be done, the problem would be easy. In the struggle of peoples the black man has been the white man's victim and the white man has also been his savior. The rights and opportunities of the black man should be protected by law, but his progress and advancement can have no other secure foundation than his own moral worth. That is the means of progress within his own hands. It is the natural way and his only sure way.

Too much of the interest of outside people in the problems of the colored man in the South has been in ignorance of the problem or inspired by political motives. Unfortunately, ever since the Civil War both the North and South have been pestered by demagogic politicians, whose selfish interests have been served by promoting racial and sectional hatreds. Energies and abilities that should have been exercised to promote progress and harmony have been prostituted to the propagation of racial and seditional hatreds for political purposes. The poor colored man has been on the nether side of this situation. The ignorant colored man has been the victim and the pawn of these demagogues. To the extent that this bill serves such purposes, it is wholly vicious.

Those truly interested in the welfare of the colored race have abundant opportunity for the full bestowal of their efforts. Let them contribute to the improvement of the comfort, morals, education, and religious advancement of the colored people. Let their concern be primarily for the millions and millions of law-abiding, worthy colored people rather than inciting race prejudices in behalf of an infinitesimally small number of mob victims.

Only a little over 70 years from slavery, the colored people have made a progress that is commendable and challenges our admiration and sympathy. We can best promote their further progress by encouraging them still further along the path of patient industry, law obedience, and moral worth.

Mr. SUMNERS of Texas. Mr. Chairman, I yield to the gentleman from Georgia [Mr. LANKFORD].

Mr. LANKFORD. Mr. Chairman, this is a so-called anti-lynching bill. It is proposed to assess a fine of $10,000 against each county in which a lynching occurs, the money to be paid to the relatives of the person lynched. It is further proposed to punish the sheriff, deputy, marshal, or other arresting officer from whom the lynched person is taken by life imprisonment.

Will these things prevent lynchings? No. Lynchings can only be stopped in other ways. You can not stop lynchings by offering a reward to a person to go out and commit a crime which invites a lynching. This bill if passed will bring about more race hatred, more lynchings, and more race riots. I had intended to argue the legal propositions involved, but will not do that now. The question of the unconstitutionality of this act has been ably presented repeatedly by Members on this floor. Every phase has been fully covered. Every decision has been ably presented. I have no doubt that the bill is not constitutional. It is my purpose at this time to present some views I have, many of which have not heretofore been presented in the argument here. I am leaving unsaid many things I would like to say, but which have during the long hours of debate here been repeatedly said. I shall strive to add to what has already been said.

Mr. Chairman, Mr. DYER, the author of this bill, the other day on this floor said:

During the Civil War never was there a criticism of the conduct of any Negro man or woman who was in slavery.

This is true. No criticism was made of the Negroes of the South who were left with the wives and children of the white men. No outrages were committed by these colored men either during the Civil War or immediately after the war. This is to the everlasting honor of the Negroes of those days and of the influences then surrounding them. This was before the Negro was influenced by propaganda of those who do not understand him. This was before the introduction of this Dyer so-called antilynching bill and before the introduction of the Tinkham resolution, in the days when the Negro race considered it honorable to love and protect the women and children of the white men, when the Negro wanted no higher privilege than the privilege of being helpful and courteous to others, the most glorious privilege on earth when exercised properly and under proper circumstances.

Mr. Chairman, this was in the good old days when the Negro sought, found, and gladly exercised the privilege of being courteous and helpful to the white man and his folks and rejoiced in the grateful appreciation of the white folks.

Other influences, ofttimes sincere but more often sinister, have crept in, and now instead of appreciation and love of each other there is race hatred and bitterness. There are thousands, yea, millions, of Negroes yet in the South, under the influence of the good old Negro daddies and mammies of the old days, who are courteous and true to the white man and his family. There are a few—a very few, thank God—in the South and many in the North of the Negro race who have gotten the idea from somewhere that the white man is a thing to be hated; that it is degrading for the Negro race to be courteous, polite, and obliging to the white folks, and that the way for the Negro to make his way among the white race is for him to be offensive, discourteous, and to force himself in where he is not wanted as often as possible. What an awful indictment against the Negroes and whites everywhere who live by stirring up race prejudices and bitterness.

Mr. Chairman, if you would remove the greatest cause of the outrages by Negro men, of racial hatred, of lynchings, and of race riots, then remove or forever stop the mouths of Negro and white breeders of race hatred. Oh, that the Negro race would spew out of its mouth these carrion maggots who engender, create, and live on the stench of race hatred.

Mr. Chairman, you will agree with me that the best thing to be done is that thing which will cause the best feeling between the races.

The true test to be applied to every bill like the present one is, will the measure if enacted bring about a better feeling between the white men and the colored men? This is true of everything suggested in connection with the race question. Some one asked me what I thought of President Harding's Birmingham speech as touching the race question.

I said in reply:

If the speech caused a greater politeness, courtesy, respect, and love of the Negro for the white man and of the white man for the Negro, then the speech was a great success. But if the speech caused the Negro race to hate the white man more and the white man to hate the Negro more bitterly, and if it caused the Negroes of the country to crowd more women and children off the sidewalks and make themselves more offensive in every way and made the chasm of bitterness and hatred between the races deeper and wider, then the speech was a monumental and an awful blunder.

Lets build up a better feeling between the races, not a more bitter one.

Mr. Chairman, the white race will determine what position in this great civilization the Negro race shall occupy. This will eventually be determined not by sectional hatred—not by partisan prejudice and not by political selfish narrowness. The white race will write the verdict of the Negroes' rights in this Nation, and the white people of the South will help make, will agree to, and will approve the verdict. The verdict will be impartial. It will be fair. It will speak the truth. It will be made up, after a careful consideration of all the evidence submitted by the Negro race, in view of all the surrounding circumstances and under the laws of eternal fairness, justice, and right. The verdict will not be a directed verdict. It will not be a forced decision. The white race will decide what position the Negro is worthy to occupy from the Negro's own acts, from his merit or lack of merit, and not from demands made by Negro propagandists of either the Negro race or white race, except that these propagandists by the creation of racial hatred are introducing a mass of evidence against the colored race. I will say more along this line later.

The white man's verdict on the race question will not be made up by bills pushed through Congress, except this kind of thing hurts the Negro race. The verdict will not be made up favorably to the Negro by the Negro race forcibly exercising privileges contrary to the wishes of the white race. The Negro race suffers from this. It does not gain. If I had a case before 12 jurors I would, so far as possible, introduce my best evidence. I would not want to be obnoxious to the jurors. I would want to show them every possible courtesy. I would want to be polite to them. Some Negroes are handling the matter properly. Others are not. The Negroes of the South are making a better showing for the race than is being made by the Negroes of the North. The white race of the South is helping the Negro solve the problem. We would soon solve the race question in the South if we were only let alone by racial prejudice, vultures of other sections. The Negro of the South is very much more polite and respectful to the white race than are the northern Negroes. While the southern Negro as a rule is courteous and polite to the white man or woman, the northern Negro is arrogant, haughty, disrespectful, and insulting to the white man and his folks.

The Negroes of the South are working out their own salvation in this country; the northern Negro is working out his own condemnation. The time is fast approaching when the North will bitterly detest the whole Negro race. The worst Negroes of the South, if they miss the penitentiary, the gallows, and the occasional lynchings, are coming north to add to your already haughty, contemptible northern Negro population. This mixture of our worst with the northern bad Negro race will go on making themselves as obnoxious as possible to the white race. They will push you and your wives and children aside to get on street and railway cars first, and then take the best seats and slouch down on the seats, and force you and your loved ones to sit by them while they, in order to be sure they appear your equal, make themselves as offensive as possible. They will push you and your folks off the sidewalks, to show you that they have special rights and are exercising them. At the public parks and public gatherings they will be anxious to show the white man that they are his equal. They will be sure and get between you and the music, and stand if you are sitting. They will talk loudly and laugh boisterously while you are trying to hear, to show you they are exercising equal rights. They will puff their cigar smoke so you will get a full share, and they will spit so a little will come your way, so you will know they are exercising their rights. They will not dare sit together at the band concerts, they will mix as thoroughly as possible, so you will see they are there. As nearly as possible they will get one on each seat in the street and railway cars, to show you they are exercising their rights.

It does not differ how many seats are in your waiting rooms; they will, if possible, get a few on each seat, so you will have the pleasure of standing or sitting by them and knowing they are exercising their rights. What I am saying is the truth. I am describing the condition in Washington and the North where the Negro is to-day. I am not talking about the South now. On Christmas Eve night I was in that great, magnificent passenger waiting room here in Washington, the most magnificent waiting room in the world. There are many, many, most splendid seats. There were present about one-third enough people to fill all the seats, and yet, upon careful observation, I found a few Negroes on every seat in that great waiting room. Not a single seat left where a white woman or child could sit without being side by side with a Negro. Yes, plenty of room, but no room where there were no Negroes. The Negroes of Washington and the North are determined to force themselves in as the equal of the white man. The so-called educated Negro is the most obnoxious of all. He thinks he knows how to swagger and not give an inch to any human being that is white. He thinks that to be courteous to a white person is to admit that he is not the white man's equal, and he must never do that.

The white people of the North will before long get the idea that there are no good Negroes; no, not one. The northern Negro and the mean southern Negro who comes North will expect political equality, economic equality, and social equality. He is determined to push himself forward in these respects every time he can, and if he gains an inch he will swagger over it and make his colored brethren hate the white man all the more. The northern Negro believes he is given a greater freedom with the white women up here. If he commits rape he expects the father and brothers, relatives, and neighbors of the outraged girl to plead for his protection and beg for him to become a great hero and have a fair and impartial trial, with the outraged girl, if left alive, in court to testify and him to deny. He expects newspaper write-ups, and the folks, some saying, "The rapist, Mr. Jones, must be innocent," and bringing him flowers, and if convicted he expects executive clemency and probably a pardon, with an implied invitation to him and others of his kind to go and do likewise.

All the while the Negro will be working his own condemnation, for as surely as day follows night so surely will the misunderstandings, the discourtesies, the insults, the outrages, the grow-

ing race hatred finally break forth not only in St. Louis, Omaha, and Washington but all over the North, and the awful carnage of race riots will hold sway. Why can not the northern Negro see this and instead of being haughty, offensive, and discourteous to the white race be all that the southern Negro is in the way of respect, courtesy, and politeness to the white race? You agitators had better quit teaching race hatred and teach race respect and good will. You had better teach the Negro race to respect and love the white man instead of hating him. You had better plead for good will, which will protect your innocent women and children against riots, instead of worrying over the rapist. You had far better plead for separate passenger stations, separate passenger cars, separate seats on street cars, and separate space at band concerts, and every other arrangement which will lessen the friction between the races and bring about a better feeling.

In the South everything has been done that can be done to lessen the friction between the races. A few of the worst Negroes will be lynched. The Negro in the South who commits rape knows what is coming. He simply commits suicide, that is all. If something is not done, and that speedily, hundreds will be killed in the North for every one we lynch in the South. You simply can not start a race riot where Negroes are courteous and polite to the white folks. The white people will not stand for it.

When race hatred is fanned almost to an all consuming flame and some one or score of men say lets destroy the Negro section and dozens of men promptly say, "No; old Bill lives down there. Old Fanny, my good old cook is down there. The Negroes down there are the friends of the white people. They are polite and anxious to be our friends." No race riot takes place.

But, on the contrary, let every man in the crowd remember not a good Negro but a bad one, not a good deed but a bad one, not courtesy and politeness but disrespect and vicious conduct, and then hell breaks loose. The good Negroes are saving the Negro race, the bad ones are destroying it. Why do not we worry about the good ones and not so much about the criminal and the rapist?

Mr. Chairman, now this bill is offered as a solution in part of the race question. Would it not be better for us to legislate for the innocent Negro women, children, and men rather than for the rapist and the vile criminal? Why not legislate for the protection of innocence and virtue instead of for the protection of the criminal and the defiler?

Mr. Chairman, why do some people concern themselves so much about the protection of the vile criminal and care so little or nothing about the welfare of innocent women and children? But, Mr. Chairman, I have never seen a buzzard turn from his filth and his carrion to enjoy the fragrance of the rose or to sip the sweetness of the honeysuckle. I have never seen the driver of a garbage wagon giving flowers to children or drinking in the beauties of the sky and earth. And, Mr. Chairman, I have never seen the man who is so concerned about the vilest of criminals bestir himself much for the cause of innocence, purity, and virtue. Let us strive to remove the cause of lynchings. We can stop them that way only. On the second day after I was sworn in as Congressman I used on this floor the following language:

> Sometimes the men of my State and of the South even go so far as to deal out, without trial, summary punishment to the individual who does a serious injury to one of our daughters.
>
> It is true they go beyond the law and become criminals themselves to avenge the wrong. Life becomes unbearable to the man whose daughter or neighbor's daughter has been outraged so long as there breathes the one who wantonly committed the outrage. The father and his neighbors are pushed onward to vengeance by a never-ceasing, ever-increasing, irresistible agony of an outraged love which sweeps everything aside. There is no fear of law or death or hell. Vengeance is theirs, and the outrage of their loved one must be avenged. They are as helpless to turn aside from their mission of dealing out justice, without regard to law and order, as a handful of leaves of the forest would be of themselves to turn aside from the mighty rush of the Niagara.
>
> We do not sanction and approve the disregard of law. We must admire the great love of womanhood which prompts and compels the action.
>
> The women of my State, and I believe of all other States, fear no violence, unavenged, so long as there lives within our bounds the lover of a sweetheart, the brother of a sister, the husband of a wife, the father of a daughter, or the son of a mother.

Many believe that the way to lessen a crime is to make the punishment more speedy, sure, and terrible. The same sentiment or passion which causes men to lynch for an outrage of a woman is in the bosom of every man present. See if I am right about this. Even a dog on the street or out on the public road has not only the protection of the law, he has the protection of his owner who will fight for him, "It makes no difference if he is a houn'. They've got to quit kicking my dog aroun'."

Your little boy or girl has the protection of the law and in addition thereto the protection which exists when others know he is your child and that you will not only appeal to the law but will resent with your last drop of blood, if necessary, any indignity or abuse heaped upon that child. The girlhood and womanhood of the country have and should have not only the protection of the law but the protection of every drop of blood and ounce of flesh of every true man not only within sound of her voice but within the territory where true men hear of her mistreatment. What will we do in Georgia and in the South to protect our women? I will tell you. We will do just whatever is necessary. Some one inquired about two young women. The reply came, "One is the daughter of old Bill Pidgeon Liver. If you insult her, mistreat her in any way, seduce her, or rape her old Bill and her brothers and all their kin will not hold you to account personally. Oh, they may swear out a warrant and let you give bond and get off best you can." Then the question was repeated, "Who is the other girl?" The answer came clear and definite, "She is the daughter of Johnny Redblood. If you dare harm or insult her or mistreat her you will receive bitter, determined punishment at the hands of her father and brothers, even unto death, if necessary."

Whose child had you rather be? Who is the best citizen? Which brothers would be bravest and best on the field of battle for their country? You know. I know. Everybody knows.

Is there a man in Congress who will confess that regardless of what indignity and outrage may be heaped upon his wife, daughter, mother, or sister he would not personally resent the offense? No; there can be no such person. Then we all must have the same sentiment which ofttimes impels fathers, brothers, and others to dispatch promptly a guilty person who has outraged a loved one of theirs.

The people of the North can claim no more love for another race than can the people of the South. The Pilgrims of Massachusetts made the same war on King Philip and his Indian followers as did the people of Georgia and Florida on the Indian Osceola and his band, and as did the people of the Great Lakes region on the treacherous Pontiac and his braves. The people of the North loved the good Indians just as our ancestors in the South loved Tomochichi, the friend of Oglethorpe, Pushmataha, the great friend of the whites, and Sequoia, the Cadmus of his race, that noble Indian born in my State of Georgia, whose statue was placed yonder in Statuary Hall by the good State of Oklahoma.

"There is nothing either good or bad but thinking makes it so." Some men pretend that the safety of the Nation depends on the elimination of lynchings. There are a hundred ways in which our Government is being undermined more effectively than by the occasional lynching of some one who has disregarded all law. While we argue this bill there will be more men, women, and children hit, crushed, and killed by speeding auto violators of the law here in Washington alone than there are criminals lynched in the entire United States in a whole year. The children and people killed here every day are innocent. The person lynched is, as a rule, a criminal. The auto violator of the law has no excuse except the utter disregard of human life and law. He is a murderer at heart when he speeds through a crowded street, and yet practically no effort is made to punish him. If he is ever brought before some of the so-called judges here in the District, he is probably turned loose with the thanks of the court, and the man who arrested him is probably cussed out by the judge for pursuing him or using a little force to stop his murderous speed or for being not in full view of the speeder at the time the auto bandit was making a murderous assault on the common folks who walk. This is lynching of all law and order by the judiciary.

We ought to have a decent observance of traffic regulations here, or have a few hangings for murder and a chain gang full of men guilty of voluntary manslaughter and murder, or we ought to impeach some judges for lynching the law. There are so many things that worry me more than the occasional lynching of a criminal.

There are approximately 1,000 girls in this country each year who go away from home and are lost to father and mother and home, never to return, to each person lynched in this country. Why worry so much about the lynched brute when there are thousands of things more serious demanding our attention? Almost invariably when I find in a newspaper here in Washington a tirade against the lynching of some rapist in the country somewhere, I turn through that paper and find where the paper which is so concerned about the rapist has felt it a glorious opportunity to lynch in the presence of the populace some child who is accused of a petty larceny or other small offense. The lynched brute gets what he invited and what he

deserves and is soon through the agony. The child is innocent of all crime except some childish indiscretion, and yet she is mentioned as pretty and young, her age being given, the little offense is described in exaggerated terms so as to attract attention to the write up, and her name and address are given so as to lynch her not for a day, not with a sudden death, but daily and continually, and for life. Better that she was burned and forgotten.

Mr. Chairman, I will support a bill to punish the big newspapers which persist in lynching children and women. I wonder if the passage of such a bill can be secured. These children that are lynched are poor children who need a good name as badly as the rich children, whose small offenses are not ordinarily chronicled. There are a million crimes, outrages, and horrible violations of the law for every lynching. Why worry so much about the minor offense? Surely those that are pushing this bill through Congress are about as wise and brilliant as the owner of a large cabbage plantation who went out and spent days worrying about five gnats which persisted in flying near and alighting on his cabbage and paid no attention to a thousand elephants which were destroying his entire cabbage field.

Mr. Chairman, this is a bill to provide, among other things, for the payment of $10,000 to the relatives of a lynched individual, the penalty to be paid by the county in which the lynching occurs. Let us see what is proposed here. All criminal statutes are designed for the protection of some class of individuals or for the protection of individuals in the enjoyment of certain rights. Who are to be protected under this bill? Is it for the protection of a citizen who quietly and peaceably is engaged in the daily avocation of life? No. Is it for the protection of the innocent in the enjoyment of any of the rights guaranteed by the fundamental laws of the land? No. Is it for the protection of any man, woman, or child anywhere in this country of ours in the legal possession of any right vouchsafed by the laws of either man or God? No. The bill is designed for the protection of the man who has disregarded all the laws of man and of God and committed the unspeakable crime and whose foul, vile black hands are dripping with innocent human blood. The bill is not for the protection of an innocent man, woman, or child. It is not for the protection of a law-abiding liberty-loving human being. But, Mr. Speaker, it is for the protection of the vilest, foulest, blackest beast out of the lower regions—the rapist.

Why, Mr. Chairman, should we provide $10,000 for the relatives of the rapist when he is killed by a justly infuriated community, when there is no provision to pay the relatives of the father who is killed by the highwayman? Why pay the relatives of the rapist when there is no law to pay the relatives of the innocent children whose lives are crushed out every day here in the very shadow of this Capitol by speeding autoists in utter disregard of law? Why should the rapist and his relatives become the special favorites of the Government and be given a status superior to the millions of other individuals who yearly lose their lives illegally? Why give to the rapist $10,000 insurance, payable to his heirs? This is better than we did for the boys who left their homes and went to the battle front to fight and to die. The soldiers had to pay for their insurance as a protection against the risk assumed. The rapist is, under this bill, to get free insurance against death because of the risk assumed.

Are we to pass a law saying to the criminally inclined, "Commit rape, then brutally slaughter your innocent victim, and this 'Land of the free and home of the brave' will stand sponsor for you, and if you are killed by those who are crushed and horrified by your act, then your relatives are to get what will be to them a magnificent fortune"?

Mr. Chairman, there are principles of equity which may be remembered just now and which are as follows: "He who seeks equity must do equity." "He who seeks equity must come with clean hands." We might here well add the following: He who seeks for himself the full protection of all the rights guaranteed by Constitution and all fundamental and statutory laws should not himself become the basest of all violators of all law and order. He who seeks the protection of the laws of man should not himself cease to be human and become worse than brute. Oh, what a farce is this bill, which seeks to make the base criminal and ofttimes the rapist the hero of law enforcement. You seek to make the rapist the mentor of human rights and liberties, and would make him the exemplar of constitutional rights and law enforcement. You would make him a messenger, a precursor, a forerunner, a harbinger of that better, brighter, and more glorious civilization which is yet to dawn and usher in the flood tide of human greatness.

Oh, what a farce is the bill and the very idea of its enactment. Let us put forth every effort to solve the race question and not make it more complex.

Mr. Chairman, are we solving the race or Negro question or is this question solving itself? I believe the question is solving itself. The Negro race is working out its own salvation and greatness or its own condemnation and failure. Just as an individual can gain friends by becoming worthy of friends, so can a race attain a high position in the world by becoming worthy of that position and as an individual can destroy himself by failure to respect the rights of others, so does a race destroy itself by failure to respect and safeguard the rights of other people and races.

So it is with the Negro race. An individual may for a while occupy a position in the minds of those who know him, either higher or lower than he is entitled to, but he will eventually find his proper level. The Negro race will find the level it is entitled to occupy. A piece of cork and a piece of lead held by a hand under the water remain together, but when released one floats, the other sinks. The white and black race may be held together by political exigencies or sectional hatred or one race by these causes may be placed higher than the other, but when sectional hatred is swept away, and both races are left free to sink or swim on merit then each will find its true level. The Negro race is left in this great civilzation—the product of the white man's brain and the Negro race will find and occupy eventually the position it is entitled to occupy. This is a white man's glorious civilization and a white man's grand and magnificent form of Government. The Negro never helped to build either. They were thrust upon him without his adding a single jot or tittle anywhere. He has done nothing that would not have been done by the white man. What is the Negro's true position? The white man is willing to give the Negro a fair deal and accord him his true position in this country. This is true in the North. It is likewise true in the South. The greatest trouble now is, that some sections do not yet understand the Negro as well as he is understood in the South. I believe the people of the South are to-day the Negro's best friends. We give them the same government and laws we enjoy. We give them the equal protection of the law. We detest and abhor the vile criminal beast of the Negro race. We accord a square deal and fair treatment to the thoughtless and average criminal class of Negroes. We give our good will and hearty support to the Negro who is striving to make good and who is honorable in his dealings.

We respect, we love, we reverence the good old Negro man and woman who respect, love, and reverence the white man and his loved ones. Oh, yes; the Negro gets a fair deal in the South. The Negro race can never build for itself a better future by pushing the Negro in where the white man should be. Legislation forced on the white people of the South by Negroes of the North and by those who desire to please the Negroes of the North does not and can not help the Negro race. It only widens the breach and does damage.

The Negroes of the South would be a contented people ordinarily except for the bitterness stirred up by northern Negroes and white propagandists who really care nothing for the southern Negro. Practically all the fight from the Negro race for this so-called antilynching bill is from Negroes from Boston, Philadelphia, St. Louis, Chicago, and other northern points. I attended all the committee hearings on the investigation of the Ku Klux, and there were several Negroes there scared to death of the Ku Klux, and every one of them was styled doctors or professors and were from some northern city. Why are the Negroes of St. Louis, Chicago, and Boston so afraid of lynchings and so afraid of the Ku Klux? Do not the Northern States give protection to the Negroes? Oh, some one says that the northern Negro is trying to help the southern Negro. I deny this charge. The northern Negro propagandists are helping the northern Negro to the detriment of the southern Negro and to the detriment of the white race. The northern Negro is stirring up all the race hatred possible, so he can fleece the innocent, unsuspecting darkey and make him believe he is making a fight to save him from a dire calamity and to make him the equal of the white man. The northern Negroes have an equal rights league or organization. God Almighty never made the Negro the white man's equal, and I am sure no Boston or Chicago Negro can make the Negro the white man's equal. No set of men, white or black, can do so. You had as well try to shoot the moon out of the sky with a popgun as to try to undo the race limitations fixed by the Creator. If the northern Negro loves the Negro race so well, and is doing an unselfish work, why do not these Boston and Chicago Negro strife makers go to Africa and tell of this civilization to their forefathers, the African savages in their jungle home. The white men came to this wilderness, wrought a great empire in spite of adversity. Why do not these Negroes of the North, who style themselves doctor and professor, go to the wilderness of that great continent and build a great Negro empire

and a great civilization instead of staying here and instilling in the Negroes of this country hatred of the race that brought the Negro out of darkness and gave him the best civilization and Government the world ever saw. The white civilization is thousands of years ahead of the Negro civilization of Africa. Suppose the white man could get up to some of the planets in the sky and find a civilization there thousands of years ahead of ours. What would those white men do? They would be glad to get back to the earth to tell of the wonderful civilization found up there beyond the sky.

Not so with the Negro of the North. He cares for no other Negro except in so far as he can use him. He stirs up bitterness and causes the Negroes' lot to be more difficult. The Boston and Chigaco equal-rights Negro is the breeder of lynchings and mob violence, and now they have a great bill to pay $10,000 to a Negro who commits suicide by causing a lynching. The way to stop lynchings is to remove the cause. You can not stop lynchings by law as long as the cause of lynchings is prevalent. You had as well try to spit on the sun and put it out as to try to stop lynchings by a law that does not endeavor to remove the cause of lynchings.

You northern Negroes quit howling about lynchings and begin preaching against rape. Preach more of the shortcomings of the Negro and less of the white man's errors. Make war on rape and all forms of crime. Do not leave the white race to wage all the war. The rapist needs not the protection of either race. The rapist outrages all law, and, brute that he is, not only voluntarily makes his own violent death inevitable at once, but stirs up a race hatred that may mean the immediate death of not only his own relatives but of scores of others. Why should anyone worry about his welfare?

Mr. Chairman, instead of taking up time with this bill, we better be trying to find the relative rights of each and bring about a better understanding. The Negro can not be the equal of the white man socially, economically, or politically. This is a white man's civilization and a white man's Government, and the white man is and will remain supreme. The Negro race can be and should be happy, contented, prosperous, law-abiding, and very helpful to his community and to his Nation. He can best be this keeping in mind his obligations to the white race and recognizing the true position of himself and of the white man.

Mr. Chairman and gentlemen, when God created the heavens and the earth and the fullness thereof and thought of suns, planets, stars and satellites, and they rolled from His finger tips and took their places in the broad expanse of space, and said, "Let there be light," and there was light, and viewing the end with the beginning, saw all that has ever come to pass and all the future and knew of the future progress of humanity before the birth of the race, He was well pleased, and yet His supreme creative work had not yet been done. He took the dust of the earth and molded it into His own image, into the form of a man and breathed into its nostrils His own creative, everlasting, immortal breath, and the image came forth a human being, a living soul, all dominating, all conquering, everlasting, eternal, immortal; a part of God Himself; a Caucasian, a white man, and God gave that first white man dominion over all things, and told him to reach to the bottom of the sea and up to the highest skies and understand and know the mysteries of all time and space, and that first man, a white man, went forth to solve, understand, conquer, and know the universe in which he had been placed. And that first white man from that day to this has been the all-powerful, all-controlling, all-dominating man of the world. He has conquered the depths of the sea; he has flown like a bird through the very gates of the skies; he has whispered around the world in the twilight of a new era; he has weighed the moon, the earth, and the sun; he is solving and knowing and bringing under his subjection and dominion all the mysteries of life, of space, and of all the universe of God, and as time goes by he is learning to think, understand, and know the thoughts of the Almighty God of the skies.

Commissioned by the Great Creator, he is the governing power of the world and is gradually shaping the nations of this earth into the highest and best forms of government, and is the ruler, and the supreme power of all other races, whether the yellow, the red, or the black. He is the all-controlling, all-powerful, all-dominating man of the world. He always has been and always will be, to the end of time.

Forces of nature may oppose him, but he overcomes them. Other peoples, races, and colors of humanity may resist him, but of no avail, he marches onward conquering and holding his God-given supremacy. Mr. Speaker, the sooner an individual learns his relation to the rest of mankind the better for that individual and for humanity, and the sooner the colored or Negro race learns its true relation to the rest of the world, and especially to the white race, the better for both races. Nothing could help so much in the solution of the race question as for the white race, not only of the South but of the North, East, and West, to know, realize, and assert, once and for all, the absolute supremacy of the white man.

By white supremacy I do not mean white oppression. I do mean, though, that this is a white man's Nation and a white man's world. The white man by nature and by God's eternal plan is the supreme man and is the governing, dominating force of the world. The powerful should always be fair, and the white race being the supreme race should be fair in its dealings with all men of all races. The white race is the supreme race, the God-like race, and should be as just in its dealings with the inferior races and peoples as God himself is just.

Mr. Chairman, in the South we are not trying to make the Negro our equal. We could not do this if we tried. We would only injure the Negro and not help him. We are ofttimes forced to use extreme measures with the Negro. This is caused by the Negro getting the wrong idea of his relation to the white man. He gets this erroneous idea from improper propaganda generally originating in sections other than the South. The man who does not know the darkey and who would help him by persuading him that he is the equal of the white man works the destruction of the Negro race.

This whole race question will be solved, and the probability of lynchings and race riots will be greatly lessened, if not eliminated, when the white race everywhere asserts its supremacy to all races and its fairness to all races.

This is in accordance with God's great plan, and the plan is as inflexible as God himself. [Applause.]

Mr. SUMNERS of Texas. Mr. Chairman, I yield 15 minutes to the gentleman from Oregon [Mr. SINNOTT].

Mr. SINNOTT. Mr. Chairman and gentlemen, there is one thing that has been developed in this debate and that is the unanimity with which all reprobate lynching and revere the Constitution. If I had time, I should like to add a word, a few burning words, against the heinous crime of lynching. It is indefensible. I join in the general abhorrence that has been expressed in this body against this savage, this inhuman crime. But because I abhor that crime, and because I think that the great body of our citizens who are crying out against this crime and demanding some protection are entitled to real protection, I am unwilling to subscribe to every half-baked measure aimed against lynching that may be disgorged from the Committee on the Judiciary.

This great body of our citizens is entitled to real and actual and substantial legislative protection. I am not willing to subscribe in toto to this bill, because I feel that it is an idle, vain, illusory, and nugatory measure. It is a measure that ignores and defies the repeated decisions of the Supreme Court, the repeated statements of the great text-writers who have specialized upon this fourteenth amendment, and unless this bill is amended I am unwilling to subscribe to the legislative chicanery, camouflage, deception, and duplicity that it now embodies.

The Republican platform in no place declared for this bill. The Republican platform reprobated lynching, and the President of the United States asked us to secure the appointment of a commission to determine how far Congress was entitled to go under the Constitution in order to suppress this abhorrent crime. For that reason, and for the reason that these men, this great body of our citizens, are entitled to real, actual, substantial, valid, and constitutional legislation, I wish to leave a few thoughts with the committee this afternoon.

The gentleman from Massachusetts [Mr. DALLINGER] said the other day, "Why not leave it up to the Supreme Court to decide?"

I do not look with favor upon such a proposition. The Supreme Court has already given us guides. I do not think such a proposition comports with the duty that we owe to the House and the duty that we owe to the country. I believe it is my duty to give to this House and to the country and to the great body of citizens demanding redress from lynching my best thought and my best consideration as to what is a valid measure under the Constitution looking toward the suppression of lynching.

I have not the time now to discuss the large number of decisions on the fourteenth amendment. They have been presented to you by various Members of the House. Again, it seems to me that in a mixed body, such as we have here, composed of both laymen and lawyers, decisions are more or less confusing and misleading. They contain, as Blackstone says, "subtle disquisitions and metaphysical refinements that work to great confusion of the lay gents." I think I can be helpful and best serve

the interests of this body by reading from the great authors who have specialized on the fourteenth amendment and who have written textbooks upon that fourteenth amendment. They give us a reliable, impartial, and easily understood exposition of the decisions of the Supreme Court.

They invariably lay down the proposition that the fourteenth amendment can not be invoked to suppress the lawless acts of private individuals. That proposition is laid down by every text-writer. It is laid down by every legal encyclopedia. It is laid down by every writer who has annotated our Federal Code or our Federal Constitution.

The first authority I shall read from is Guthrie upon the Fourteenth Amendment to the Constitution, the very authority which the chairman of the committee a few moments ago quoted from. On page 42 of his Fourteenth Amendment, Guthrie says:

While the application of the fourteenth amendment is universal and protects the individual from an arbitrary exercise of power by State authority, whether it be the legislature, the executive, or the judicial branch of State government, it must be borne in mind that the Federal courts can not supervise or interfere with the internal affairs of a State unless some constitutional right has been invaded by State authority. The wrongful actions of individuals, unsupported by such authority, are not to be redressed under this amendment. They constitute merely private wrongs or crimes of the individual. The denial of a constitutional right must rest upon some State law or State authority for its excuse or perpetration if the fourteenth amendment is to furnish any remedy. Nor is the hardship or injustice of State laws necessarily an objection to their constitutional validity. The Federal courts should not be driven into perplexing inquiries as to the expediency or policy of State laws—inquiries which are usually unfit and improper for the judicial department. They will not permit themselves to be made harbors in which the people are to find a refuge from ill-advised and oppressive State statutes which do not infringe or deny constitutional guaranties. The remedy for evils of that character is to be sought in the State legislatures or at the ballot box—not in the Federal courts. "The rule, briefly stated, is that whenever an act of the legislature is challenged in court the inquiry is limited to the question of power, and does not extend to the matter of expediency, the motives of the legislators, or the reasons which were spread before them to induce the passage of the act. This principle rests upon the independence of the legislature as one of the coordinate departments of the Government. It would not be seemly for either of the three departments to be instituting an inquiry as to whether another acted wisely, intelligently, or corruptly."

You will find every one of these authorities laying down the same doctrine—that the fourteenth amendment can not be invoked to suppress the lawless acts of private individuals. At this point, Mr. Chairman, I ask unanimous consent to extend and revise my remarks in the RECORD. I shall print extracts from the textbooks.

The CHAIRMAN. The gentleman from Oregon asks unanimous consent to extend and revise his remarks. Is there objection?

Mr. DOWELL. Mr. Chairman, will the gentleman yield for a question?

Mr. SINNOTT. I have not the time to yield. I am sorry. I shall probably not be able to complete my remarks as it is. I read:

COLLINS "THE FOURTEENTH AMENDMENT AND THE STATES." (1912.)

As a consequence the relationship of Congress to the amendment has been for a long time clearly understood. It may be summed up as follows: The first section of the amendment is a prohibitory measure, and the prohibitions therein expressed operate against the States only. They bear no relationship to the acts of private persons within the States. (P. 67.)

So far as the fourteenth amendment is concerned, the Federal Government would be powerless to prevent armed mobs of whites from driving Negroes out from a State or otherwise threatening or intimidating them in their attempt to exercise the privileges of citizenship. (P. 68.)

BRANNON "THE FOURTEENTH AMENDMENT." (1901 EDITION.)

To whom it applies: The amendment applies only to State governmental action. Its first section does not operate upon the Federal Government, but on that of the States it does; nor does it have any reference to action or conduct of individual to individual. That it is a restraint upon State action is very obvious from its words, they being words of explicit prohibition. "No State shall" do the things prohibited. And section 5 gives Congress power to enforce the amendment by appropriate legislation. And the Constitution of the United States is the highest law of the land. Thus it is undeniable that the Federal Government can and should, under this amendment, in proper cases, use all its machinery for the vindication of the rights by it sought to be protected. (P. 46.)

Another sound reason given by the court in the Civil Rights cases why the privileges there involved did not fall under the fourteenth amendment is that the amendment only deals with State action, not individual action, and the denial of admission by a hotel keeper or owner of a conveyance or theater is an individual act. And would not the police power of the State in such case forbid the Federal statute? (P. 86.)

At the threshold of the discussion of the clauses of the fourteenth amendment touching these subjects it is proper to say that it is no matter by what proceeding or in what manner the State deprives the person of life, liberty, or property, or denies him the equal protection of the law, without due process of law, whether by legislation or judicial decision, or by what officer or agent or agency, so it be by State authority or by any subordinate division, as by municipal corporation, the result is the same and is equally prohibited. But it is only the State that is prohibited, not individual action. It does not touch individual action. (P. 97.)

It is hardly necessary to say again that the amendment does not touch the case of the individual or mob murder, as it deals not with acts of individuals but only with action by the State through its constituted authorities. Such murders by individuals or mobs are to be dealt with only by the States. (P. 108.)

Wrong by individuals: This clause of equal protection has no application to wrong done by one individual to another. The trespasser or murderer is only the individual trespasser or murderer, acting in his own wrong, not for the State but against the will of the State, and the amendment does not touch his wrong, as it deals only with action by the State. (P. 330.)

The author, referring to the Civil Rights cases (109 U. S., 3), states:

"In that case an act of Congress was held void and not warranted by the fourteenth amendment, because 'it stepped into the domain of local jurisprudence and lays down rules for the conduct of individuals in society toward each other and imposes sanctions for the enforcement of those rules, without referring to any supposed action of the State or its authorities.' If this legislation is appropriate for the enforcement of the prohibition of the amendment, it is difficult to see where it is to stop. Why may not Congress with equal show of authority enact a code of laws for the enforcement and vindication of all rights of life, liberty, and property? If it is supposable that States may deprive persons of life, liberty, or property without the process of law—and the amendment itself does suppose this—why should not Congress proceed at once to prescribe due process of law for the protection of every one of these fundamental rights in every possible case, as well as prescribe equal privileges in inns, public conveyances, and theaters? The truth is that the implication of a power to legislate in this manner is based on the assumption that if the States are forbidden to legislate or act in a particular way and power is conferred on Congress to enforce the prohibition, this gives Congress power to legislate generally on that subject and not merely power to provide modes of redress against such legislation or action. The assumption is certainly unsound. It is repugnant to the tenth amendment, which declares that '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.'" (See Justice Field's opinion in Ex parte Virginia.)

Again referring to the Civil Rights cases (109 U. S.), the author, on page 454, states:

"Justice Bradley delivered a very able opinion, the effect of which is that it is State action of a particular character that is prohibited by the amendment, individual invasion of individual rights not being the subject matter of the amendment."

* * * * * * *

It may cast light upon the proper construction of the fifth section of the amendment to say that when that amendment was proposed in Congress a clause was proposed reading thus: "Congress shall have power to make all laws which shall be necessary and proper to secure to the citizens of each State all the privileges and immunities of citizens in the several States and to all persons in the several States equal protection in the rights of life, liberty, and property." It was rejected. That rejection sheds light on the meaning of what was adopted. Had that clause been adopted, the amendment would mean more than it does. It would have given Congress power to do what the Supreme Court in all civil rights cases says it has no right to do. It would have given Congress power of affirmative legislation, such as it has in regard to commerce, to make laws, original power to make laws touching rights which the people of the States have, under State laws, covering immunities, privileges, life, liberty, property, and equality; in short, to make a code of regulation, of governing law, as to these matters, which, as Justice Bradley in those cases said, cover everything of value which man has; but, as adopted, the powers of Congress under the amendment are only vetoing, corrective, restricting, nullifying bad laws and action of the States denying those rights (p. 460).

FEDERAL STATUTES ANNOTATED.

(Second edition, issue of 1918.)

Page 582, paragraph 5, referring to the fourteenth amendment, states:

"Not against wrongful action of individuals: Civil rights, such as are guaranteed by the Constitution against State aggression, can not be impaired by the wrongful acts of individuals unsupported by State authority in the shape of laws, customs, or judicial or executive proceedings. The wrongful act of an individual, unsupported by any such authority, is simply a private wrong, or a crime of that individual; an invasion of the rights of the injured party, it is true, whether they affect his person, his property, or his reputation; but if not sanctioned in some way by the State, or not done under State authority, his rights remain in full force, and may presumably be vindicated by resort to the laws of the State for redress. Hence, in all those cases where the Constitution seeks to protect the rights of the citizen against discriminative and unjust laws of the State by prohibiting such laws, it is not individual offenses, but abrogation and denial of rights, which it denounces, and for which it clothes the Congress with power to provide a remedy. This abrogation and denial of rights, for which the States alone were or could be responsible, was the great seminal and fundamental wrong which was intended to be remedied. And the remedy to be provided must necessarily be predicated upon that wrong. It must assume that in the cases provided for the evil or wrong actually committed rests upon some State law or State authority for its excuse and perpetration.

Page 634, referring to the fourteenth amendment, says:

"That this amendment is a prohibition on all State agencies, whether legislative, judicial, or executive, and is not directed against the action of individuals * * *."

Page 919, treating on the last paragraph of the first section of article 14, which is as follows: "Nor (shall any State) deny to any person within its jurisdiction the equal protection of the laws," it is stated:

"That this amendment is a prohibition on all State agencies, whether legislative, judicial, or executive, and is not directed against the action of individuals * * *."

This bill violates every doctrine announced in these textbooks when it seeks to punish the acts of lawless individuals. In that connection I desire to call to the attention of the House the remarks of the gentleman from Ohio [Mr. BURTON] on yesterday. I think the gentleman from Ohio was led into an error by the letter of the Attorney General to the Judiciary Committee. The letter of the Attorney General to the committee quotes from the Civil Rights cases (109 U. S., p. 23), and the

gentleman from Ohio read the same quotation, which is as follows:

Many wrongs may be obnoxious to the prohibitions of the fourteenth amendment which are not, in any just sense, incidents or elements of slavery. Such, for example, would be the taking of private property without due process of law, or allowing persons who have committed crimes (horse stealing, for example) to be seized and hung by the posse comitatus without regular trial, or denying to any person, or class of persons, the right to pursue any peaceful avocations allowed to others.

The gentleman from Ohio quoted that. Then he said:

If the seizing and hanging of a horse thief is obnoxious to the fourteenth amendment, is there not a basis for legislation such as is here proposed?

The trouble with the Attorney General and the trouble with the gentleman from Ohio is that they did not read far enough in that decision, because the very next sentence of Judge Bradley is this:

What would be called class legislation would belong to this category and would be obnoxious to the prohibitions of the fourteenth amendment.

Judge Bradley was not talking about these individual offenses. He was talking about class legislation of the States that would have permitted such an offense.

I desire also to call the attention of the House to the case that the gentleman from New Jersey [Mr. PARKER] adverted to, and that is the Powell case (212 U. S., 564). That is a most important case, because it represents the very latest decision of the Supreme Court upon a statute not different in principle from the bill before us. The gentleman from Minnesota [Mr. VOLSTEAD], the chairman of the committee, tells us in effect that if those who passed the statute under which Powell and Riggins had been indicted had labeled that statute "A denial by the State of the equal protection of the laws," then that statute would have been upheld. That was the effect of his argument.

Mr. VOLSTEAD. Mr. Chairman, will the gentleman yield?

Mr. SINNOTT. I can not yield. I will develop that idea. He says in effect that if you will declare the commission of the acts interdicted in that statute as "the denial of the equal protection of the laws" that then you have an act within the purview of the Constitution. The words "the denial of the equal protection of the laws" will supply the "open sesame" that will open the doors of the Constitution to the protection desired.

Let us examine into this Powell case and see what the Supreme Court held. The Powell case was a case where a man named Powell and a man named Riggins were indicted, under statutes (R. S., 5508 and 5509) almost identical in principle with the bill under consideration, and based on the fourteenth amendment, for taking with other persons a prisoner from the custody of the sheriff and lynching him.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

Mr. SINNOTT. Mr. Chairman, will the gentleman give me about 10 minutes?

Mr. SUMNERS of Texas. I yield to the gentleman seven minutes additional.

The CHAIRMAN. The gentleman from Oregon is recognized for seven minutes more.

Mr. SINNOTT. Riggins secured a severance. His attorneys applied to Judge Jones, of the United States Circuit Court of Alabama, for a writ of habeas corpus. Judge Jones denied the writ of habeas corpus and held that the fourteenth amendment covered the acts of private lawless individuals. Then his attorneys appealed to the Supreme Court. The Supreme Court dismissed the appeal without prejudice, on the ground that habeas corpus was not the proper remedy.

In the meantime the Supreme Court of the United States decided the case of Hodges *v.* the United States (203 U. S., p. 1), involving the lawless acts of private individuals, in which they held—

That prior to the three post bellum amendments to the Constitution the National Government had no jurisdiction over a wrong like that charged in this indictment is conceded.

The court said:

That the fourteenth and fifteenth amendments do not justify the legislation is also beyond dispute, for they, as repeatedly held, are restrictions upon State action, and no action on the part of the State is complained of.

Now, the Powell case, the codefendant with Riggins, was before Judge Jones. The attorney for Powell sued out a writ of habeas corpus. After the decision in the Hodges case Judge Jones was doubtful as to whether or not the Hodges case should be applied to the Powell case. The attorneys for the Government in the Powell case contended that the quotation from the Hodges case was mere obiter dicta, and that it should not be the principle upon which to decide the Powell case. Judge Jones decided that the Supreme Court meant to say that the fourteenth amendment could not be invoked to suppress the lawless acts of private individuals, reversing his former decision in the Riggins case. He decided that way because he said:

If I make a mistake against the Government, it can appeal; no one will be injured. If I make a mistake against the defendant, an irreparable damage will be done to him.

Then the Powell case went to the Supreme Court of the United States, appealed by the Government. The attorneys for the Government set forth in the record the decision of Judge Jones in the Powell case. While Judge Jones decided in the Powell case against the application of the fourteenth amendment to private lawless acts, he proceeded to restate the reasons why he decided the other way in the Riggins case. He restated his reasons in a most powerful, persuasive way, doubtless having in mind that the Supreme Court would be more or less influenced by his restatement of his reasons in the Riggins case and reverse its former holdings and reinstate his original decision in the Riggins case. That powerful opinion of Judge Jones was printed in the record before the Supreme Court. Not only that, Attorney General Bonaparte and his assistants made a wonderfully powerful and eloquent argument in their brief. I shall print in the CONGRESSIONAL RECORD excerpts from this brief and from Judge Jones's decision. You will find in them every argument that has been advanced in support of this bill from the floor of this House since the consideration of this bill began. Yet, in spite of those arguments, the Supreme Court reiterated its oft-repeated position and held that the fourteenth amendment could not be invoked for the prevention of lawless acts of private individuals.

Not only that, but the Attorney General of the United States filed an able and vigorous petition for a rehearing, in which the matter was reargued again. In spite of that the Supreme Court again reiterated its original position and dismissed the charges against Powell. In the face of this we are asked to trifle and gamble with the Supreme Court.

How much more time can the gentleman give me?

The CHAIRMAN. The gentleman has four minutes remaining.

Mr. SUMNERS of Texas. That is all I can give the gentleman.

Mr. SINNOTT. In these four minutes, gentlemen, I shall present some of the arguments advanced by Attorney General Bonaparte to show why he could invoke the fourteenth amendment against the lawless acts of private individuals. Referring to the deductions to be drawn from the decisions of the Supreme Court in other cases, he says:

They conclusively establish the contention that the United States is not confined to merely antagonizing and nullifying State action, but may and should actively participate in enforcing the guaranties embodied in this amendment.

Another argument he made was:

While these clauses express prohibitions against the States, yet these prohibitions are for the benefit of the individuals, who are within the jurisdiction of the States. Indeed, this amendment was adopted solely for the benefit of individuals; and we submit, therefore, that in some of the above-cited decisions, and especially, in the dicta contained therein, emphasis was improperly laid upon the rights of the States as opposed to the rights of the individuals subject to their laws (p. 43).

That argument was rejected. Again the Attorney General says, referring to the fourteenth amendment:

And there was, furthermore, guaranteed and secured to all persons, regardless of race or color, that the States should forever thereafter not deny but afford to them the equal protection of the laws.

That is the argument that has been made here. Continuing, he said:

The effect, therefore, of the two clauses when taken together was to place all individuals upon an absolute equality before the law in all matters essential to the preservation of life and liberty and for the pursuit of happiness—

And this is in italics—

and to guarantee and secure to every individual that he should have the same protection of the laws that all other individuals have, and that all proceedings against him or his property should be conducted in accordance with the regular methods of procedure (p. 46).

Then, again, he says:

But it is the *guarantee* of State action to protect each individual in the enforcement of his rights, and the *guarantee* that all State action shall be by due and equal process of law that specially concerns us in the present inquiry (p. 46).

In the enforcement of the rights and privileges secured by the fourteenth amendment the United States is not restricted to actions corrective in their nature and antagonistic to the State governments, but may act in conjunction with or even independently of the States (p. 50).

It was contemplated that in some instances the State authorities would refuse to enforce this amendment, and that in other instances the State authorities would be unable to do so, and for that reason it was provided in the fifth section that it should be enforced by the United States by and through appropriate legislation by Congress. No limitation is placed upon the character of this legislation, except that it shall be appropriate for the purpose. But if there is any one thing that is perfectly clear from the language of the amendment it is that the rights and privileges secured *shall be enforced, and that regardless of the*

State's will. And there can be no less doubt that in case a State should refuse, or be unable to enforce them, *the United States authorities, acting under congressional enactment, may proceed to their enforcement independently of the States.* This position is abundantly sustained by the decision of this court, and never denied except in dicta (p. 53).

But can there be any practical difference between the incapacity of the State authorities growing out of their judicial system, *and their incapacity arising from sheer want of physical power to afford the accused this right?* In the latter instance the right is just as important to the accused as in the former, and the amendment contains no warrant for a distinction between the two conditions (p. 55).

The defendant set at defiance the pledges of the fourteenth amendment by slaying Maples to prevent him from being tried by due process of law and from having the equal protection of the laws, while they were being administered to him by the very authorities which were designated by the amendment as the proper authorities to administer them (p. 59).

Then, again, on pages 61 and 62, the Attorney General argues as to the meaning of the fourteenth amendment:

What we conceive to be the fundamental error in this argument is the idea that these "due process of law" and "equal protection" clauses are ordinary prohibitions. They can not be construed as prohibitions in the ordinary sense of that term. With reference to the latter clause, the word "deny," when standing alone, implies negative action, but when used in connection with the word "not" the two become a double negative, which, as the amendment is written in English and not in Greek, is equivalent to an affirmative, and means "grant." (P. 61.)

There is nothing strained or peculiar about the simple expression "nor deny the equal protection of the laws." It means "*grant* the equal protection of the laws," and all the reasoning of the sages and the most profound jurists can never make it mean anything else. And the United States has, therefore, had written right in the face of its Constitution, as a pledge to everyone residing within the jurisdiction of the States, that those States *shall grant to them the equal protection of their laws.* (P. 62.)

The exact question here presented is this:

When the State authorities possess the will to enforce the rights secured by this amendment, *but are entirely helpless, is it beyond the power of the United States to come to their assistance?* Has the National Government undertaken to create and secure certain rights and privileges, and yet, when a State is too weak to enforce them, must it sit with folded hands and complacently witness the willful murder of its citizens in violation of those rights and privileges? If the hand of the Government must be stayed until the State shall develop antagonism, then fortunate is he who falls into the hands of hostile State authorities, because he may entertain some hope of a trial by due process of law and of the equal protection of the laws, while he who falls into the hands of State authorities who are *willing* to grant the accused such protection, but are *unable* to do so, is without hope, because neither the State, from physical weakness, nor the United States, from inherent feebleness, can afford him the necessary relief. (P. 63, 2d par.)

If one of our armed vessels were in a foreign port and the commander should there refuse to protect an American citizen against a mob which had overcome the local authorities and were threatening his life, such commander would be discharged from the service in disgrace. And yet it is seriously urged that a citizen of this Government, to whom it has guaranteed trial by due process of law and the equal protection of the laws, while in the hands of State authorities, who are honestly endeavoring to carry out those Federal guaranties, may be by superior force wrested from such authorities and murdered in order to prevent him from exercising and enjoying those rights, and that the Government—the very Government that claims to have secured to him these rights and privileges—can not aid the State authorities in resisting the mob or inflict upon its members punishment for setting at defiance the laws written in its very Constitution. (P. 64.)

EXCERPTS FROM PETITION FOR REHEARING.

Suppose a State refuses by mere inaction to afford one the equal protection of the laws, has such person no relief? Or suppose, as was the case with Horace Maples, the State is unable to give him the equal protection of the laws, or to try him by due process of law, are these guaranties so worthless that they can afford him no protection? (P. 9.)

To determine this question against the United States is to deny all protection to its citizens when situated as Maples was, and to render it impossible for punishment to be inflicted upon those who commit murder in open defiance and in contempt of the fourteenth amendment. This is true, because experience demonstrates that the authorities of no State are able to punish those guilty of crimes of this character. (P. 11.)

Has anyone here presented anything not found in the argument of the Attorney General or presented it with more force or eloquence?

Now, listen to the excerpts from the decision of Judge Jones, printed in the record before the Supreme Court. I shall also print his syllabus, as therein he gives an explanation of the case. The syllabus was written by him:

UNITED STATES v. POWELL.

[Circuit court, northern district of Alabama, March 22, 1907.]

CONSPIRACY—CRIMINAL RESPONSIBILITY—CONSTITUTIONAL LAW—DEPRIVATION OF RIGHTS—RIGHT TO TRIAL BY DUE PROCESS OF LAW.

[Federal Reporter, vol. 151, p. 648.]

In Ex parte Riggins (134 Fed., 404) the circuit court ruled that certain counts of the indictment were good under constitutional amendment 13. It also held that two other counts based upon the fourteenth amendment were good, as the fourteenth amendment secured to a prisoner in custody of the sheriff, on accusation of crime against the State, the right, privilege, or immunity to have the benefit of a jury trial by the operation of the State's established course of judicial procedure, and that private individuals who lynched such a prisoner to prevent his enjoying the benefit of such a trial deprived him, in the constitutional sense, of a right secured to him under the fourteenth amendment, and could properly be indicted under sections 5508 and 5509 of the Revised Statutes (U. S. Comp. Stat. 1901, p. 3712). The defendant in this case, who obtained a severance and demurred to this indictment, was a codefendant with Riggins, who appealed to the Supreme Court (26 Sup. Ct., 147; 199 U. S., 547; 50 L. Ed., 303) from a decision of the circuit court refusing to discharge him upon habeas corpus. The Supreme Court, holding that habeas corpus was not the proper mode of testing such questions, quashed the writ. Riggins's appeal was argued and submitted at the same term as the Hodges case (27 Sup. Ct., 6; 51 L. Ed., —), which involved like questions under the thirteenth amendment. After the Supreme Court thus disposed of the Riggins appeal it decided the Hodges case, holding that similar rights to those claimed under the thirteenth amendment were not secured by the Constitution or laws, and made use of expressions in the latter opinion which, in the view the circuit court took of them, under the circumstances stated, made it doubtful whether the Supreme Court did not intend to hold that the United States has no power, under any circumstances, to deal with lawless private individuals for violation of rights secured under the fourteenth amendment.

The Government insisted that the expressions in the Hodges opinion as to the fourteenth amendment "went beyond the case," and should not "control the judgment" as to the rights and immunities here claimed under the fourteenth amendment. The circuit court, while satisfied as to the soundness of the Riggins case, as regards the counts based on the fourteenth amendment, was, nevertheless, of opinion that proper judicial subordination required the circuit court, under the circumstances stated, not to run counter to the last utterances of the Supreme Court as to the fourteenth amendment, though they "went beyond the case," and that the only court which could properly determine what was intended by these expressions is the Supreme Court itself, and accordingly held, sustaining the demurrers to the indictment, that no right, privilege, or immunity under the fourteenth amendment, in respect of due process at any stage of the duty of the State in affording it, is secured under that amendment, unless there is actual denial of the right by the State or its officers; and that private individuals who take a prisoner from the custody of the State's officers and murder him, to prevent his enjoying the benefits of a trial by the operation of the State's established course of judicial procedure, do not deprive him of the enjoyment in the constitutional sense of any right secured to him by the Constitution or laws, and were not therefore indictable under sections 5508 and 5509 of the Revised Statutes. (Syllabus by the court.)

EXTRACTS FROM A DECISION OF JONES, DISTRICT JUDGE, AND UNITED STATES V. POWELL (151 FED. REP., 648).

The precise issue the remaining counts present is whether a citizen lawfully held in the custody of the State, awaiting trial on a charge of crime, has any right or immunity, which Congress can protect under the fourteenth amendment, against lawless violence of private individuals, which prevents, and is designed to prevent, the State from affording the accused, when it endeavors to do so, the benefit of a trial according to the "law of the land," by the administration of the State's established course of judicial procedure (p. 650).

The performance of the duty by the State to its full extent is the dominant thought and purpose of the amendment. When the framers of the amendment, knowing that the States must continue to administer justice and punish crime within the State, coupled with this constant and continuing duty the condition that the States shall not deny due process of law, the substance of what they intended can not be less than that the State shall afford to every person enjoyment of the benefits of due process, when it starts out to administer its justice in his case. Unless we surrender abjectly to the witchery of mere grammatical expression and utterly desert the spirit of this clause, we must hold that the command, "no State shall deprive," etc., is only another form of command that each State shall afford enjoyment of the administration of its established course of judicial procedure in a case like this. The dominant end and purpose the amendment had in view were not merely that the States shall pass proper laws and furnish proper officers, who endeavor to execute them, but that the duty imposed upon the State shall be so fully performed that the citizen shall have actual, physical enjoyment of the benefits of the right, as distinguished from fictitious enjoyment, in theory of law, of a right in the form of an enchanting declaration upon parchment. One main aim of the amendment was, in short, to put an end to the denial of the State's justice by means of the execution of private vengeance upon criminals and persons charged with crime by lawless private persons when the prisoner was in the hands of the law by giving power to Congress, standing behind the effort of the State, to bring that purpose to pass by any mode whatever which does not overthrow or usurp the State's power (p. 652).

The other is a positive duty, and requires affirmative, sustained action at the hands of the States, compelling them, as we shall presently see, to do certain things, in given modes and times, in particular cases as they arise, without which the benefits of the right can not possibly be had (p. 653).

It by no means follows, however, that the amendment did not intend to confer power upon Congress to deal with lawless private individuals who interrupt the performance of the other duty flowing from the prohibition regarding due process. This duty, unlike the other, is a positive duty enjoined upon the State, and demands in particular cases as they arise affirmative action of a particular kind at its hands in some stages of the duty (p. 653).

The sum of the command in the case we have here is that the State must afford the prisoner the due administration of "its established course of judicial procedure" (p. 654).

The citizen or person can not, in the nature of things legal and finite, have enjoyment of the benefits of the right this clause is intended to secure by requiring the doing of those affirmative acts, if lawless private individuals, by themselves punishing the prisoner, prevent the State's officers from taking him into its tribunals, hearing him and his witnesses, confronting him with his accusers, and then having its officials in whom the power resides pronounce judgment of acquittal or conviction, as this clause of the Constitution commands the State to do (p. 655).

Plainly Congress may legislate under the fourteenth amendment to punish private individuals in such a matter as this, * * * (p. 660).

Congress was therefore given power to see that the States accomplished their task. The General Government is not left to the means provided by the States to secure any rights which the Constitution commands the States to afford. It may or it may not depend upon such instrumentalities. It is not bound, under the fourteenth amendment, to leave the protection of these rights to the execution of State laws, however inefficient it may prove in bringing about the results intended by the Constitution. It is not compelled to sit still until the State calls for the military arm of the Government to put down individuals who defeat enjoyment of these rights by preventing the execution of State laws (p. 661).

Having determined to this end that the United States might supervise and correct the action of the local sovereign, it would seem strange, indeed, if the amendment intended to deny to the General Government in accomplishing its object all power to deal with private individuals who were subject to but resisted the laws of the local sovereign (p. 662).

We ought not to shrivel the power by treating it as a mere penal enactment against faithless State officers (p. 662).

This powerful and luminous argument of the Attorney General and the equally able argument in the decision of Judge Jones were rejected by the Supreme Court. I might say, I hope, without being offensive, that the arguments that we have heard on this floor during this discussion are mere reflections and reiterations of the arguments presented by the Attorney General of the United States and by Judge Jones to the Supreme Court in the Powell case. How fatuous it is then to indulge the hope that similar arguments will be of any avail to overturn the oft-repeated decisions of that court. Why not frame a bill consonant with the decisions of the Supreme Court?

I want to grant to these colored people every right and every protection that the Constitution of the United States authorizes us to grant, but I am unwilling to trifle and juggle with them. There is going to be a hereafter, and if this law is passed in its present form, when the Supreme Court holds it unconstitutional, as it surely will, they will come back and say that we have trifled with them, that we have juggled with them, and that we have handed to them a "gold brick."

I am willing to go as far as the law will permit us to go, and where the law will not permit us to go I am willing to support an amendment to the Constitution of the United States that will enable us to reach the crime of lynching and give them real, actual protection; but I am not willing to subscribe to a bill that I believe is, in the most part, vain, idle, nugatory, and unconstitutional. [Applause.]

Mr. SUMNERS of Texas. I yield five minutes to the gentleman from Alabama [Mr. JEFFERS].

THE PROPOSED DYER ANTILYNCHING LAW, SO CALLED, AND ITS UTTER FUTILITY.

Mr. JEFFERS of Alabama. In my remarks it is my purpose to impress you with the fact that the people of that section of the country where I live realize the obligation that rests with state and county to stamp out mob law in all its forms.

If anyone has any idea that my people condone lynching, or lawlessness in any form, I want to disillusion your mind, for that is not true. We know there is a duty which rests upon the State, and there is also a duty resting upon the people, both white and black; we know that. It is wrong for anyone to say that any State acquiesces in lynch law.

I want to tell you how Alabama, for example, is already handling this situation. And I want to say, my friends, that interference such as is provided in this foolish "alleged" antilynching law would actually hinder rather than help the handling of the problem.

Regarding this Dyer bill let me say that it is a disciplinary measure appearing here under a misleading name. Its utter futility is apparent; it is an unnecessary and an unwarranted slam at all State and county judicial and executive officers; and it is an unfair imposition upon innocent citizens and taxpayers. It would tend to encourage criminals to more boldly and freely attempt crime, and the natural result would be, therefore, that it would make matters worse instead of better.

ALABAMA HAS TAKEN STEPS HERSELF TO HANDLE THE SITUATION.

So anxious has Alabama been to suppress mob violence that the people included in the constitution of the State provision for the impeachment of sheriffs where a prisoner suffered death or grievous bodily harm owing to the neglect, connivance, cowardice, or other grave fault of the sheriff. (Ala. Const., 1901, sec. 138.) And to prevent the nonenforcement of this provision because of local public sentiment the State constitution provides for the impeachment of sheriffs by the supreme court, or court of last resort. (Ala. Const., 1901, sec. 174.) Our supreme court has unhesitatingly removed sheriffs whenever any negligence whatever could be traced to them in such cases.

The Alabama statutes also provide that the governor, and in some instances the circuit judges or sheriffs, may use the State militia to suppress mob violence. (Ala. Crim. Code, 1907, sec. 7396 et seq.) For this purpose the governor may transfer trained policemen to any part of the State. (Acts of Ala., 1919, pp. 163–164.)

I am opposed to lynching and believe that every legitimate effort should be made to suppress it, and to punish those who engage in mob violence. But even if Federal legislation could be validly enacted, vesting in Federal courts the jurisdiction to try such cases, I do not think that such Federal legislation would serve in Alabama to materially assist in suppressing lynching. My reasons for this conclusion are as follows:

First. By constitutional provision sheriffs of Alabama are already held to the highest degree of care in protecting persons from mob violence, and their impeachment for a failure to furnish this protection is removed from local influence.

Second. The judicial and executive officers of the State of Alabama are as high-minded, patriotic, and as fearless in the discharge of their official duties as are the Federal officers.

Third. The jurors before whom such law violators would be tried in the Federal courts would necessarily be drawn from the same citizenship as the jurors of the State courts. In the jury boxes in the State of Alabama will be found the names of people of high character and intelligence. As intelligence and high, patriotic ideals go hand in hand, it follows that a just verdict would be just as often returned in the State courts as in the Federal courts.

Fourth. This bill is purely a disciplinary measure, and is a rank imposition on the State.

As the Brooklyn Eagle thoughtfully points out:

In the last analysis a man's guilt or innocence must be decided by 12 good men and true, whether in a Federal or a State court.

It is difficult to see where Federal intervention would change the procedure of courts composed of the same class of citizens. In all probability all the latent well-meaning back of this effort to stop lynching would be more than neutralized by vicious outcroppings of racial hate. It would go far to defeat the growing understanding between whites and blacks and to prove a backset to the sociological evolution now taking place in the South.

The South's opposition to the Dyer bill is not based on any sympathy with mob violence, but it is mainly, I believe, based upon the fact that it is a farcical sham that will do no real good. Instead it will do untold harm.

Upon the passage of this bill it would be found that it would be understood by some—from the very name of it—to be a law enacted to protect the guilty from the extreme penalty, and it would encourage the would-be rapist to more boldly attempt to do his fiendish work. As a general rule, wrong methods for the correction of an evil will cause more harm than the evil as it is. All good citizens, South, East, North, and West, stand together in opposition to "lynching," but this proposed legislative panacea, which penalizes the innocent and makes whole communities suffer together for the lawlessness of a few, is not consistent with American ideas of justice and fair play and commits one offense in trying to remedy another. It is fundamentally wrong; it can not be worked; it will not do to pass it.

Why this unwarranted slap at the efficiency and the loyalty of every local sheriff, of every local deputy, of every local judge on the bench, and of every good citizen whose name is in the jury box of his good county? Why this unwarranted disciplinary feature against all citizens of this country, this illegal proposal to paste a disciplinary fine of $10,000 on their county treasuries? Would good American sheriffs and deputies and judges and jurymen accept that insult in good grace? Would innocent American citizens and taxpayers accept the disciplinary $10,000 fine in good grace? No; they would not. And you know they would not.

This manifestly unfair proposition will never work, and you know it will not. This measure reflects petulence and littleness and a desire to spank American officials and citizens like so many schoolboys. It is childish, it is foolish, and it is not consistent with the American way of facing facts squarely or of meeting issues fairly. [Applause.]

Some gentlemen present may feel that they are doing a wonderful thing for the entire colored race, but believe me when I tell you that you are only playing to some of the so-called "big Negroes" of the North, who are, in my opinion, the worst enemies that the mass of the colored people have. The Negro of the South, and that is where the Negroes live, knows that the southern white man understands him and wants to treat him right if he himself will keep his place and behave. But while the southern white man will treat the colored people right, he will never change the social dead line, well established and well understood, and whenever the Negro oversteps the white man's dead line he knows, and he is so informed by the right-thinking members of his own race, that he thereby takes his life in his own hands.

I do not condone lynching, and neither do any of you here, but I can imagine the terrible despair that must be felt in the heart of the man upon whose loved one has fallen the blighting hand of the brutal rapist. And when that cold steel has pierced the heart of any man, be he the most law-abiding citizen of any community, I have some slight conception of the blackness that must engulf his very soul and of the blindness of his uncon-

trollable rage, and naturally he has the sympathy of his neighbors.

Still, while we have some idea of the feelings of the people of an outraged community, and while we sympathize with them, we know that lynching is illegal, and we know that the influence of the cool-headed citizens must be used to see that the law takes its course. It is then, in the most extreme cases like this, that the strong, leading spirits of the community and loyal public officials have bravely thrust themselves into the breach, pleading with the frenzied men to let the law take its regular course, and have in many instances successfully exerted their influence. Time after time, under circumstances like these, the reasoning of these calmer heads has prevailed, and great victories have been won for law and order as against mob rule. So it is highly important that we encourage these officials and other leaders upon whom we must depend in times like this, and not insult and discourage them with such threats of unfair punishment as this legislation provides for.

The people of the South know the obligations resting upon the State and county to stamp out mob law. The people of the Southern States are not lawless. They will handle this situation better by State authorities than it could ever be handled by Federal authorities. Let me read a very timely and well-worded editorial from an Alabama daily—the Selma Times-Journal—which calls attention to the duty resting upon the community, and which at the same time points out the manifest futility of this proposed Federal disciplinary measure:

The Federal antilynching bill has been favorably reported by the committee in the House, and its passage will be vigorously pressed by the Republican majority. The bill is an effort to redeem the pledge given in the Republican platform, and which was incorporated in that document as a means of corralling the Negro vote in the doubtful States.

The bill is drastic in its provisions and also unjust, as it penalizes the innocent for the crimes of the guilty. It is intensely antisectional and is believed to be fatally defective. It requires that all persons who are accused of participating in a lynching shall be tried in a Federal court. All counties where a lynching occurs are subject to a fine of $10,000. All officers who fail to make reasonable efforts to apprehend and punish the lynchers shall be adjudged guilty of a felony. Those who are convicted of being members of a mob may be sentenced to life imprisonment.

Unfortunately for the contrivers of this new statutory device no means is provided for taking the subject matter out of the hands of the juries. The juries even in the Federal courts must pass upon the cases brought before them, and it may be safely foreknown that their sympathies and interests will make them recoil from verdicts that will not only condemn the actual offenders but will involve influential public officials and assess heavy penalties against their own communities and against themselves. Right here the law will prove abortive and of little value. It will not, no matter how buttressed with safeguards, be able to rise above the jury box. If the law seeks to throw the responsibility of a lynching upon the entire community, then the community, in self-preservation, will reject the imposition.

The manifest futility of this proposed Federal enactment will not, however, relieve any community of the obligation that rests upon it to stamp out mob law. Wherever these exhibitions of savagery occur the whole morale of a people suffers. No State or county should undertake to protect or condone such outrages, but the communities should themselves take up the work of preventing these disgraces and of making such usurpations as the new Federal antilynching bill unnecessary.

I tell you in all seriousness that there is no remedy in such an impossible measure as is this bill. The States are able to take care of their own affairs in this connection, and they will do it. The authorities of the several States should, and I am sure they are taking up this question in all seriousness to find out the best possible solution that may be obtained by their own legislation and judicial reform. And then the leaders of the colored race must impress seriously upon their people the necessity of virtue and morality and create among them a sentiment which will make the member of their race an outcast who commits the crime which so often leads to lynching.

Former President Roosevelt, discussing the question said:

Every colored man should realize that the worst enemy of his race is the Negro criminal, and above all the Negro criminal who commits the dreadful crime of rape; and it should be felt as in the highest degree an offense against the whole country and against the colored race in particular, for a colored man to fail to help the officers of the law in hunting down with all possible earnestness and zeal such infamous offender.

Help us, my friends, to solve our problem, but do not make the handling of it all the harder for us by passing this measure that we have before us here now under the name of an "antilynching" bill.

Is it not a fair and reasonable suggestion that the advice of the Representatives in the National Congress from the section of the country most affected be taken in this matter? For example, I, myself, am willing to take the advice and abide by the opinions of my colleagues in this body who are here from out on the coast regarding the Japanese question out there. I have never lived in California. I realize that I can not see and understand the situation there as well as the man who lives there. I believe the Representatives from the Pacific coast would advise me honestly and well as to the desirability of any legislation especially concerning their particular section of the country. I know they understand the situation better than I, who have never lived there. And, therefore, on matters concerning their yellow problem out there, I would be guided more by their advice than by the advice of men from other sections. So is it not a reasonable suggestion that the serious arguments of the Representatives from the South be heeded in connection with this alleged antilynching measure? If you will think for a moment you must realize that they know the situation.

From the daily press we have seen that practically all of the petitions that have come to Congress asking for the enactment of this legislation have been from colored societies, and in the cases that I have noticed these petitions have been given out at points very far removed from that part of the country where most of the colored people live.

My advice to the leaders of the Association for the Advancement of Colored People and the Colored Congress and Society for Amity Between the Races, and the 5,000 Negroes who recently assembled in New York and petitioned Congress, is that if their sincere desire is to stop the lynching of members of their own race they are on the wrong track when they spend their time framing and delivering petitions to Congress asking for the passage of this perfectly futile measure, which would only tend to arouse sectional as well as racial feelings. The State authorities do not want any lynchings within their borders, and are honestly trying to stamp out mob law. They are trying earnestly and energetically—and making progress, too, I may say—to develop strong public sentiment in this direction, and if these so-called "leaders" of the Negroes want to do something worth while to really help stop lynching, so far as their own race is concerned, then my advice to them is that instead of sending petitions to Congress to pass this bill they should be finding a way to impress upon the people of their own race the fact that they must themselves help by stopping the crimes for which lynching often occurs. If they will bend their efforts seriously in that direction they can help materially.

Do not make the problem all the harder to handle. You who want to do the right thing and help—not hinder. Vote against this bill, my friends, it is a farcical, impossible, futile thing—I tell you it will never do. [Applause.]

Mr. SUMNERS of Texas. Mr. Chairman, I yield to the gentleman from Georgia [Mr. LARSEN].

Mr. LARSEN of Georgia. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

THE DYER ANTILYNCHING BILL.

Mr. LARSEN of Georgia. Mr. Chairman, the caption of the pending bill, so far as its practical effect is concerned, should be: "An act to assassinate State rights; to nullify the constitutions of the several States; to corrupt public morals; to encourage rape and race riots; and to pension the families of rapists and despoilers of society."

The purpose and intention of the bill is obvious. There is little or no attempt to conceal it. Everyone realizes that it is to be enacted for political purposes, to enable the Republican Party to more firmly secure its hold upon the Negro vote, and to bow to the demands of race agitators and Negro organizations of the North. Individual Members with large Negro constituencies are evidently impelled to support the measure upon the basis of self-preservation. Gentlemen, you are paying too much for your whistle.

Heretofore the race problem has been confined almost exclusively to the South. If I mistake not the trend of the times, within a short while the North will also be compelled to grapple with the proposition. Your density of population will lessen your exposure to rape, the chief cause of lynching, but the question of social equality, race riots, and other race problems will vex you. May I say to the Representatives of the North that when these trying hours come you will then understand and appreciate the South with its problems.

Yesterday I listened with regret to the address of the distinguished gentleman from Ohio, Senator BURTON. He frankly admitted doubt as to the constitutionality of the proposed law, but, in effect, said the public demand for it was such that we should pass the bill and let the courts determine its constitutionality.

Can it be the gentleman has forgotten that Members of Congress are sworn to support the Constitution? If there be doubt as to the constitutionality of a proposed law, shall we resolve that doubt in favor of public opinion and assume the responsibility of swearing a lie, even though our God-given conscience

suggests a doubt? At Cooper Union February 27, 1860, Mr. Lincoln said:

> No man who has sworn to support the Constitution can conscientiously vote for what he understands to be an unconstitutional measure, however expedient he may think it.

My God, how the party of the immortal Lincoln has degenerated.

I would not attempt to justify lynching or murder in any form. No person can, but lynching is as susceptible of justification as is rape, the primary cause of lynching. Which is the more shocking to the sensibilities of society—information that some pure, white girl has been raped in the community by a black brute or that some person, black or white, guilty or innocent, has been lynched by an infuriated mob? There can be but one answer. Of the two, rape is infinitely worse.

Do you understand the emotions which actuate mobs in lynching for rape? Do you understand that our National Constitution, Article VI of amendments, requires that defendants charged with crime shall be given a public trial and confronted with witnesses testifying against them? When a virtuous female has been raped and ruined by a black brute, would you have her suffer further humiliation by being dragged before the court and the curious public to tell in detail the story of her disgrace and ruin? If you understand all this and many other gruesome matters which enter into the subject, you may understand the spirit of the mob. Would we not serve a better purpose by amending the Constitution so as to provide that defendants charged with rape may be given a private trial before the court with an impartial jury? Would not this lessen lynchings to a far greater extent than the proposed law?

Rape is worse than murder. Some of you may not regard the crime of rape as atrocious as do the people of the South. I know that in Ohio the maximum penalty for the crime of rape is only 20 years' imprisonment in the penitentiary, unless the rape be committed upon one's own sister or daughter or female less than 12 years of age, in which event it may be life imprisonment. I know that in New York and many other Northern States 20 years is the maximum penalty for rape. In Pennsylvania it is only 15 years' imprisonment or $1,000 fine.

In Georgia, and I believe all other Southern States, we regard the crime as more atrocious. We feel that a man has no more right to rape the daughter or sister of another than to rape his own. We do not believe he should be permitted to rape females of any age. If he should do so, we believe he has wrecked a life and forfeited the right to live; hence the penalty of the law for rape is death.

The proponents of the bill have an abundance of statistics as to lynchings which have occurred within the last 30 years, but no one of them can tell us the number of rapes which have occurred during the same time, or for any specific period. Can they tell us whether lynchings have, to any degree, diminished the crime of rape? No. They simply say it has not prohibited it. Certainly not, but the question is, Has it diminished it? The laws against murder do not prohibit it, but they deter. The proposed law will not prohibit lynching, but will undoubtedly encourage rape. As already pointed out, the antilynching law of South Carolina, in force for a quarter of a century, has not prevented lynching in that State, nor is it contended the antilynching law of Ohio has prevented it there.

Lynching is murder, and murder is a violation of law in every State of the Union. As long as no State denies to any person within its jurisdiction the equal protection of its laws, Congress has no constitutional authority to pass the proposed bill. Mind you, the Constitution says that no State shall "deny to any person within its jurisdiction the equal protection of the laws." It does not say that it shall guarantee and afford to each person equal protection from assaults of citizens. This must be recognized as impossible in the practical operation of State or National affairs. It is a sufficient compliance when the laws do not discriminate and afford equal protection to every person within its jurisdiction.

If the bill as written should be enacted into law, it will, of course, be held unconstitutional. No court would jeopardize its reputation for integrity and knowledge of legal procedure by declaring such law valid and constitutional. To construe it otherwise would constitute one of the most infamous judicial rapes of our National Constitution ever recorded in the annals of legal jurisprudence. I can not understand how an unbiased person with legal knowledge, who has studied our Constitution and the provisions of the bill, can reach any other conclusion.

Where and when did the States delegate to the Federal Government the right to make criminal laws to govern any State? What paragraph of the Constitution denies to the States their full enjoyment and discharge of such rights and powers?

> 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. (See Article 10, Constitution.)

It is admitted by all that there is no authority for the proposed legislation unless it be found under the provisions of the fourteenth amendment. Let us, therefore, consider the question in the light of the decisions of our courts.

The fourteenth amendment provides that no State shall "deny to any person within its jurisdiction the equal protection of its laws."

What does this mean? Regarding the amendment in the case of United States *v.* Cruikshank (1 Woods, 308), the court said:

> It is a guaranty against the exertion of arbitrary and tyrannical power on the part of the Government and the legislature of the State, not a guaranty against the commission of individual offenses; and the power of Congress, whether express or implied, to legislate for the enforcement of such a guaranty does not extend to the passage of laws for the suppression of crime within the States. The enforcement of the guaranty does not require or authorize Congress to perform the duty that the guaranty itself supposes it to be the duty of the State to perform, and which it requires the State to perform.

In One hundred and sixth United States, page 638, the above is approvingly cited in the case of United States against Harris.

Again, in United States *v.* Cruikshank et al. (92 U. S., p. 542), the court said:

> Sovereignty for the protection of the rights of life and personal liberty within the respective States rests alone with the States.

In Virginia *v.* Rives (100 U. S., p. 313) the court holds:

> The prohibitions of the fourteenth amendment have exclusive reference to State action. It is the State which is prohibited from denying to any person within its jurisdiction the equal protection of the law—

And so forth.

In the famous Civil Rights case, United States *v.* Stanley et al. (109 U. S., p. 11), discussing the fourteenth amendment the court said:

> It does not invest Congress with power to legislate upon subjects which are within the domain of State legislation.

The law books are full of decisions to this effect, such as Barbier *v.* Connolly (113 U. S.); Pembina Mining & Milling Co. *v.* Pennsylvania (125 U. S.); James *v.* Bowman (190 U. S.); Barney *v.* City of New York (193 U. S.); Keller & Ullman *v.* United States (213 U. S.), which discuss the question and show conclusively the unconstitutionality of the proposed bill. But why submit additional authorities upon a proposition so plain?

In conclusion, let me say it may be—shocking as it is to conceive—that public opinion holds the virtue of its women in no higher respect than does it regard property. In some States—Pennsylvania, for instance—it may be possible for a black brute to lay his lecherous hands upon the fair form of a virtuous white girl, deflower her youth, blacken and wreck her life, and by counting out a thousand filthy dollars walk out of the courtroom free to repeat his heinous offense. But, thank God, in Georgia, and in other States who share her ideals, if a brute lay his hands in violence upon a woman, be he black or white, high or low, rich or poor, born within or without her borders, he shall pay with his life for this offense. No act of Congress or proclamation of President can change this law or abate one jot or tittle thereof.

With pride and reverence, I stand by the traditions and ideals of my people and under my oath to support the Constitution I vote "No."

Mr. SUMNERS of Texas. Mr. Chairman, I yield to the gentleman from Georgia [Mr. BELL].

Mr. BELL. Mr. Chairman, Congress enacts too many laws. A large per cent of the legislation enacted here should be left to the States, and if we continue a few years longer to usurp authorities delegated to the States under the Constitution, we will not be able to tell where State lines begin or where they end, so far as the laws of the land are concerned. It would be far better for the country as a whole if Congress should repeal numerous laws which have been enacted here and leave these matters to the jurisdiction of the States.

In my judgment, the bill now being considered, if it should be adopted, would be without avail, dangerous and fraught with many consequences. We are drifting too much to Federal control of our affairs, and the day is coming, in my judgment, when the Nation will suffer on account of our tendencies and activities. We must halt. We can not afford to continue to further disregard the spirit and letter of the Constitution and usurp police powers delegated to the States. That this measure is sectional in its nature there is no doubt. That it has some political significance there appears but little question. If this is the thought which engages the proponents of this measure, they will find themselves badly mistaken in the results, and the passage of this bill will be as big a political blunder as that made by President Harding in his recent Birmingham speech.

To advocate political equality between the races carries with it social equality, as it would be impossible to separate one from the other to a certain and marked degree. To wish upon

the South a division of political preferences with the Negro is something which will never be tolerated and should not be advocated by anyone, not even a Republican President.

Some of the advocates of this measure have stated that the bill is not sectional. This will do for the RECORD, but it is not digestible. I believe that 50 per cent of the Republican membership of this House regret the reporting of this bill, and, in reality, prefer not to vote for it. I believe the time is opportune for these Members to vote their convictions and disregard the report of the committee having charge of legislation of this character. I can not believe it the duty of any Member to vote for a measure not consistent with his views merely because it is favorably reported from a committee of the majority side. If we commit ourselves to a proposition, which, according to our individual opinions, is not constitutional nor wholesome nor to the best interest of the entire country, we may certainly expect just criticism of our deeds. In this connection I ask permission to incorporate as a part of my remarks an editorial which appeared recently in the New York World, which runs as follows:

LYNCHING THE CONSTITUTION.

[From the New York World.]

No newspaper in the country has more constantly and more bitterly fought the lynching evil than the World. But the World is not in favor of lynching the Constitution of the United States in order to reach the evil, and particularly when so desperate a remedy would come to nothing.

This is what the so-called Dyer antilynching bill, now being jammed through Congress by the Republican majority, amounts to, and all it amounts to. Lynching is made a Federal crime by this measure, and participators are subject to Federal prosecution and localities are held nationally responsible to pay money damages to the families of victims.

If Congress can validly make this kind of offending a Federal crime, there is no felony or misdemeanor known to the laws of any State which can not be made a Federal crime and imposed upon the Federal authority for detection, prosecution, and punishment. If then, perchance, there should remain any vestiges of the police power and reserved rights of the States, they could also be swept into the maw of centralization until nothing would be left but the name, and that would soon become but a memory.

The proposition would be as vain in practice as it is obviously unconstitutional. No State is now without antilynching laws, and many of them, including those of the South, are of the most stringent character. The Federal authority and processes under the proposed bill would have to run in the affected districts as the State authority now runs, and how much more effective would they likely be when subject to the same obstructions affecting the administration of State law?

The Dyer bill is a michievous and essentially a lawless measure and every effort should be made to prevent its enactment.

The World is one of the best newspapers published in the United States and has for many years consistently protested against lynching, and such an editorial coming from this great daily is timely and should be seriously considered by the Congress before they pass a measure which, as the World says, "*lynches the Constitution*" and which adds to our statutes one that is unconstitutional, sectional, political, useless, nagging, and offensive.

I can not bring myself to the conclusion that a majority of this Congress will vote for this bill in its present form, when, in fact, no part of it should become a law.

I think the proposition to penalize a people of one county because a crime has been committed in another county is the most outrageous proposition ever presented to an intelligent body. Under the provisions of this bill a half dozen counties in a State could be penalized in the sum of $10,000 each, and yet be as innocent of any knowledge of the crime committed and as innocent of any dereliction of duty as any of the proponents of this bill.

Gentlemen, if you favor this kind of legislation, it is evident you are hungry for sectional strife and disturbances. I come from a State that the gentleman from Kansas claims—from the report of a former governor—has furnished more lynchings than any other State in the Union. It will be remembered that this selfsame governor was obliged to retract numerous statements he made in his report, and it developed, so I am informed, that several so-called lynchings which he enumerated turned out to be ordinary fist fights.

It is unfortunate that a high official of any State would deliberately misrepresent conditions, thereby casting reflection upon one of the best, if not the best, State in the Union and populated with as good men and women as inherit the universe. This once governor can not, or would not, attempt to prove that any county, municipality, or State officer had failed or refused to do his duty in trying to apprehend the guilty parties in any of the many cases which were enumerated by him.

Since it is true that 90 per cent of the crimes committed for which lynchings sometimes follow is committed by Negroes it will be of interest, no doubt, to some to note the population of some of the States. These figures are official and were tabulated by the census of 1920: In New York State there are 11,182,027 white people and only 198,483 Negroes; in Pennsylvania there are 8,432,726 whites and 284,568 Negroes; in Ohio, 5,571,893 whites and 186,187 Negroes; in Indiana, 2,849,068 whites and 80,810 Negroes; in Missouri, the home State of the introducer of this bill, there are 3,225,044 whites and only 178,241 Negroes; in Kansas, the home of the chairman of the Rules Committee of the House and a strong advocate of the passage of this bill, there are 1,708,906 white people and only 57,925 Negroes. In Georgia there are more Negroes than any State in the Union, there being 1,689,114 whites and 1,206,365 Negroes; in North Carolina, 1,783,779 whites and 763,407 Negroes; in Tennessee, 1,885,993 whites and 451,758 Negroes; in Alabama, 1,447,032 whites and 900,652 Negroes; in South Carolina, 818,538 whites and 864,719 Negroes, being 46,181 more Negroes than whites in this State; in Mississippi there are 853,962 whites and 935,184 Negroes, 81,222 more Negroes than whites. There are 220,151 more Negroes in Georgia than there are in New York, Ohio, Pennsylvania, Indiana, Missouri, and Kansas combined. We have very stringent laws against lynching, as well as all other crimes, and the States can and will handle the proposition as it should be, and can do so better than by Federal interference.

There is no room for doubt that after all the best friend the Negro has is the white man of the South, and no one knows this better than the Negro himself. The fact that the Negro remains there and is satisfied with his lot is certain proof that these statements are true.

If a good Negro in the South happens to misfortune or gets into trouble beyond his capacity to free himself his intitial step is to go at once to his white friends for assistance, where he knows he will get fair treatment. A good Negro in Georgia, and all over the South, gets credit from the white merchants and long-time indulgence from the landlord. If the gentleman from Kansas and the gentleman from Missouri should live only for a short while in the South they would soon find conditions there as I have described them, and they would within a few short moons be voting the Democratic ticket. A few days ago I clipped the following from the Atlanta (Ga.) Constitution:

Presents are wanted for needy Negroes. Gifts for needy ones among the Negroes will be received at Clark University Sunday night at special Christmas services. The services will be conducted by the Clark Gammon Sunday School. Scripture readings, songs, carols, tableaux, and other exercises will be included in the program.

I wonder if such a notice as this has ever appeared in a newspaper in St. Louis, Mo., or in Pittsburg, Kans.?

I wonder if the proponents of this bill know that when a good Negro in the South loses his home by fire or storm that the white people of the vicinity go to his aid and help to make good his loss?

I wonder if the proponents of this bill know that the white ministers of the South go and preach to Negroes at their churches and help and encourage them in every way to become better citizens?

I wonder if the proponents of this measure know that often at the death of a white man in the South a legacy is left in his will for the Negro servants?

I wonder if the proponents of this legislation know that when a good Negro dies in our midst and leaves nothing with which to bury himself that the white people contribute to the expense and see that he has a decent and Christianlike burial?

Gentlemen, acquaint yourselves with the people of the South and the conditions which prevail with us, and if you will do so your advocacy of this bill will melt like a snow bank before a blistering sun.

Mr. SUMNERS of Texas. Mr. Chairman, I yield to the gentleman from Kansas [Mr. LITTLE].

Mr. LITTLE. Mr. Chairman, I ask unanimous consent to extend and revise my remarks in the RECORD.

The CHAIRMAN. The gentleman from Kansas asks unanimous consent to revise and extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. SUMNERS of Texas. Mr. Chairman, I yield to the gentleman from Tennessee [Mr. BROWN].

Mr. BROWN of Tennessee. Mr. Chairman, I oppose this bill for two reasons: First, because I firmly believe that if it should become a law it would not suppress lynching in any part of the country but would, on the contrary, create race strife, race conflict, race riots, and lawlessness, particularly in the South, where there is now less race feeling than in any other section of the country; and secondly, because the proposed law is an unwarranted aggression upon the reserved rights of the States. By this law Congress is attempting to give to the Federal Government jurisdiction and control of the punishment of crimes occurring within the States. I do not believe that Congress has this power under the fourteenth amendment.

I have always lived in the South, and I am interested in the welfare of the Negro race. I suspect that my interest in their

happiness and welfare is quite as real as and perhaps more than the interest of some of the people who are promoting this legislation. There are several thousand Negroes in my district. Most of them are my friends. The Negro race is not disfranchised in Tennessee, and practically all the Negroes who voted in my district in 1920 supported by candidacy, but I do not believe that the passage of this bill would serve their interests. I do not believe that Congress could pass any law that would be more harmful to the Negro race than the bill under discussion, unless it be a law to enforce social equality. I think that I may justly claim to know something about the Negro race, and especially something about their relationship with the white man in the South.

The Negro is a part of the agricultural and industrial life of the South, and his property rights are as fully protected in the South as in any other part of the country. This is not true politically either in theory or practice in some parts of the South, where the Negro population exceeds the white; and no man who is familiar with conditions in that section of the country will contend that it would promote the happiness or welfare of either the white man or the black man to alter conditions in that section of the country until the Negroes as a whole reach a higher plane of political and moral responsibility.

But if the misguided uplifters and agitators who profess so great an interest in the advancement of the Negro will let him alone, he will advance much more rapidly than he will with their uncalled-for and mistaken political advice. In reality there is no serious Negro or race problem in the South. The Negroes of the South live contentedly there. They are accumulating money and acquiring property. The decent, sensible Negro has no thought or desire for social equality. The States, counties, and towns provide the same, though separate, school facilities that they furnish for the white children. The property rights and personal rights of the Negro race are protected and enforced in the courts. The Negro is given every opportunity to advance himself. His relations with white people, as a rule, are friendly and cordial. And I undertake to say that the southern Negro does not want this legislation or any legislation which will bring him in political conflict with his white neighbor.

The progress which has been made by the Negro race in the South during the last 50 years is an assurance of the good intentions of the white man of the South toward the Negro race.

I have not secured sufficient time to enumerate all the objections which occur to me as respects the policy of Congress undertaking such legislation. I think one of the serious objections to the present consideration or passage of the bill is the total lack of evidence or reasonable prophecy of any resulting benefit. Granting that it is within the legislative power of Congress under the Constitution to pass such a bill, the question arises as to whether its passage will have any good effect. The enactment of the law by Congress would mean that in the mind of Congress a Federal law upon this subject would deter men from committing the offenses described in the bill, but I can see no reasonable ground for this expectation. Our experience in the concurrent enforcement of prohibition laws established by an amendment to the Constitution does not offer much encouragement to believe that Federal laws are now any more respected than the laws of the States. It used to be that when the Federal Government said a thing it meant unquestioned obedience, but we find now that the Federal amendment with respect to prohibition and the laws passed to enforce that amendment are no more effective and are no more respected than the State laws upon the same subject.

The question of the constitutionality of this bill has been exhaustively and ably discussed. I have listened with especial attention to the arguments in favor of the constitutionality of the bill, but the reasoning of its supporters has not demonstrated to my mind that Congress possesses the power claimed for it under the Constitution or under the fourteenth amendment to the Constitution to deal with this question.

The act in substance provides that "mob or riotous assemblage" shall mean an assemblage of five or more persons acting in concert for the purpose of depriving any person of his life without authority, and that if any State or subdivision thereof neglects or refuses to maintain protection to the life of any person against a mob, such State by reason of such failure shall be deemed to have denied to such person the equal protection of the laws of the State; that any State or municipal officer who possesses the authority as an officer to protect the life of any person that may be put to death by a mob or who has such person in his custody, who fails to make all reasonable effort to prevent such person from being put to death, or any officer charged with the duty of apprehending any person participating in a mob, who fails to make a reasonable effort to perform his duty in apprehending or prosecuting under the laws of the State all persons participating in such mob, shall be deemed guilty of a felony and be punished by imprisonment not exceeding five years or by a fine of $5,000, or by both; that any person who participates in a mob which takes from the custody of any officer any person held by such officer and puts such person to death, or any person who participates in any mob that prevents any State officer in discharging his duty and puts such person to death, shall be deemed guilty of a felony and imprisoned for life or not less than five years; that any person who participates in a mob by which a person is put to death shall be guilty of a felony and imprisoned for life or not less than five years; that any county in which a person is put to death by mob shall forfeit $10,000, which may be recovered by an action in the name of the United States against the county for the use of the family of the person put to death, and if such forfeiture is not paid upon recovery of a judgment, such court shall have jurisdiction to enforce payment by levy of execution or by mandamus or other process; that in the event any person so put to death shall have been transported by a mob from one county to another county, each county in or through which he has been transported shall be liable to pay the forfeiture provided.

These provisions are clearly an invasion of the rights of the States—that is, of the rights reserved for the States by the Federal Constitution. Article X of the amendment to the Constitution provides that—

> 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.

Under this section and under our constitutional system the power to establish police regulations and to control their internal affairs and to punish crime has been left with the individual States, because the Constitution has not conferred this power upon the Federal Government, and it can not be taken from the States and exercised by the Federal Government by any legislation passed by Congress. The limit of the Federal authority, as long ago defined by Judge Cooley, is to see that the States do not, under cover of their power, invade the sphere of national sovereignty and obstruct the exercise of any authority which the Constitution has confided to the National Government or deprive any citizen of rights guaranteed by the Constitution.

I am a Republican mainly because I have believed from my reading and understanding of the history of our Government that the Republican Party is the successor in political thought and teachings of that party which constructed and secured the adoption of the Federal Constitution and strengthened it by judicial construction. I have looked upon the Republican Party as the defender of the Constitution. It is the party which, as I have understood, has held to the belief that the judicial department of the Government under the Constitution has the power to determine whether an act of Congress is or is not constitutional, and the Supreme Court of the United States, the highest judicial authority in our Government, charged with the duty of construing that instrument, has time and time again asserted in cases which have been cited, some of which I desire to refer to, that the Federal Government or Congress has no authority under the Constitution to enact laws to confer jurisdiction upon the Federal Government to interfere in the police regulations of the States.

The rights of the States to control their internal affairs and the duty of the Federal Government to recognize this right of the States is of supreme importance to this Nation. There is great danger in the continuance of the tendency to centralize power in the Federal Government. Mr. Root once made the statement that the grave danger to the stability of our Government was in making it "heavy at the top." The Civil War did not destroy the rights of the States. It settled for all time the proposition that a State can not withdraw or secede from the Union, but the right of the States to function within the sphere defined by the Constitution exists as fully now as it ever has in our history, and it is the duty, as I see it, of the Republican Party, as a great national party—the party of the Constitution—to respect these rights in all matters of legislation and to carefully preserve them. The Republican Party as a political organization has frequently given expression to its adherence to the Constitution and its determination to enforce particularly the reserved rights of the States. In the great national convention of 1884 the lamented William McKinley was chairman of the committee on resolutions, and wrote and reported a resolution as a part of the party platform of that year which forcibly and ably expressed the view of the party upon this important question. That resolution was as follows:

> The people of the United States, in their organized capacity, constitute a nation, and not a mere confederacy of States. The National Government is supreme within the sphere of its national duties; but

the States have reserved rights which should be faithfully maintained; each should be guarded with jealous care, so that the harmony of our system of government may be preserved and the Union kept inviolate.

It is claimed that this bill is justifiable and can be defended under the terms of the fourteenth amendment, which provides that—

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, * * * nor deny to any person within its jurisdiction the equal protection of the laws.

Some of those who support the bill proclaim that there is no room for doubt as to its validity, but the more conservative and thoughtful recognize that there is doubt as to all its provisions and particularly with respect to section 5 and section 6 of the act, which provide for a forfeiture against a county in which a lynching occurs or through which the person put to death is transported. These provisions are so clearly and manifestly unconstitutional that no serious effort has been made here to defend them, at least none that I have heard or read. It seems to me that section 3, which undertakes to punish a State or county officer charged with the duty of protecting the life of persons under arrest or accused of crime and which undertakes to punish an officer who fails to perform that duty, comes more nearly within the power of Congress than the other sections, but I can not believe that this section is within the legislative competency of Congress. I can not believe that the fourteenth amendment gives the power to Congress to enact legislation to punish States or counties or individuals acting either as individuals or as officers and agents of States or counties, as the bill undertakes to do.

The fourteenth amendment was intended to and did give the Federal Government power to compel the States to afford equal protection to all citizens without discrimination, and the judicial branch of the Federal Government has frequently exerted the power of the Government under this amendment.

If it could be shown that the States or any State had failed to enact laws to punish lynching or murder or any other recognized crime, or that it had enacted a law to punish one class of people differently from another class or color or race for the same crime, Congress could, I suppose, correct the omission by the enactment of a law where no law is provided by the State, and the Supreme Court could and would, as it frequently has in the past, declare the discriminatory State law invalid because in violation of the fourteenth amendment.

The amendment operates against action by the States and not action by individuals over whom the States have jurisdiction under their police powers and regulations.

Lynching is murder, and it is conceded that all the States of the Union have adequate laws upon this subject just as the States have provided a Republican form of government, and it is not contended that any State acting as a State has enacted any law upon this subject which can be construed as denying the equal protection of the law to all its citizens. It is said that three thousand four hundred and some odd Americans have been lynched or killed by mobs since 1889 and that Congress can determine as a legislative fact that the equal protection of the laws guaranteed by the fourteenth amendment was not enforced by the States, and that the courts will not consider whether Congress was or was not justified, but will assume because of Congress having passed appropriate legislation that the States have denied "equal protection."

There has never been any determination by any court or any competent authority, or any authority charged with the duty of making an investigation of any failure by any State officer to protect the life of persons put to death by mobs, and there is no evidence before this Congress with respect to the dereliction of duty on the part of officers of the States. The statistics show that during the last year there was only one lynching in the State of Tennessee. Now, can Congress determine, as a legislative fact, from the evidence of one lynching, that the law is not being enforced in Tennessee, and that persons charged with crime and arrested in that State are not being accorded the equal protection of the laws? Congress would certainly not be warranted or entitled to reach such a conclusion. If Congress could do this and could base legislative action upon such a fact, it could just as logically and reasonably, upon the same reasoning, enact a law to punish offenders accused of larceny or embezzlement or any other crime, or for a murder committed by one person instead of by five. There were a number of murders committed in Tennessee last year, and hundreds of them in some States; for instance, in the State of New York. The newspapers frequently charge that in some places the officers of the law have been derelict in hunting down the persons who have committed these crimes. If Congress can pass this legislation upon the grounds asserted in its favor, it can just as logically be argued that it can pass a Federal law to punish for ordinary murder committed in the States, upon the ground that the States have not discharged their duty or that its officers and agents have not been diligent in preventing murder and other crimes. Rape is punishable by death or life imprisonment in all the States of the South, but notwithstanding the drastic punishment provided, this horrible crime is frequently committed. This is a fact. Congress knows it. Can Congress then say that since those States can not prevent the commission of these offenses against the State law and society, that it will enact a Federal law upon the subject? It is just as much and as clearly within the power of Congress to enact a law to punish for rape committed in a State as it is to enact the law under discussion.

This was not the intention of the amendment. The decisions of the Supreme Court of the United States have stated the purpose and scope of the amendment. I have examined the cases cited by the advocates of the bill. I do not think that these cases are authority for the constitutionality of the law. In all the cases cited where the court held some law or action by State officers or county officers to be in violation of the fourteenth amendment, it was shown as a fact and judicially determined in that particular case that the amendment had been violated and that the equal protection of the law had not been accorded the persons whose rights were involved.

It has been said that political expediency is responsible for the introduction of this bill. This may be true, but many gentlemen here have spoken publicly and privately in its favor or in favor of some law to mitigate the horrors of lynching because they realize, as every thoughtful man must and does, that it is an evil and a serious one in our civilization. The sincerity and good intentions of these men are not to be doubted, but I say to them that a way should be found to accomplish this which is within the power of Congress and which will not trespass upon the rights of the State, which we are bound to protect.

I say to them that we should proceed in an orderly and constitutional way. Would it not be better and wiser to follow the advice of the President and pass the resolution recommended by the President and introduced here, and investigate the facts with reference to lynching so as to determine what should be done, and would it not be wiser for Congress to base its action upon a report either of a commission or a committee of Congress? The statistics read here show that a certain number of persons have been put to death by mobs, but there is nothing to show whether these crimes could or could not have been prevented by State officers. If we could have an investigation conducted by a commission representing both races or by a committee of Congress, evidence might be produced upon which appropriate and constitutional legislation could be based. If this report should demonstrate that the States, or any of them, have not provided effective or adequate machinery to enforce the law or that the States are not honestly or in good faith attempting to protect a certain class of prisoners, or that the officers of the States are not, then Congress might, by appropriate legislation, propose assistance to the States or an amendment to the Constitution to give the Federal Government specific authority to deal with this important question.

This is not merely a political question. It can not be solved by the application of partisan political principles. We all agree as a civilized, law-respecting people that lynching and murder are indefensible and inexcusable. If it is desirable that the Congress should undertake to remedy the evil, it should proceed as it would toward the settlement of any great moral question—in a spirit of unity and of common helpfulness with the States and not in a spirit of antagonism and political distrust.

SUPREME COURT DECISIONS.

The Supreme Court has frequently construed and defined the scope and meaning of the fourteenth amendment. In United States *v.* Cruikshank (1 Woods, 308) Mr. Justice Bradley said:

It—the fourteenth amendment—is a guaranty against the acts of the State government itself. It is a guaranty against the exertion of arbitrary and tyrannical power on the part of the government and the legislators of the State, not a guaranty against the commission of individual offenses, and the power of Congress, whether express or implied, to legislate for the enforcement of such a guaranty does not extend to the passage of laws for the suppression of crime within the States. The enforcement of the guaranty does not require or authorize Congress to perform the duty that the guaranty itself supposes it to be the duty of the State to perform and which it requires the State to perform.

In Virginia *v.* Rives (100 U. S., 313) the court, in speaking of the limitations of the fourteenth amendment said:

These provisions of the fourteenth amendment have reference to State action exclusively, and not to any action of private individuals.

In United States *v.* Stanley, Ryan, et al. (109 U. S., 11) it was said:

It is State action of a particular character that is prohibited. Individual invasion of individual rights is not the subject matter of the amendment. It has a deeper and broader scope. It nullifies and makes void all State legislation and State action of every kind which impairs the privileges and immunities of citizens of the United States.

In James *v.* Bowman (190 U. S., 127) the Supreme Court of the United States again explained its construction of the fourteenth amendment:

The equality of the rights of citizens is a principle of republicanism; every republican government is in duty bound to protect all the citizens in the enjoyment of this principle, if within its power. That duty was originally assumed by the States and still remains there. The only obligation resting upon the United States is to see that the States do not deny the right.

Other cases in point are the following:

Keller *v.* United States (213 U. S., 138), Hodges *v.* United States (203 U. S., 1), United States *v.* Harris (166 U. S., 138).

Mr. VOLSTEAD. Mr. Chairman, I yield to the gentleman from New Jersey [Mr. BACHARACH].

Mr. BACHARACH. Mr. Chairman, I have listened with considerable interest to the arguments that have been made against the adoption of this legislation, but I have heard nothing offered by the opponents of the bill which would incline me to vote against the bill. I shall vote for the bill because I am in hearty sympathy and accord with its intents and purposes.

The continued frequency of mob rule in the United States which usually culminates in the putting to death of the victim in many instances in a most repulsive and barbarous manner is a blot and a stain on our country's name and professed civilization, and such actions can not be justified under any circumstances.

I believe this bill, when enacted into law, will have a very powerful moral effect upon the law officers of the country. I can see no good reason why there should be any opposition to it, for no one can consistently condone the action of an infuriated mob bent upon wreaking vengeance upon a helpless victim, too often without substantial proof of the guilt of the victim, and in many instances carrying out the will of the mob in a manner far more gruesome than the crime of which the victim is charged.

It seems that the only argument those who are opposed to the bill have to offer is upon the constitutionality of the measure. I am not a lawyer and therefore I shall not attempt to argue that phase of the question. But as I view the proposition it has occurred to me that we Members of this House are not elected to pass upon the constitutionality of any legislation, since our Constitution wisely provides that another branch of the Government shall pass upon all questions bearing upon the constitutionality of any act passed by Congress.

However, I have not failed to notice that many of those who are opposing this bill on constitutional grounds made no such argument against the passage of the prohibition enforcement legislation which permits the Government to send its police officers into any section of the country for the purpose of assisting the State authorities to enforce the law, or to enforce it over the heads and authority of State officers if need be.

The adoption or enactment of the eighteenth amendment gave to Congress the power to enact any additional legislation necessary to enforce that amendment. This we did by a very decided vote with the overwhelming support of the Democratic membership of the House.

When the fourteenth amendment to the Constitution was adopted, Congress was given the power to enforce by appropriate legislation the provisions of the amendment.

If it is constitutional for Congress to enact legislation to enforce the provisions of the eighteenth amendment, why is it not constitutional to take similar action to enforce the provisions of the fourteenth amendment?

The only criticism which I can offer on this score is that Congress has unfortunately too long delayed the enforcement of the fourteenth amendment.

As I view it, it seems to me that it is our duty to enact legislation when we believe the needs of the country demand it, and we are not charged with the responsibility of determining its constitutionality.

So far as this particular piece of legislation is concerned, I believe that it is good legislation, that the country demands it, and further that it is legislation within constitutional limits.

It is a source of much gratification to me that the great State of New Jersey, which I have the honor to represent in part, has been so free from the spirit of mob rule, and yet so sure and swift do our law officers and courts move in the prosecution of those charged with crimes which incent to mob rule that "Jersey justice" is known throughout the length and breadth of the land.

Last summer there occurred in my own district a most dastardly and repugnant crime, in which a little girl was literally hacked to pieces by a fiendish brute. He managed to escape before the crime was detected and fled the State. But returning a few months later he was recognized on the streets of a neighboring community, and after a battle, in which pistol shots were exchanged and a police officer seriously wounded, the man was captured and committed to jail. He was promptly tried before a jury, found guilty, admitted that he was given a fair trial, sentenced to death, and has since paid the penalty.

A more recent case happened in my neighboring district just a few days before Christmas, when another little girl was the victim of an attack by a degenerate. He succeeded in eluding the officers of the law for only a few days; finally he was captured, put in jail, tried by jury, found guilty, and sentenced to death, and he will pay the penalty of his crime in the early part of the coming month.

That is what we call "Jersey justice," and if the law officers and courts of every State would move with the same dispatch as we do in New Jersey there would be no need of action at the hands of the mob, nor would there be any demand for this legislation.

It seems to me that this legislation should appeal to the conscience of every person from a humanitarian standpoint if for no other reason. Too often the victim of the mob is innocent of the crime charged, but in the frenzy and disturbed mental state of his captors he is given no opportunity to prove his innocence, and in many instances false confessions are wrung from the victims by methods of torture so unmerciful and so inhuman that death is preferable to any further attempt on the part of the victim to convince the mob of his innocence.

The prevention of lynching in the United States is a question that has confronted the country for many years, and this legislation is brought forth with the hope and desire that it will put to an end a disgraceful evil in the United States of America, where civilization should be something more than a name.

Mr. VOLSTEAD. Mr. Chairman, I move the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. CAMPBELL of Kansas, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 13, the antilynching bill, and had come to no resolution thereon.

THE EXECUTIVE APPROPRIATION BILL.

Mr. MADDEN, chairman of the Committee on Appropriations, by direction of that committee, reported the bill (H. R. 9981) making appropriations for the Executive and for sundry independent executive bureaus, boards, commissions, and offices for the fiscal year ending June 30, 1923, and for other purposes, which was read a first and second time and with accompanying papers referred to the Committee of the Whole House on the state of the Union (Rept. No. 576).

Mr. GRIFFIN reserved all points of order on the bill.

EXTENSION OF REMARKS.

Mr. BOX. Mr. Speaker, the House on a former occasion granted permission to the gentleman from Maryland, Mr. GOLDSBOROUGH, at my request, to print in the RECORD a speech delivered by him at Saulsbury, Md., and I ask unanimous consent that it be printed in the usual congressional type.

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

There was no objection.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriated committee, as indicated below:

S. 2263. An act to amend the Federal reserve act, approved December 23, 1913; to the Committee on Banking and Currency.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. STEVENSON, for two days, on account of going to make a Democratic speech where it is needed.

To Mr. WEBSTER (at the request of Mr. HADLEY), for the day, on account of illness.

ADJOURNMENT.

Mr. VOLSTEAD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 30 minutes p. m.) the House adjourned until to-morrow, Thursday, January 19, 1922, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

475. A letter from the Secretary of Agriculture, transmitting annual reports submitted by the Bureau of Public Roads and the Forest Service, showing expenditures for the year ended June 30, 1921; to the Committee on Expenditures in the Department of Agriculture.

476. A letter from the Secretary of War, transmitting reports from the Chief of Engineers, the Acting Chief of Ordnance, and the Acting Chief Signal Officer of typewriters, adding machines, and similar labor-saving devices that have been exchanged during the fiscal year ended June 30, 1921, as part payment for new labor-saving devices; to the Committee on Expenditures in the War Department.

477. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on preliminary examination of Merrimack River, N. H. and Mass., with a view to obtaining increased depth, a more uniform flow of water, and a diminution of periods of drought and of freshet by means of the establishment of a storage reservoir or reservoirs at or near its headwaters in New Hampshire; to the Committee on Rivers and Harbors.

478. 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 and Willamette Slough in the vicinity of St. Helens, Oreg., including any proposal of cooperation by local interests (H. Doc. No. 156); to the Committee on Rivers and Harbors and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. MERRITT: Committee on Interstate and Foreign Commerce. H. R. 2187. A bill to regulate the retired pay of certain enlisted men in the Coast Guard; with an amendment (Rept. No. 573). Referred to the Committee of the Whole House on the state of the Union.

Mr. WEAVER: Committee on the Territories. H. R. 8690. A bill to add a certain tract of land on the island of Hawaii to the Hawaii National Park; without amendment (Rept. No. 574). Referred to the Committee of the Whole House on the state of the Union.

Mr. FOSTER: Committee on the Judiciary. S. 2682. An act to amend the act entitled "An act to establish a code of law for the District of Columbia, approved March 3, 1901," and the acts amendatory thereof and supplementary thereto; without amendment (Rept. No. 575). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII.

Mr. SMITH of Idaho: Committee on the Public Lands. H. R. 9275. A bill for the relief of Frances Kelly; with amendments (Rept. No. 572). Referred to the Committee of the Whole House.

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. 9664) granting a pension to Eliza J. Spencer; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 9910) granting a pension to Emma D. Manson; 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. RIDDICK: A bill (H. R. 9976) authorizing the Secretary of the Interior to enter into an agreement with the Cut Bank irrigation district, of Cut Bank, Mont., for the disposal of the surplus waters of Cut Bank and Badger Creeks, on the Blackfeet Indian Reservation, not needed by the Indians of the Blackfeet Reservation for domestic and irrigation purposes; to the Committee on Indian Affairs.

By Mr. REED of West Virginia: A bill (H. R. 9977) providing for the purchase of a site and the erection of a public building at Weston, W. Va.; to the Committee on Public Buildings and Grounds.

By Mr. ZIHLMAN: A bill (H. R. 9978) to amend the corporation law of the District of Columbia; to the Committee on the District of Columbia.

By Mr. TOWNER: A bill (H. R. 9979) to amend an act entitled "An act granting a charter to the General Federation of Women's Clubs"; to the Committee on the Judiciary.

By Mr. DARROW: A bill (H. R. 9980) authorizing the Secretary of the Navy to proceed with the construction of certain public works; to the Committee on Naval Affairs.

By Mr. WOOD of Indiana: A bill (H. R. 9981) making appropriations for the Executive and for sundry independent executive bureaus, boards, commissions, and offices for the fiscal year ending June 30, 1923, and for other purposes; committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

PRIVATE BILLS AND RESOLUTIONS.

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

By Mr. CANNON: A bill (H. R. 9982) granting a pension to Lewis C. Allentharp; to the Committee on Invalid Pensions.

By Mr. DYER: A bill (H. R. 9983) granting a pension to James Alexander; to the Committee on Pensions.

Also, a bill (H. R. 9984) for the relief of Rudolph L. Wise; to the Committee on Claims.

By Mr. HADLEY: A bill (H. R. 9985) granting a pension to Albert B. Campbell; to the Committee on Pensions.

By Mr. HAWLEY: A bill (H. R. 9986) granting a pension to Rebecca Melvina Elliff; to the Committee on Pensions.

Also, a bill (H. R. 9987) for the relief of George F. de Maranville; to the Committee on Military Affairs.

Also, a bill (H. R. 9988) granting a pension to Alwilda Dobson; to the Committee on Invalid Pensions.

By Mr. KINDRED: A bill (H. R. 9989) for the relief of Nellie Hoar; to the Committee on Claims.

By Mr. MONTOYA: A bill (H. R. 9990) granting a pension to Emily A. Roley; to the Committee on Invalid Pensions.

By Mr. MORGAN: A bill (H. R. 9991) granting an increase of pension to Ella J. Crosse; to the Committee on Invalid Pensions.

By Mr. PERLMAN (by request): A bill (H. R. 9992) for the relief of Winifred Flynn; to the Committee on Claims.

By Mr. RHODES: A bill (H. R. 9993) granting an increase of pension to Daniel J. Graves; to the Committee on Pensions.

By Mr. ROACH: A bill (H. R. 9994) granting a pension to Daniel Richardson; to the Committee on Invalid Pensions.

PETITIONS, ETC.

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

3547. By the SPEAKER (by request): Petition of Private Soldiers' and Sailors' Legion of the United States of America, urging the sale of the Muscle Shoals plant in Alabama to Henry Ford; to the Committee on Naval Affairs.

3548. By Mr. CULLEN: Petition of National Board of Farm Organizations, of Washington, D. C., opposed to the transfer of the Bureau of Markets, also the transfer of the Forest Service; to the Committee on Agriculture.

3549. Also, resolution adopted at a joint meeting of the Knitted Outwear Manufacturers' Association, Eastern District of Brooklyn Sweater Manufacturers' Association, and the Wool Yarn Jobbers' Credit Association, urging the adoption of the American valuation plan under the Fordney tariff bill; to the Committee on Ways and Means.

3550. By Mr. DALLINGER: Resolution of the Bindery Women's Local No. 56, International Brotherhood of Bookbinders of Boston and Cambridge, Mass., favoring a protective tariff to protect American labor; to the Committee on Ways and Means.

3551 By Mr. FAVROT: Petition of George C. Crotty and others, of West Baton Rouge, La., urging the passage of House bill 7 and Senate bill 1252, the Towner-Sterling bills; to the Committee on Education.

3552. Also, petition of Mrs. Mary G. Ony and others, of West Baton Rouge, La., urging the passage of House bill 7 and Senate bill 1252, the Towner-Sterling bills; to the Committee on Education.

3553. By Mr. FULLER: Petition of the national board of farm organizations, protesting against the transfer of the Bureau of Markets from the Department of Agriculture to the Bureau of Commerce and of the forest services to the Department of the Interior; to the Committee on Agriculture.

3554. By Mr. FROTHINGHAM: Petition of the Bindery Woman's Local, No. 56, of Boston and Cambridge, Mass., favoring the American valuation plan upon imports; to the Committee on Ways and Means.

3555. By Mr. KINDRED: Petition of employees of the New York Navy Yard, relative to relief for navy-yard employees in case of unemployment; to the Committee on Naval Affairs.

3556. Also, petition of Martin Cantine, of Saugerties, N. Y., opposing the St. Lawrence waterways project and urging the completion of the Barge Canal; to the Committee on Rivers and Harbors.

3557. Also, resolutions adopted by the staff of the New York Agricultural Experiment Station relative to the publication of certain journals by the United States Department of Agriculture; to the Committee on Agriculture.

3558. By Mr. KISSEL: Petition of the American Game Protective Propagation Association, of New York City, urging the passage of Senate bill 1452, also House bill 58231; to the Committee on Agriculture.

3559. By Mr. MAGEE: Petition of citizens of Syracuse, N. Y., in opposition to a tax on beer and light wines for the purpose of raising money for soldier bonus; to the Committee on Ways and Means.

3560. By Mr. MORIN: Petition of Weaver, Costello & Co., C. A. Weaver, secretary, protesting against the proposed increase in rates of import on shelled nuts as contained in the tariff bill; to the Committee on Ways and Means.

3561. By Mr. PERKINS: Petition of the council of the borough of Bloomingdale, N. J., protesting against the present tariff on hard rubber; to the Committee on Ways and Means.

3562. Also, petition of the Board of Conservation and Development of New Jersey, protesting against the proposed transfer of the Federal Forest Service from the Department of Agriculture; to the Committee on Agriculture.

3563. By Mr. SINCLAIR: Petition of about 75 citizens of Crosby, Mapes, and Michigan, N. Dak., urging the revival of the United States Grain Corporation and the enactment of legislation for the stabilization of prices of farm products; to the Committee on Agriculture.

3564. By Mr. TINKHAM: Resolution adopted by the Bindery Women's Local, No. 56, of Boston and Cambridge, Mass., relative to the Fordney tariff bill; to the Committee on Ways and Means.

3565. Also, petition of Harriot S. Curtis, urging the suspension of Austria's debt to the United States for at least 20 years; to the Committee on Ways and Means.

3566. Also, petition of Isadora Lee, 7 Walnut Street, Boston, Mass., urging the suspension of Austria's debt to the United States for at least 20 years; to the Committee on Ways and Means.

3567. Also, resolutions adopted by the Boston Electrotypers' Union, No. 11, urging the passage of the Fordney tariff bill; to the Committee on Ways and Means.

3568. By Mr. WALSH: Petition of Bindery Women's Local, No. 56, of Boston and Cambridge, Mass.; also petition of International Brotherhood of Bookbinders; to the Committee on Ways and Means.

SENATE.

THURSDAY, *January 19, 1922.*

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

Our Father, we rejoice to call Thee by that name. May we have such confidence in Thee that all the work of life may be accepted as from Thy hand and to fulfill Thy good pleasure. Remember every interest that ought to appeal to us, and grant, our God, that our land may be saved from the troubles and the disturbances of other lands. Hasten the time, we beseech of Thee, when nations shall be closer akin in all the fellowship of noble doing and service. We ask in Jesus Christ's name. Amen.

The reading clerk proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. CURTIS and by unanimous consent, the further reading was dispensed with and the Journal was approved.

DISPOSITION OF USELESS PAPERS.

The VICE PRESIDENT laid before the Senate a communication from the Acting Secretary of the Navy, transmitting a list of papers and documents on file in the Navy Department (Bureaus of Navigation and Engineering) which are not needed in the conduct of business in the department and asking for action looking to their disposition, which was referred to a Joint Select Committee on the Disposition of Useless Papers in the Executive Departments. The Vice President appointed Mr. POINDEXTER and Mr. SWANSON members of the committee on the part of the Senate, and ordered that the Secretary of the Senate notify the House of Representatives thereof.

CALL OF THE ROLL.

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

The VICE PRESIDENT. The Secretary will call the roll.

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

Ashurst	Frelinghuysen	Lodge	Ransdell
Ball	Glass	McKellar	Robinson
Borah	Gooding	McKinley	Sheppard
Bursum	Hale	McLean	Simmons
Calder	Harreld	McNary	Smith
Cameron	Harris	Moses	Smoot
Capper	Harrison	Myers	Spencer
Caraway	Heflin	Nelson	Swanson
Culberson	Johnson	New	Trammell
Cummins	Jones, N. Mex.	Newberry	Wadsworth
Curtis	Jones, Wash.	Nicholson	Walsh, Mass.
Dial	Kellogg	Norris	Walsh, Mont.
du Pont	Kenyon	Oddie	Warren
Edge	Keyes	Page	Watson, Ind.
Ernst	King	Pepper	Weller
Fernald	Ladd	Phipps	
Fletcher	La Follette	Pittman	
France	Lenroot	Poindexter	

Mr. RANSDELL. I desire to announce the absence of my colleague [Mr. BROUSSARD] on account of illness in his family.

Mr. WALSH of Massachusetts. I wish to announce the absence of the Senator from Rhode Island [Mr. GERRY] on account of illness.

Mr. HARRIS. I desire to announce that my colleague [Mr. WATSON of Georgia] is absent on official business.

The VICE PRESIDENT. Sixty-nine Senators having answered to their names, a quorum is present.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, announced that the House had agreed to the amendment of the Senate to the concurrent resolution (H. Con. Res. 37) providing for the printing of 50,000 additional copies of the report of the Joint Commission of Agricultural Inquiry.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED.

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

S. 2708. An act to authorize the President to transfer certain medical supplies for the relief of the distressed and famine-stricken people of Russia;

S. 2776. An act to authorize the construction of a bridge over the Columbia River at a point approximately 5 miles upstream from Dalles City, Wasco County, in the State of Oregon, to a point on the opposite shore in the State of Washington; and

H. J. Res. 30. Joint resolution to amend a joint resolution entitled "Joint resolution giving to discharged soldiers, sailors, and marines a preferred right of homestead entry," approved February 14, 1920.

PETITIONS AND MEMORIALS.

Mr. BORAH. I present a resolution adopted by the Chamber of Commerce, of Nampa, Idaho, asking for the enactment of legislation to create a broad policy of reclamation. I move that it be referred to the Committee on Irrigation and Reclamation.

The motion was agreed to.

Mr. WALSH of Montana presented four memorials of sundry citizens of Butte and Walkerville, both in the State of Montana, remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which were referred to the Committee on the District of Columbia.

Mr. CAPPER presented three telegrams in the nature of memorials from the Retailers' Association of Salina, the Board of Commerce of Wichita, and the Chamber of Commerce of Hutchinson, all in the State of Kansas, remonstrating against inclusion of the American valuation plan in the pending tariff bill, which were referred to the Committee on Finance.

Mr. LADD presented 30 petitions of sundry citizens of the State of North Dakota, praying for the enactment of legislation reviving the Government Grain Corporation, so as to stabilize prices of certain farm products, which were referred to the Committee on Agriculture and Forestry.

He also presented a resolution adopted at a stockholders' meeting of the Fullerton (N. Dak.) Equity Elevator Co., favor-